

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING  
February 24, 2022  
5:00 P.M.  
Meeting Will Be Conducted Via Zoom**

**AGENDA**

**PUBLIC PARTICIPATION**

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

**OBSERVE:**

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or 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: Feb 24, 2022 5:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING- February 24, 2022

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86738582543>

Or One tap mobile :

US: +16699009128,,86738582543# or +13462487799,,86738582543#

Or Telephone:

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

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

Webinar ID: 867 3858 2543

International numbers available: <https://us02web.zoom.us/j/86738582543>

**COMMENT:**

There are two ways to submit public comments.

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

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

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

## HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. ELECTION OF OFFICERS
4. OPEN FORUM
5. CONSENT ITEMS
  - a. Approval of Board Minutes, 1/27/2022 (pp. 4-8)
  - b. Approval of Board Minutes, 2/10/2022 (pp. 9-13)
6. APPEALS\*
  - a. T18-0372, T19-0032, T19-0218, T19-0220, & T19-0251, Amory et al v. Green Sage (pp. 16-130)
  - b. T19-0272 & T19-0325, Jeffers v. BD Opportunity 1 LP (pp. 131-224)
  - c. T20-0182, Gordon-Brown v. Best Bay Apartments (pp. 225-314)
7. SCHEDULING AND REPORTS
  - a. Program Updates (Rent Adjustment Program)
8. INFORMATION AND ANNOUNCEMENTS
  - a. Board Training—Role of the Board and Role of Board Members as Public Officials - Quasi-Judicial, Policy, and Rule Making Responsibilities (pp. 14-15)
9. ADJOURNMENT

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

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

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

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



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

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

January 27, 2022

5:00 P.M.

**VIA ZOOM CONFERENCE**

**OAKLAND, CA**

**MINUTES**

**1. CALL TO ORDER**

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

**2. ROLL CALL**

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

\*Member E. Torres joined the meeting at 5:10 pm.

**Staff Present**

Braz Shabrell  
Harman Grewal  
Briana Lawrence-McGowan  
Mike Munson

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

3. ELECTION OF OFFICERS OR PRO TEM OFFICERS

- a. Member R. Nickens, Jr. moved to nominate Member D. Ingram as the Pro Tem chair for this meeting. Member H. Flanery seconded the motion.

The Board voted as follows:

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

The motion was approved.

4. OPEN FORUM

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

5. RENEWAL: ADOPTION OF AB 361 RESOLUTION

- a. Member T. Williams moved to renew the adoption of AB 361 resolution. Member N. Hudson seconded the motion.

The Board voted as follows:

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

The motion was adopted.

6. CONSENT ITEMS

- a. Approval of Board Minutes from the December 9, 2021 Full Board Meeting. Member C. Oshinuga moved to approve the minutes. Member T. Williams seconded the motion.

The Board voted as follows:

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

The minutes were approved.

7. APPEALS

a. T21-0088, Lerer v. Addleman

|              |                  |                      |
|--------------|------------------|----------------------|
| Appearances: | Barbara Addleman | Owner                |
|              | Steven Williams  | Owner Representative |
|              | Drew Lerer       | Tenant               |

This case involved an owner appeal of a tenant petition related to parking fees. The tenant filed a petition contesting a rent increase for the monthly parking fee. The owner argued that the increase for parking was not a rent increase because the agreement for parking was separate and entered into years after the tenancy began. The Hearing Officer issued an administrative decision and granted the tenant's petition.

The owner representative contended that the original lease agreement did not include parking and that the agreement for parking was entered into nearly four years after tenancy began. The owner representative argued that the agreement for parking is a separate contract and that the charges for parking are not a part of the rent. The owner representative argued that the rent increase for parking was valid.

The tenant argued that parking is a housing service and is therefore a part of the rent. The tenant contended that regardless of fees for parking being billed separately, they are still a part of rent and cannot be increased above the CPI.

After parties' arguments, questions to the parties, and Board discussion, Member C. Oshinuga moved to affirm in part and modify in part the Hearing Officer's decision with the following specifications:

- 1.) To affirm the Hearing Officer's decision and to reaffirm the principle that a housing service added after the commencement of the tenancy is a housing service and included in the total amount of rent and
- 2.) To modify the Hearing Officer's finding of the tenant's base rent from \$1616 to \$1636 due to a clerical error and
- 3.) To find that the Hearing Officer erred in considering an issue that fell outside of the scope of the tenant's petition, but the error was harmless and did not impact the Hearing Officer's ultimate conclusion.

Member H. Flanery made a friendly amendment to the motion to include 'affirm the Hearing Officer's decision regarding the increase in parking fees'. Member C. Oshinuga accepted the amendment. Member H. Flanery seconded the motion.

The Board voted as follows:

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

The motion was approved.

b. L20-0071, Hertzler Enterprises LLC v. Tenants

Appearances: Kimberly Roehn Owner Representative

The appellant did not appear. Member H. Flanery moved to dismiss the appeal case due to the appellant's failure to appear. Member T. Williams seconded.

The Board voted as follows:

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

The motion was approved.

c. L19-0257, Underwood v. Tenants

Appearances: None

The owner appellant and the tenants did not appear. Chair Ingram moved to dismiss the appeal case due to the appellant and tenant's failure to appear. Member T. Williams seconded.

The Board voted as follows:

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

The motion was approved.

8. Information and Announcements

- a. Board Outreach: Chair D. Ingram presented and discussed with the Board ideas related to a possible partnership between RAP Staff and Board members to increase outreach, potentially expand the Board and RAP's presence in the City of Oakland, and to generate interest from members of the public to join the Board and fill vacancies.

9. Scheduling and Reports

- a. HRRRB Training Schedule 2022: The Board discussed and decided to change the order of training sessions scheduled throughout 2022.

10. Adjournment

- a. The meeting was adjourned at 7:22 pm.

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

**February 10, 2022**

**5:00 P.M.**

**VIA ZOOM CONFERENCE**

**OAKLAND, CA**

**MINUTES**

**1. CALL TO ORDER**

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:05 p.m.

**2. ROLL CALL**

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

\*Member E. Torres dropped off the call after roll call and rejoined at 5:14 pm

**Staff Present**

Kent Qian

Harman Grewal

Briana Lawrence-McGowan

Mike Munson

Deputy City Attorney

Business Analyst III (HCD)

Administrative Analyst I (RAP)

KTOP

3. RENEWAL— ADOPTION OF AB 361 RESOLUTION

- a. Member D. Ingram moved to renew the adoption of AB 361 resolution. Member R. Nickens, Jr. seconded the motion.

The Board voted as follows:

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

The motion was approved.

4. ELECTION OF OFFICERS

- a. Member C. Oshinuga moved to make Member D. Ingram Pro Tem Chair for this meeting. Member N. Hudson seconded.

The Board voted as follows:

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

The motion was approved.

5. OPEN FORUM

- a. James Vann directed a comment to the City Attorneys related to significant changes made because of Measure Y, City Council actions, and state law (AB1284), which have changed things such as the maximum increase that is available annually. Mr. Vann believes the changes do not coincide with the written regulations that are published and requested for the City Attorneys to comment or inform the Board of these changes, and whether the changes have been made yet and if they have been published.

6. APPEALS

- a. T21-0092, Cordova et al v. Infinite Glow LLC

|              |                        |                       |
|--------------|------------------------|-----------------------|
| Appearances: | Tara & Mukunda Singhal | Owners                |
|              | Ann Cordova            | Tenant                |
|              | Beatrice Cordova       | Tenant Representative |



This case involved an owner appeal of a tenant petition against two different rent increases. The Hearing Officer issued a decision that granted the tenant's petition. The first rent increase was determined to be invalid because it was served less than 6 months after the owner first served the RAP notice on the tenant. The second rent increase was determined to be invalid because City Council's rent increase moratorium invalidated rent increases above the CPI during the local state of emergency and because the owner first petitioned for any rent increases, other than CPI and banking in general, aside from the moratorium.

The owner contended that they were new to Oakland and studied the RAP regulations after they moved. The owner argued that the tenant filed a petition with RAP after the rent was increased and that the petition was filed untimely. The owner argued that they had several conversations with the tenant to explain the rent increases, which were based on operational costs and calculated rent increases based on the CPI from over the years.

The tenant representative contended that the tenant has resided in the apartment since 2007, that the ownership of the building changed hands in 2018, and the new owners attempted to serve a rent increase that would become effective in 2020. The tenant representative contended that the tenant contacted RAP about the rent increase and attempted to contact the new owner but could not get in contact with him. The tenant representative argued that the tenant continued to pay the same rent amount after being unsuccessful with contacting the new owner and after contacting RAP because the increase was above the CPI and because the owner is not allowed to make such a large increase during the pandemic.

After parties' arguments, questions to the parties, and Board discussion, Member H. Flanery moved to uphold the Hearing Officer's decision. Member R. Nickens, Jr. seconded the motion.

The Board voted as follows:

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

The motion was approved.

b. L19-0259, 901 Jefferson LLC v. Tenants

|              |                   |                       |
|--------------|-------------------|-----------------------|
| Appearances: | Lerna Kazazic     | Owner Representative  |
|              | Servando Sandoval | Owner Representative  |
|              | David Hall        | Tenant Representative |

This case involved an owner appeal of an owner petition for a certificate of exemption on the basis that the building was subject to a new construction exemption. The Hearing Officer issued a decision that denied the owner's petition and ruled that the property did not qualify for a new construction exemption because there was no evidence of a certificate of occupancy and/or an equivalent to a finalized building permit for residential use.

The owner representative contended that they're asking for a remand hearing by the Hearing Officer for the consideration of new evidence and the reconsideration of evidence that was presented and overlooked. The owner representative argued that the Hearing Officer did not take into account the report of building record that was submitted with the initial petition and that the building record reflects a building permit that was previously issued but never finalized. The owner representative argued that a certificate of occupancy was issued in 2018 for several units at the property, which was submitted with the appeal, and should be allowed to be considered by the Hearing Officer during a remand hearing.

The tenant representative argued that the appellants are attempting to submit new evidence on appeal that was not previously presented during the initial hearing. The tenant representative argued that RAP regulations state that in order for new evidence for be considered on appeal, the party offering the new evidence must be able to prove that the evidence was not available to be presented to the Hearing Officer at the initial hearing, which is not applicable in this case. The tenant representative argued that the appellants had the burden of proof during the initial hearing and that they did not meet this burden.

After parties' arguments, questions to the parties, and Board discussion, Member H. Flanery moved to uphold the Hearing Officer's decision based on substantial evidence. Member N. Hudson seconded the motion.

The Board voted as follows:

|                 |   |
|-----------------|---|
| <b>Aye:</b>     | H. Flanery, D. Ingram, C. Oshinuga, E. Torres, R. Nickens, Jr.,<br>N. Hudson, T. Williams |
| <b>Nay:</b>     | None  |
| <b>Abstain:</b> | None  |

The motion was approved.

7. Information and Announcements

- a. City Attorney Kent Qian discussed a recently issued appeal decision from the United States Court of Appeals for the Ninth Circuit in the case of *Ballinger v. City of Oakland*, which upheld the City of Oakland's Uniform Residential Tenant Relocation Ordinance.

8. Scheduling and Reports

- a. None

9. Adjournment

- a. The meeting was adjourned at 7:31 p.m.



**OUTLINE FOR HOUSING, RESIDENTIAL RENT AND RELOCATION  
BOARD TRAINING  
February 24, 2022**

**Role of the Board and Role of Board Members as Public Officials – Quasi-Judicial, Policy, and Rule Making Responsibilities**

**I. Role of Board Members as Public Officials**

- A. Board Members, as public officials, must adhere to various ethics requirements**
- B. Board authority & duties belong to the Board as a whole**
- C. Distinguishing Board Member & personal roles**

**II. Role of the Board – Quasi-Judicial**

**A. Main responsibility – Adjudicating appeals of Rent Adjustment Program (RAP) decisions on Rent Adjustment Ordinance petitions**

**B. Secondary responsibilities**

- 1. Just Cause for Eviction Ordinance & Regulations
  - a. Appeals of RAP decisions on owner challenges to tenant protected status (Owner Move-In Eviction)
  - b. Appeals of RAP decisions on owner petitions to do subsequent Owner Move-In Eviction in different unit on the basis of disability or similar hardship
  - c. Appeals of RAP decisions on owner petitions to request more than 3 months for repairs (Eviction for Repairs or to Bring Unit into Compliance)
- 2. Appeals of City determinations of relocation payment eligibility or amount for Code Compliance Relocation Program

### **III. Role of the Board – Policy & Rule Making**

#### **A. Policy**

1. Reports – OMC 8.22.040.D.3
2. Recommendations – OMC 8.22.040.D.4

#### **B. Rule Making**

1. Rent Ordinance
2. Just Cause for Eviction Ordinance
3. Terminating Tenancy to Withdraw Residential Rental Units from the Rental Market (Ellis ordinance)
4. Tenant Protection Ordinance
5. Tenant Move Out Agreement Ordinance

#3148897v1

## CHRONOLOGICAL CASE REPORT

Case No.: T18-0372, T19-0032, T19-0218, T19-0220 & T19-0251

Case Name: Amory et al v. Green Sage LLC (Consolidated Appeal)

Property Address: 5707 San Leandro Street, Oakland, CA 94621

Parties: Brett Amory (Tenant)  
Brad Long (Tenant)  
Matthew Laws (Tenant)  
Dustin Schultz (Tenant)  
Abigail Baird (Tenant)  
Lisa Giampaoli (Tenant Representative)  
Green Sage Management (Owner)  
Green Sage, LLC (Owner)  
Oakland Cannery Real Estate LLC (Owner)  
5733 SLOCA Partnership (Owner)  
KBP Acquisitions Real Estate LLC (Owner)  
Timothy A. Larsen (Owner Representative)

### TENANT APPEAL:

| <u>Activity</u>                          | <u>Date</u>      |
|--|------------------|
| Tenant Petition filed (T18-0372)         | July 27, 2018    |
| Tenant Petition filed (T19-0032)         | October 17, 2018 |
| Tenant Petition filed (T19-0218)         | March 12, 2019   |
| Tenant Petition filed (T19-0220)         | March 20, 2019   |
| Tenant Petition filed (T19-0251)         | April 10, 2019   |
| Property Owner Response filed (T18-0372) | April 18, 2019   |
| Property Owner Response filed (T19-0220) | August 14, 2019  |

**000016**

|  |                  |
|--|------------------|
| Property Owner Response filed (T19-0251) | August 29, 2019  |
| Hearing Date                             | April 26, 2021   |
| Hearing Decision mailed                  | July 2, 2021     |
| Tenants Appeal filed                     | July 16, 2021    |
| Appeal Form Addendum                     | July 23, 2021    |
| Memorandum in Support of Tenants Appeal  | October 19, 2021 |

T18-0372 MS/MA

City of Oakland Rent Adjustment Program

Tenant Petition

RECEIVED

JUL 27 2018

Case Petition: 9891

Property Address

RENT ADJUSTMENT PROGRAM OAKLAND

| Party  | Name  | Address  | Mailing Address |
|--------|---|--|-----------------|
| Tenant | brett amory<br>4159314486<br>brettamory7@yahoo.com  | 5707 San Leandro st apt A<br>Oakland, CA 94621 |                 |
| Owner  | Green Sage Management Patrick<br>Green Sage Management<br>7206127739<br>annie@greensagemb.com | 1137 Bannock Street<br>Denver, CO 80204        |                 |

Rental Property Information

|                               |                              |
|-------------------------------|------------------------------|
| Number of Units               | 20                           |
| Type of unit you rent         | Apartment, Room or Live-work |
| Are you current on your rent? | Yes                          |

Grounds for Petition

Decrease in Services

Rental History

|  |          |
|--|----------|
| When did you move into the unit?   | 3/1/2013 |
| Initial monthly rent   | 1600     |
| When did the property owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? |          |
| Did the property owner provide you with a RAP Notice, a written notice of the existence of the Rent Adjustment Program?                      | Yes      |
| Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?   | No       |
| Have you ever filed a petition for your rental unit?   | No       |

Rent increases that you want to challenge.

| Did you receive a RAP Notice with the notice of rent increase? | Date RAP notice served | Date increase goes into effect | Monthly Rent Increase From | Monthly Rent Increase To | Are you contesting this increase in this petition? |
|--|------------------------|--------------------------------|----------------------------|--------------------------|--|
| No   |                        |                                |                            |                          |  |
| No   |                        |                                |                            |                          |  |
| No   |                        |                                |                            |                          |  |
| No   |                        |                                |                            |                          |  |
| No   |                        |                                |                            |                          |  |

Tenant Pet.



City of Oakland Rent Adjustment Program

Tenant Petition

Case Petition: 9891

Property Address

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? No

Have you lost services originally provided by the owner or have the conditions changed? No

Are you claiming any serious problem(s) with the condition of your rental unit? No

Loss of Service

| Date Loss Began | Date Owner Was Notified of Loss | Estimated Loss | Reduced Service Description  |
|-----------------|---------------------------------|----------------|--|
| 8/15/2018       |                                 | 100            | The loss of parking and storage is a loss of services. You can calculate the value of that based on the costs of offsite storage and maybe estimate what parking would cost. Parking might be \$50-\$100 a month. You should upload a scan of the notice we received on our doors. |

Mediation

Mediation Requested Yes

T18.0372 MS/MA

RECEIVED

City of Oakland Rent Adjustment Program

Tenant Petition

JUL 18 2010

Case Petition: 9874
Property Address 5707 San Leandro st apt A

RENT ADJUSTMENT PROGRAM OAKLAND

Table with 4 columns: Party, Name, Address, Mailing Address. Rows for Tenant (brett amory) and Owner (Green Sage sage).

Rental Property Information

Number of Units 20
Type of unit you rent Apartment, Room or Live-work
Are you current on your rent? Yes

Grounds for Petition

No Ground Selected

Rental History

When did you move into the unit? 3/1/2013
Initial monthly rent 1684
When did the property owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)?
Did the property owner provide you with a RAP Notice, a written notice of the existence of the Rent Adjustment Program? Yes
Is your rent subsidized or controlled by any government agency, including HUD (Section 8)? No
Have you ever filed a petition for your rental unit? No

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

**City of Oakland Rent Adjustment Program  
Tenant Petition**

Case **Petition: 9874**  
Property Address **5707 San Leandro st apt A**

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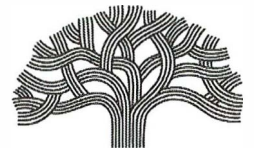
**Mediation**

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Mediation Requested  Yes

T19-0032 MS/EL

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM

|   |  |                                     |
|---|--|-------------------------------------|
| <br><b>CITY OF OAKLAND</b> | <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>P.O. Box 70243<br>Oakland, CA 94612-0243<br>(510) 238-3721 | For date stamp<br>20 OCT 17 AM 7:12 |
|   | <b><u>TENANT PETITION</u></b>  |                                     |

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

**Please print legibly**

|  |  |  |
|--|--|--|
| Your Name<br><br>Brad Long   | Rental Address (with zip code)<br><br>5707 San Leandro Street<br>Oakland CA 94621    | Telephone:<br><br>E-mail:<br>hyperactivebrad@yahoo.com               |
| Your Representative's Name<br><br>LILAC LAW Group  | Mailing Address (with zip code)<br><br>505 14th Street<br>Oakland CA 94612           | Telephone:<br><br>Email:<br>415-967-2551                             |
| Property Owner(s) name(s)<br>Green Sage Management<br><small>annie@greensagemb.com<br/>Bruce@greensagemb.com<br/>Ken@greensagemb.com<br/>Patrick@greensagemb.com</small> | Mailing Address (with zip code)<br><br>1137 Bannock Street Denver,<br>Colorado 80204 | Telephone:<br>720-612-7739<br>Email:<br>info@greensagemanagement.com |
| Property Manager or Management Co.<br>(if applicable)<br><br>Green Sage Management   | Mailing Address (with zip code)<br><br>1137 Bannock Street Denver,<br>Colorado 80204 | Telephone:<br>720-612-7739<br>Email:<br>info@greensagemanagement.com |

Number of units on the property: 20

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

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

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

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

|   |  |
|---|--|
|   | (d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)   |
|   | (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 <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.   |

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

Date you moved into the Unit: 4/1/09 Initial Rent: \$ 1,500 /month

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

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |    | Are you Contesting this Increase in this Petition?*      | Did You Receive a Rent Program Notice With the Notice Of Increase? |
|--|--|-----------------------|----|--|--|
|  |  | From                  | To |  |  |
| n/a  |  | \$                    | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No           |
| n/a  |  | \$                    | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No           |
| n/a  |  | \$                    | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No           |
| n/a  |  | \$                    | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No           |
| n/a  |  | \$                    | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No           |
| n/a  |  | \$                    | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No           |

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

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

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

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

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

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

Please attach documentary evidence if available.

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

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

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

Tenant's Signature

10/10/18

Date

[Empty signature line]

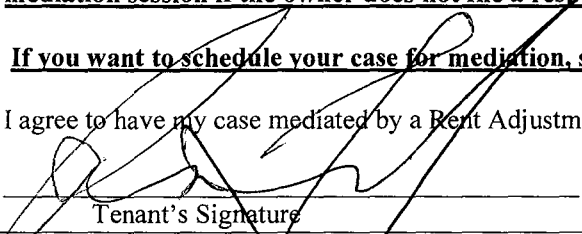
**V. MEDIATION AVAILABLE:** Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

10/10/18  
\_\_\_\_\_  
Date

**VI. IMPORTANT INFORMATION:**

**Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit:** **Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

**File Review**

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

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

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

5/21/18

Councilmember At-Large Rebecca Kaplan  
1 Frank Ogawa Plaza  
Oakland CA 94612

**Regarding:** Safety and code violations at The Oakland Cannery 5733-5707 San Leandro Street

Dear Councilmember Kaplan,

I am writing to express extreme concern with the health and safety of the residential tenants at The Oakland Cannery Building.

First, be advised that Green Sage Management has dismissed me from the resident manager position as of Monday, 5/15/18 after 20 years of service, after I requested a raise. They have informed us that their internal staff will handle those duties. However, one of those is an office manager in Denver, and the other is a daytime maintenance worker with no knowledge of building infrastructure and who is not present after hours. This is an immediate violation of California law, which requires an onsite fully resident caretaker for any residence with 16 or more units.

This is after many months of difficulty in communicating with them about basic building management issues. They have no knowledge of tenant law and have entered several apartments without notice. They have threatened me personally with eviction simply for pointing out the law on this matter.

A resident manager is required because the immediate safety of the tenants can be at stake in the event of emergencies on the premises. There needs to be a designated responsible party available and capable of providing vital information to both tenants and emergency responders.

Other specific areas of concern follow.

**Security Issues**

The automatic parking gate at 5733 routinely hasn't worked and they have been slow to repair it. The garage door on 5707 failed, and they didn't have accounts with anybody to fix it. This led to at least one serious incident where squatters at 5801 started a fire. It's because the gate was never locked. The Green Sage partners were warned repeatedly, and never responded.

000026



**Unit 5B**

For all intents and purposes, one unit is already lost as a residence. It's been occupied by unknown people who may be connected with a commercial tenant. Green Sage never gave me any information on who occupies that unit. That is dangerous, because I'm supposed to know who lives in the building.

**Maintenance**

Green Sage's designated handyman, Camarino Sanchez, has no skills in carpentry, plumbing, or electrical and he's now in charge of all of that – plus he's doing unpermitted work on the ground floor. I know he's unskilled because he left my wall heater in a shambles the one time I requested his help with a repair.

**Front glass door**

The front door by the 5733 mail lobby, a glass office door, has broken 4-5x past several years. It periodically fails to open from the inside. This is a major fire hazard, as there are only 2 exits from the building and that is one of them. The maintenance and locksmith professionals who worked with our former owners, Pamco, have told me repeatedly that the door has to be replaced. I sent Green Sage several emails about that, no response.

**Unauthorized entry**

The Green Sage handyman, Camarino, has entered at least 2 units without advance notice. One of them was my unit. When I complained, Patrick Koentges, one of the Green Sage partners said, "Anyone who is rude to my staff will be out on their asses" and also "I own this f--- building, I make the rules."

**Unpermitted construction**

Downstairs construction has no building permits. They are not online. This is reported, with a case number of 180-1469. No inspector has come out.

**Unwarranted personal inquiries**

Bruce Miller, another Green Sage partner, asked me several times about the other residents: asking who's an artist, and who actually occupies their units. It seems clear that they're looking for reasons to get rid of us.

**Utility outages**

We had a power outage near the end of January of this year. At that time PG&E notified both me, and another tenants who called in, that nobody had claimed the account. This is 2 months after the building sale. We also found several EB MUD shutoff notices, indicating that nobody had claimed that account, either.

**Garbage**

For several weeks after the building sale in November, there was no trash pickup. However, we were charged the entire time, via "house fees" that were itemized for water, trash, and metered electrical usage. We were also charged for security that was nonexistent. The previous owner, Pamco, had a series of cameras that were monitored. Now, there is effectively no surveillance.

**Demands for insurance**

For many years prior, our leases had a clause requiring us to have business licenses and insurance. However in 20 years that part of the lease was never enforced, which sets a precedent. Then on April 24th Green Sage sent us a letter demanding proof of insurance by May 1st. This is an unreasonably short amount of time. Again I believe they were looking for excuses to get rid of us.

**No repairs**

One of our tenants recently had a refrigerator failure. Green Sage, after almost a week of non-response, stated that we had commercial leases and were responsible for all repairs. This is not true. The refrigerator belongs to the building. We rented these units as furnished with stove, refrigerator, already built out by Pamco, the previous owner. We did not rent raw space and build it out ourselves. If we had, it would be our responsibility.

It's the responsibility of owner to repair their own equipment. That's why we're paying rent. It's their stuff. They own it. We are paying to use it.

**Commercial leases**

We live here. Everybody knows we live here. The previous owner, Pamco, knew we lived here. And if they're so sure these aren't residential units, why can't they evict us?

**Front door lockout**

On May 1st, Green Sage changed the locks on our front door without advance notice, and the replacement keys were left with the handyman Camarino who absconded with them at the end of the day. Several of us had to take it on ourselves to track him down and distribute the new keys ourselves as people came home from work.

It is clear that Green Sage is not acting in good faith. Please help us to address these issues effectively and immediately.

Regards,

James Dawson  
Oakland Cannery resident  
5733 San Leandro Street #4  
Oakland, CA 94621

000028

May 18, 2018

Kelley Kahn  
Oakland City Liaison for the Arts  
1 Frank Ogawa Plaza  
Oakland CA 94612

**Re:** Live/Work Oakland Cannery Building, 5733-5707 San Leandro Street, Oakland CA 94621

Dear Kelley,

We are writing to you concerning the live/work situation at The Oakland Cannery Building, and to report a few recent events that have left us deeply concerned for our immediate health and safety. We are covering all aspects of safety regulations, pursuing legal support. We would also like to request your assistance in seeking advice from OPD.

**Vacant Resident Manager Position:** The resident manager was fired last Monday, with nobody designated to replace him. Green Sage stated that their existing staff, an office manager in Denver and an unskilled daytime repairman, could handle it. This is in violation of California Civil Code, which states that all residential buildings with 16 or more units requires an onsite fully resident manager and 24-7 response, particularly for emergencies. There is no one on staff who is familiar with our building infrastructure or even basic tenant law.

**Lack of Communication:** Green Sage has ceased to respond to communications regarding building security issues or even basic repairs. They do not seem to know what is actually stated in everyone's lease. Despite their letter stating their commitment to the arts and to live/work, their actions indicate otherwise.

**Lockout:** On May 1st the locks to the building were changed without advance notice, leading to widespread dismay as tenants found themselves unable to access their units. When I wrote to complain, I received a hostile and disrespectful response.

**Un-Permitted Construction Activity:** Extensive un-permitted construction work is occurring at both 5733 and 5601 locations. This has been reported to the Building Department.

**Security Breaches:** Numerous security issues have been reported around the premises, including a transient-related fire, and unknown persons attempting to access the building. In February, one of the downstairs suites was discovered wide open and unsecured at night in an area with transients who could have very easily taken up residence and caused mischief. Security door malfunctions and other breaches are not addressed for weeks after being reported. There is no monitoring or security service, despite verbal commitments made to business tenants that a security guard would be provided.

000029

**Financial Health:** A lack of attention to basic maintenance and basic tenant security could indicate a lack of long-term commitment as well as a lack of financial resources, leading us to wonder whether the building could change hands again, or even go into foreclosure. How would we be informed?

All of these items paint a picture of active malfeasance and bad faith: ignorance of, and disregard for, state and local laws; and a lack of concern for residents and business tenants alike. To paraphrase a famous Victorian novelist, "Their words and deeds have been so false as to be hourly detected."

At this time we would like to focus on the positive aspects of greater community outreach, including the upcoming Festival for Arts and Culture that Alistair is organizing, now set for Labor Day weekend. We remain committed to working with the City and other artist groups to maintain Oakland's reputation as a world-class producer of arts and culture.

Very sincerely yours,

Alistair Monroe  
Rebecca Firestone

cc: Rebecca Kaplan, Oakland City Councilmember At-Large  
John Knight, Office of Councilmember At-Large Rebecca Kaplan  
Sheng Thao, Office of Councilmember At-Large Rebecca Kaplan  
Greg Minor, City Administrator's Office  
Matt Hummel, Oakland Cannabis Regulatory Commission  
Jonah Strauss, Oakland Warehouse Coalition  
Hiroko Kuirhara, Oakland Culture Zone

000030



Green Sage Management  
1137 Bannock Street  
Denver, Colorado 80204  
[www.greensagemb.com](http://www.greensagemb.com)

Re: Letter To The Work/Live Artists

As many of you are already aware, we have recently assumed the management of the Cannery facility and are developing a business plan for cannabis while recognizing the history and importance of the work/live artist space.

We are sensitive to the artist community in Oakland. Several of our principals have artists in their families and we support the arts. It is our intention to embrace the active work/live artist spaces as part of our business model going forward.

Additionally, we support the changes put forth by the Mayor's office and Oakland City Council and are working with them directly to ensure a successful outcome for all.

Establishing a safe and secure environment for all cannabis tenants and work/live artists alike will require a number of changes and accommodations on your part. We are drafting rules and regulations that will outline these changes and will share these with you shortly. Please understand these changes are necessary for the smooth flow of operations, your security, and the security of the cannabis businesses in the Cannery.

We will also strive to communicate regularly, and should you have any questions, please email us at [info@greensagemanagement.com](mailto:info@greensagemanagement.com).

Thank you,

**Green Sage Management**  
1137 Bannock Street  
Denver, Colorado 80204  
o) 720-612-7739

000031

## **NOTICE OF CHANGE IN TERMS OF TENANCY**

To: All Tenant(s) in possession of live/work units located at:  
5733 San Leandro Street  
Oakland, CA 94621


You are hereby notified, in accordance with Section 827 of the California Civil Code, that effective thirty (30) days from service on you of this Notice or on **August 15, 2018**, whichever is later, your tenancy of the premises will be changed as follows:

Parking space shall be relocated from the garage space to the general parking area adjacent to the Oakland Cannery Building (5733 San Leandro Street, Oakland, CA).

Use of a storage unit is removed from terms of tenancy and all property currently stored in a storage unit must be vacated.

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

Dated: July 10, 2018



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Ken Greer, Authorized Agent  
Green Sage, LLC, Landlord

000032



**CITY OF OAKLAND**  
**Office of the City Administrator**

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**NUISANCE ABATEMENT • SPECIAL ACTIVITY PERMIT**

1 Frank H. Ogawa Plaza, 11<sup>th</sup> Floor • Oakland, CA 94612

Greg Minor, Assistant to the City Administrator  
email: gminor@oaklandnet.com

Phone: 510-238-6370  
Fax: 510-238-7084

August 15, 2018

Bruce Miller  
Green Sage Management LLC  
1137 Bannock Street  
Denver, CO 80204

Dear Mr. Miller,

As you may recall, the City of Oakland amended its cannabis permitting ordinances to protect work/live and residential spaces in March 2018. Consequently, under OMC 5.80.130 and OMC 5.81.150 no cannabis permit or approval can be issued if work live or residential use existed as of March 6, 2018.

Our office has been informed by tenants of your property at 5733 San Leandro Street (the Cannery) that Green Sage has instructed them to stop using the Cannery's garage space and storage units, presumably for the purpose of Green Sage or others utilizing the space in the future for cannabis operations. The Special Activity Permits Division in the City Administrator's Office has visited the site and reviewed information provided by the Cannery tenants and concluded that this space falls under the work/live and residential use protections in the City of Oakland's cannabis permitting ordinances, and therefore no cannabis permit or approval can be issued for a cannabis operation in the areas currently consisting of the garage and storage units.

Thank you in advance for taking this information into consideration as you evaluate where to conduct cannabis operations at the Cannery.

Sincerely,

Greg Minor  
Assistant to the City Administrator

**000033**

T19-0218 MS/EL S. Ma [Signature]

|  |   |  |
|--|---|--|
| <br>CITY OF OAKLAND | <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>250 Frank H. Ogawa Plaza, Ste. 5313<br>Oakland, CA 94612-0243<br>(510) 238-3721 | For date stamp.<br>2019 MAR 12 AM 9:47 |
|  | <b>TENANT PETITION</b>  |  |

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

**Please print legibly**

|   |   |                                |
|---|---|--------------------------------|
| Your Name<br><br>Matthew Arthur Laws  | Rental Address (with zip code)<br>5707 San Leandro Street, Studio B<br>Oakland, CA 94621<br>Assessor's Parcel No: 41-3848-13-3  | Telephone:<br>650-648-3732     |
|   |   | E-mail:<br>laws.matt@gmail.com |
| Your Representative's Name  | Mailing Address (with zip code)   | Telephone:<br><br>Email:       |
| Property Owner(s) name(s)<br>Oakland Cannery Real Estate LLC<br>5733 SLOCA Partnership<br>KBP Acquisitions Real Estate, LLC | Mailing Address (with zip code)<br>3600 AMERICAN RIVER DRIVE SUITE 215<br>SACRAMENTO CA 95864<br>1137 Bannock Street Denver, CO 80204<br>1137 Bannock Street Denver, CO 80204 | Telephone:                     |
|   |   | Email:                         |
| Property Manager or Management Co.<br>(if applicable)<br>Green Sage Management LLC  | Mailing Address (with zip code)<br>1137 Bannock Street<br>Denver, CO 80204  | Telephone:<br>(720) 612-7739   |
|   |   | Email:<br>info@greensagemb.com |

Number of units on the property: 20

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

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

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

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

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

Date you moved into the Unit: April 7, 2013 Initial Rent: \$ \$1,500 /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: Green Sage has never provided me with a RAP Notice.

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

**List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.**

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |         | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|--|--|-----------------------|---------|---|---|
|  |  | From                  | To      |   |   |
| January 31, 2019                           | March 1, 2019                                | \$ 1618.86            | \$ 1779 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|  |  | \$                    | \$      | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$      | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$      | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$      | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$      | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |

VIA USPS

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

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

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

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

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

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

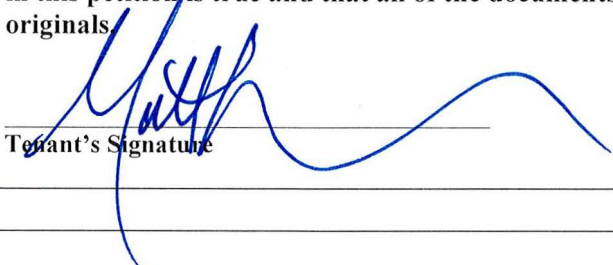
Please attach documentary evidence if available.

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

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

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

Tenant's Signature



Date

3/11/19

**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

3/11/19

**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, Ste. 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, 6<sup>th</sup> Floor, Oakland; or through the **RAP Online Petitioning System:** <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. For more information, 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): \_\_\_\_\_

**Request for Consolidation with Other Petitions Involving Green Sage Management and Assessor's Parcel No. 41-3848-13-3**

RENT ARBITRATION  
2019 MAR 12 AM 9:47

Currently, there are approximately 18 petitions pending against Green Sage Management, which are listed under the file name "Monroe v. Green Sage Management, LLC." The property address listed under that file is 5733 San Leandro St, Oakland CA 94621. While my mailing address is 5707 San Leandro Street, 5733 and 5707 are the same building. Both mailing addresses are part of Alameda County Assessor's Parcel Number 41-3848-13-3. There is a mediation scheduled May 7, 2019 and a hearing scheduled May 8, 2019.

The case numbers for the outstanding petitions involving Green Sage Management are:

T18-0281, T18-0282, T18-0314, T18-0399, T18-0372, T18-0373, T19-0035, T19-0034, T19-0033, T19-0032, T19-0031, T19-0030, T19-0029, T19-0028, T19-0027, T19-0026, T19-0025, and T19-0024

I request that you consolidate this petition with the current outstanding petitions and schedule me for the May 7, 2019 mediation and May 8, 2019 hearing.

**000038**



2019 MAR 12 AM 9:47

**Section III Addendum**

I am requesting the rent board refer the following Health and Safety Code violation to either the Alameda County District Attorney or the Oakland City Attorney if the Rent Adjustment Program's administrative citation process is not the appropriate enforcement mechanism.

On or about May 15, 2018, Green Sage Management informed tenants that it had relieved our onsite, resident property manager. I have attached that letter. On May 16, 2018, I emailed management inquiring who will be the onsite residential manager going forward. That email is attached. I have received no response. I am informed and believe that at least two other residents of the 5707 and 5733 San Leandro buildings asked Green Sage about the replacement residential manager and received no response.

California Code of Regulations section 42 states that "A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments . . ." (25 CCR 42.)

There are 20 residential units on the premises.

Code of Regulations section 72 states that "Any violation of this subchapter or of the Health and Safety Code, Division 13, Part 1.5, commencing with Section 17910 (State Housing Law) shall be subject to the penalties as set forth in Section 17995 of the Health and Safety Code."

Health and Safety Code Section 17995 states:

"Any person who violates any of the provisions of this part, the building standards published in the State Building Standards Code relating to the provisions of this part, or any other rule or regulation promulgated pursuant to the provisions of this part is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding six months, or by both such fine and imprisonment."

It is extremely difficult to calculate the dollar value of an onsite manager with access to all parts of the building, emergency gas and water shut offs, and other services. The loss of convenience of having an onsite manager if you are inadvertently locked out of the building might be worth \$100 a month. Having a someone onsite to shut off gas, water, or reset fuses during an emergency could be priceless.

I am not asking the rent board to award me compensation for the lack of a residential manager. The Health and Safety Code requires an onsite residential manager to ensure the safety of the tenants. This is something that can be addressed during mediation and I request this issue be made part of the mediations.



GREEN SAGE  
MANAGEMENT

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2019 MAR 12 AM 9:47

Green Sage Management, LLC  
1137 Bannock Street  
Denver, Colorado 80204

**May 15, 2018**

ALL CANNERY TENANTS  
5733 SAN LEANDRO STREET  
OAKLAND, CA 94621

Effective Immediately:

All daily residential management and operations will be handled by Green Sage Management staff: Annie Fedler and Camerino Sanchez.

Please direct maintenance requests, invoice questions and other communications to Annie Fedler via email [annie@greensagemanagement.com](mailto:annie@greensagemanagement.com). She will handle all scheduling and authorized access to tenant's property for maintenance work. Maintenance request that requires additional authorization from Green Sage Management will first need to go through Annie. Please allow 24 hours for response time. Maintenance orders will be prioritized with emergency and security items first and everything else follows.

Meter readings for Studio 1-9 please email picture of meter to Annie between the 1<sup>st</sup> to 3<sup>rd</sup> of each month. Meter reading for Studio A-I Camerino will take pictures and email to Annie. Invoices will be sent no later than the 5<sup>th</sup> and due date is on the 10<sup>th</sup>. Invoices sent out will include current month rent, previous month's house charges (CAM) and utilities.

We want to thank James Dawson for his efforts on the Cannery Property. Thank you everyone for your respect and patience to our staff.

SINCERELY,

PATRICK KOENTGES MANAGING DIRECTOR  
BRUCE MILLER MANAGING DIRECTOR

**000040**

RECEIVED  
CITY OF DENVER  
RENT ARBITRATION PROGRAM  
2019 MAR 12 AM 9:47



Matt Laws [REDACTED]

## Cannery Management Update

**Matt Laws** [REDACTED] Tue, May 15, 2018 at 3:27 PM  
To: annie@greensagemanagement.com  
Cc: patrick@greensagemb.com, bruce@greensagemb.com, ken@greensagemb.com  
Bcc: [REDACTED]

Hi Annie,

I assume your 10th of the month due date does not apply to reimbursement of utilities and only to payment of rent. Allowing only five days from invoice to get a check to Colorado in the mail is impractical. Not only that, but I would assume most, if not all, the residential contracts state under the "Utilities" section that "Tenant shall pay any reimbursement to Owner within 30 days after Owner sends the statement." Perhaps you want to consider this and clear up your announcement.

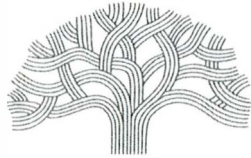
Additionally, now that James Dawson is no longer performing management functions, who will be the onsite residential manager going forward? Neither you nor Camerino live on the Cannery property.

Thanks,

Matt

On Tue, May 15, 2018 at 2:48 PM Annie Fedler <annie@greensagemanagement.com> wrote:  
Cannery Tenants:  
Please read the following letter from Green Sage Management's Managing Partners, Patrick and Bruce. Have a great day!  
Annie

T19-0220 MS/EL



CITY OF OAKLAND

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

For date stamp.

2019 MAR 20 PM 3:56

**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<br><i>Dustin Schultz</i>  | Rental Address (with zip code)<br>5707 San Leandro Street, Studio <b>D</b><br>Oakland, CA 94621<br>Assessor's Parcel No: 41-3848-13-3   | Telephone:<br><i>612-850-7139</i> |
|   |   | E-mail:<br><i>dust@ofdust.in</i>  |
| Your Representative's Name<br><i>Dustin Schultz</i>   | Mailing Address (with zip code)<br>" "  | Telephone:<br>"                   |
|   |   | Email:<br>"                       |
| Property Owner(s) name(s)<br>Oakland Cannery Real Estate LLC<br>5733 SLOCA Partnership<br>KBP Acquisitions Real Estate, LLC | Mailing Address (with zip code)<br>3600 AMERICAN RIVER DRIVE SUITE 215<br>SACRAMENTO CA 95864<br>1137 Bannock Street Denver, CO 80204<br>1137 Bannock Street Denver, CO 80204 | Telephone:                        |
|   |   | Email:                            |
| Property Manager or Management Co.<br>(if applicable)<br>Green Sage Management LLC  | Mailing Address (with zip code)<br>1137 Bannock Street<br>Denver, CO 80204  | Telephone:<br>(720) 612-7739      |
|   |   | Email:<br>info@greensagemb.com    |

Number of units on the property: 20

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

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

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

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

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

Date you moved into the Unit: 06/01/09 Initial Rent: \$ 1477.00 /Month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: Never. If never provided, enter "Never."  
Green Sage has never provided me with a RAP Notice.

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

**List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.**

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |                   | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|--|--|-----------------------|-------------------|---|---|
|  |  | From                  | To                |   |   |
| <u>01/29/2019</u>                          | March 1, 2019                                | \$ <u>1671.51</u>     | \$ <u>1838.00</u> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|  |  | \$                    | \$                | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$                | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$                | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$                | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
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\* 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:

see additional page attached

**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:

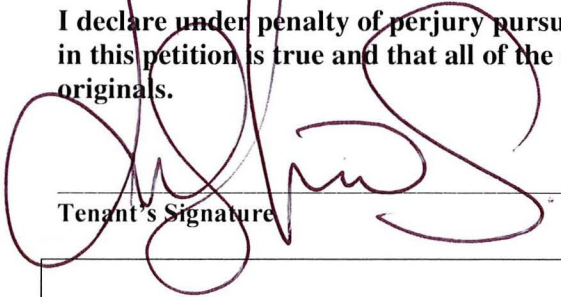
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Please attach documentary evidence if available.

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

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

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

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

3/13/2019  
\_\_\_\_\_  
Date

\_\_\_\_\_



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

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**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

03.13.2019  
\_\_\_\_\_  
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, Ste. 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, 6<sup>th</sup> Floor, Oakland; or through the **RAP Online Petitioning System:** <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. For more information, call: (510) 238-3721.

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GREEN SAGE

Green Sage Management, LLC  
1137 Bannock Street  
Denver, Colorado 80204

**May 15, 2018**

ALL CANNERY TENANTS  
5733 SAN LEANDRO STREET  
OAKLAND, CA 94621

Effective Immediately:

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We want to thank James Dawson for his efforts on the Cannery Property. Thank you everyone for your respect and patience to our staff.

SINCERELY,

PATRICK KOENTGES MANAGING DIRECTOR  
BRUCE MILLER MANAGING DIRECTOR

**000047**



Matt Laws [REDACTED]

---

**Cannery Management Update**

---

Matt Laws [REDACTED]

Tue, May 15, 2018 at 3:27 PM

To: annie@greensagemanagement.com

Cc: patrick@greensagemb.com, bruce@greensagemb.com, ken@greensagemb.com

Bcc: [REDACTED]

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Thanks,

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On Tue, May 15, 2018 at 2:48 PM Annie Fedler &lt;annie@greensagemanagement.com&gt; wrote:

Cannery Tenants:

Please read the following letter from Green Sage Management's Managing Partners, Patrick and Bruce. Have a great day!

Annie

**Request for Consolidation with Other Petitions Involving Green Sage Management and Assessor's Parcel No. 41-3848-13-3**

Currently, there are approximately 18 petitions pending against Green Sage Management, which are listed under the file name "Monroe v. Green Sage Management, LLC." The property address listed under that file is 5733 San Leandro St, Oakland CA 94621. While my mailing address is 5707 San Leandro Street, 5733 and 5707 are the same building. Both mailing addresses are part of Alameda County Assessor's Parcel Number 41-3848-13-3. There is a mediation scheduled May 7, 2019 and a hearing scheduled May 8, 2019.

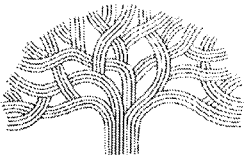
The case numbers for the outstanding petitions involving Green Sage Management are:

T18-0281, T18-0282, T18-0314, T18-0399, T18-0372, T18-0373, T19-0035, T19-0034, T19-0033, T19-0032, T19-0031, T19-0030, T19-0029, T19-0028, T19-0027, T19-0026, T19-0025, and T19-0024

I request that you consolidate this petition with the current outstanding petitions and schedule me for the May 7, 2019 mediation and May 8, 2019 hearing.

**000049**

T19-0251 MS/EL

|  |   |   |
|--|---|---|
|  <p>CITY OF OAKLAND</p> | <p><b>CITY OF OAKLAND</b><br/> <b>RENT ADJUSTMENT PROGRAM</b><br/>         P.O. Box 70243<br/>         Oakland, CA 94612-0243<br/>         (510) 238-3721</p> | <p>For date stamp:<br/>         2019 JUN 10 PM 1:46</p> |
|  | <p><b><u>TENANT PETITION</u></b></p>  |   |

**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<br><br>Abigail Baird  | Rental Address (with zip code)<br><br>5707 San Leandro St. STE G<br>Oakland, CA 94621  | Telephone:<br><br>505-629-8163                         |
|   |  | E-mail:<br>abigail.kineticarts@gmail.com               |
| Your Representative's Name<br><br>Abigail Baird   | Mailing Address (with zip code)<br><br>785 7th Street Oakland CA 94621   | Telephone:<br><br>505-629-8163                         |
|   |  | Email:<br>abigail.kineticarts@gmail.com                |
| Property Owner(s) name(s)<br><br>Oakland Cannery Real Estate LLC<br><br>5733 SLOCA Partnership<br><br>KBP Acquisitions Real Estate, LLC | Mailing Address (with zip code)<br><br>3600 American River Drive Suite 215<br>Sacramento, CA 95864<br><br>1137 Bannock St, Denver, CO 80204<br><br>1137 Bannock St, Denver, CO 80204 | Telephone:<br><br>                                     |
|   |  | Email: patric@greensagemb.com<br>bruce@greensagemb.com |
| Property Manager or Management Co.<br>(if applicable)<br><br>Green Sage Management, LLC<br>Annie Fedler                                 | Mailing Address (with zip code)<br><br>1137 Bannock St<br>Denver, CO 80204   | Telephone:<br><br>720-612-7739                         |
|   |  | Email:<br>annie@greensagemanagement.com                |

Number of units on the property: 20

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

If you are not current on your rent, please explain. (If you are legally withholding rent state what, if any, habitability violations exist in your unit.) On January 28th 2019 we received a notice of change in terms of tenancy which was meant to go into affect on March 1st 2019. This document stated that the rent would increase by 10% from \$1804.02 to \$1984.00. It stated that the landlord contends that the unit is not subject to OMC 8.22.300 as the unit is commercial and not residential. The past owner and I treated the space as a residential artist studio. On February 15th 2019 I received a letter from the city of Oakland housing and community development department stating that the rent increase was suspended while the petition was pending. This was for a different petition. The case number for that petition is T19-0034.

**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.   |
| 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 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).  |
|   | (f) The rent increase notice(s) was (were) not given to me in compliance with State law.   |
|   | (g) The increase I am contesting is the second increase in my rent in a 12-month period.   |
|   | (h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)  |
|   | (i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page) |
|   | (j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.  |
|   | (k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).  |
|   | (l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake. (OMC 8.22, Article I)   |
|   | (m) The owner did not give me a summary of the justification(s) for the increase despite my written request.   |
|   | (n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.   |

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

Date you moved into the Unit: October 20th 2014 Initial Rent: \$ \$1700 /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 **X**

**List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.**

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |           | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|--|--|-----------------------|-----------|---|---|
|  |  | From                  | To        |   |   |
| January 28, 2019                           | March 1st 2019                               | \$ \$1804.02          | \$1984.00 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|  |  | \$                    | \$        | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$        | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$        | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$        | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$        | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

T19-0034

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

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

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

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

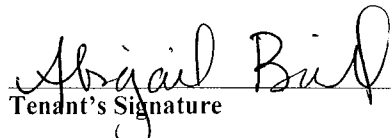
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

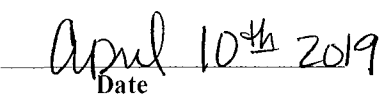
Please attach documentary evidence if available.

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

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

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

  
Tenant's Signature

  
Date

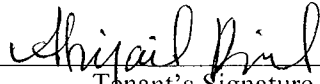
**V. MEDIATION AVAILABLE:** Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

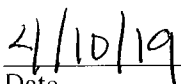
You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements.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

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

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

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

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

  
\_\_\_\_\_  
Date

**VI. IMPORTANT INFORMATION:**

**Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

**File Review**

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

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

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

Please Consolidate this petition with case  
number T19-0034

For a mediation on May 7<sup>th</sup> and possible  
hearing on May 8<sup>th</sup>

This petition has also been emailed to  
Margaret Sullivan. msullivan@oaklandca.gov

Best,  
Abigail Baird  
505.629.8163  
abigail.kineticarts@gmail.com



**NOTICE OF CHANGE IN TERMS OF TENANCY**

To: Oshyan Li Greene  
Abigail Sirena Baird  
And All Occupants In Possession  
5707 San Leandro Street, Studio G  
Oakland, CA 94621

**YOUR TENANCY IN THE PREMISES IS CHANGES AS FOLLOWS:**

Unless otherwise provided the change shall take effect thirty (30) days from service of this Notice or on March 1, 2019, whichever is later.

**RENT SHALL BE \$1,984.00 PER MONTH**

This Notice is given in good faith with no ulterior motive on the grounds the subject residential property is exempt from the Oakland Residential Rent Adjustment Program pursuant to 8.22.030(A)(5), which states as follows:

Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983 . . .

Additionally, the landlord contends that your unit is not subject to OMC 8.22.300 as your unit is commercial and not residential.

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

Dated: January 28, 2019



Patrick Koentges, Managing Director  
Green Sage, LLC, Landlord

Contested in Petition Subsequent April 19th

~~Petition~~

Shows landlord contends the unit as  
commercial and not residential.

Abigail Baird

4/10/19



Submitted with  
petition T19-0034

Loss of Services List for 5707 San Leandro St Unit G

Provided by Renter:

Abigail Baird

505-629-8163

abigail.kineticarts@gmail.com

List of lost housing services or problems:

1. Loss of on sight manager
2. Attempted loss of Parking Spaces
3. Loss of Residential Standing

For this petition 4/10/19

Date of Loss or problem

1. On sight manager - 5/15/18
2. Attempted to take away parking - notified on 7/16/18 to be taken away on 8/15/19
3. On March 1st 2019 we received a notification of rent increase. This notice also stated, The landlord contends that your unit is not subject to OMC 8.22.300 as your unit is commercial and not residential.

When you notified the owner of the problems and calculated dollar value of loss of services or problems.

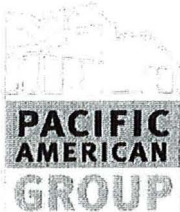
1. I did not personally notified the owner, on 5/21/18 the previous on sight manager, James Dawson emailed the Oakland city council member Kaplan. Document included in petition T19-0034
2. On August 13th the Canary residents sent Green Sage Management a letter notifying them that the request to take away our parking spaces was not legal. Documents included in petition T19-0034
3. Loss of Residential Standing - Green Sage Management has not been notified on my behalf.

Dollar Value of Problem:

1. 10% of rent
2. 12% of rent
3. Invaluable and illegal as I live in my unit

Abigail Baird

000056



104 Caledonia Street • Suite C • Sausalito • California • 94965 | T (415) 331-3838 | F (415) 331-8388

September 25, 2017

Oshyan Greene  
Abigail Baird  
5707 San Leandro Street, Studio G  
Oakland, California 94621

**Re: 5707 San Leandro Street, Oakland, CA  
Rent Increase Notification**

Dear Oshyan and Abigail:

Please note that effective November 1, 2017, your rent will be increased by the Oakland Rent Board index rate of 2.3% making your new rent payment **\$1,804.02**. Please annotate your records accordingly. *Increase from previous owner assumed coverage from RAP.*  
In addition, please send your payment before the **10th of each month**. After that date, we will begin to enforce the 6% late charge.

Sincerely,

Theron Bullman  
Controller

Enclosure

4/10/19

*Abigail Baird*

The municipal code 8.22.810 listed below proves that Unit G in the Oakland Cannery at 5707 San Leandro St is a residential unit and not a commercial unit as the landlords, Green Sage Management, LLC. are claiming.

City of Oakland Municipal Code 8.22.810

"Rental Unit" means a dwelling space in the City containing a separate bathroom, kitchen, and living area, including a single-family dwelling or unit in a multifamily or multipurpose dwelling, or a unit in a condominium or cooperative housing project, or a unit in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the Oakland Municipal Code or Oakland Planning Code, which is hired, rented, or leased to a household within the meaning of California Civil Code Section 1940. This definition applies to any dwelling space that is actually used for residential purposes, including live-work spaces, whether or not the residential use is legally permitted.

**000058**



**ARTIST STUDIO COMMERCIAL LEASE--RENTAL AGREEMENT**

PACIFIC AMERICAN MANAGEMENT (PAMCO), LLC, ("Owner"), hereby acknowledges that Owner has received from OSHYAN LI GREENE and ABIGAIL SIRENA BAIRD ("Tenant"), the sum of \$3,355.68 (Three Thousand Three Hundred Fifty Five dollars and 68/100), in the form of [ ] personal check [X] cashier's check [ ] cash, as deposit which, upon acceptance of this lease-rental agreement, shall belong to Owner and shall be applied as follows:

|                                      |                 |
|--------------------------------------|-----------------|
| First month rent (10/20/14-10/31/14) | \$ 670.68       |
| Security deposit .....               | \$2,550.00      |
| Credit check fee (2 @ \$30 ea) ...   | \$ 60.00        |
| Other (Garage opener deposit) ...    | <u>\$ 75.00</u> |
|                                      | \$3,355.68      |

The security deposit which, upon Owner's signature and acceptance of this lease-rental agreement ("Lease"), shall be held by Owner in accordance with Section 18 below.

Tenant hereby offers to lease from Owner the premises situated in the City of Oakland, County of Alameda, State of California, described as Artist Studio which include one garage space located at the "Oakland Cannery" \_5707 San Leandro Street, Studio G, upon the following TERMS and CONDITIONS:

1. **TERM:** The term will commence on October 20, 2014, and continue (check one of the two following alternatives):  
 LEASE until October 31, 2015, for a total rent of \$21,070.68.  
 RENTAL on a month-to-month basis, until either party terminates this Lease by giving the other party 30 days notice.
2. **RENT:** Rent will be \$1,700.00, per month, payable in advance on the 1<sup>st</sup> day of each calendar month to Owner or Owner's authorized agent, at the following address: PAMCO, LLC, 104 Caledonia St., Ste. C, Sausalito, California 94965, or at such other place as may be designated by Owner from time to time. On November 1, 2015, the rent shall be increased by the increase during the previous year in the Consumer Price Index (CPI) (All Urban Consumers-All Items) for the Bay Area. In the event rent is not received by owner in full within 10 days after due date, Tenant agrees that it would be impracticable or extremely difficult to fix the actual damages to Owner caused by that failure, and Tenant agrees to pay a late charge in an amount equal to 6% of the monthly rent due. Tenant further agrees to pay \$25.00 for each dishonored bank check. All late fees and returned check fees will be considered additional rent. The late charge period is not a grace period, and Owner is entitled to make written demand for any rent if not paid when due and to collect interest on such rent. Any unpaid balance, including late charges, will bear interest at 10% per annum, or the maximum rate allowed by law, whichever is less.
3. **USE:** The premises are to be used only by Tenant and only as an artist's studio, and not by any other person on any regular basis and not for any other purpose without the prior written agreement of Owner. However, Tenant may elect to live in the studio to the extent permitted by City zoning and other requirements. If Tenant so elects, the following will apply.
  - a. Only the named Tenant(s), and not any other person, may live in the premises. As agreed between Landlord and Tenant the premises are to be used only as a private residence for not more than 2 person(s) and for no other purpose without the prior written consent of Owner. No substitute or additional occupant, whether a boarder, lodger, roommate or other person, is permitted without Owner's prior written agreement. Tenant may have a guest on the premises for not more than seven (7) consecutive days during any one stay or a total of thirty (30) days in a calendar year, and no more than one (1) guest(s) at any one time. Any guest whose stay exceeds the specified limits, or any substituted or additional occupant without Owner's prior written consent, is not a tenant of the premises, and will be subject to eviction by Landlord under legal process without prior service of notice to quit or other termination notice. Without limiting the generality of Section 21 below, acceptance of rent by Owner shall not operate as a waiver or otherwise prevent

Owner harmless from and against any claim, demand or liability arising out of the premises no matter how or by who caused or, if caused by Tenant, its agents, licensees or invitees, arising out of the remainder of the property, unless (in either case) arising out of Owner's reckless disregard or intentional misconduct.

**10. POSSESSION:** If Owner is unable to deliver possession of the premises at the commencement of the term, Owner shall not be liable for any damage caused thereby, nor shall this Lease be void or voidable, but Tenant shall not be liable for any rent until possession is delivered. Tenant may terminate this Lease if possession is not delivered within N/A days of the commencement of the term.

**11. UTILITIES:** Tenant agrees that he shall be responsible for payment of, or reimbursement to Owner of the cost of, all utilities delivered to the premises, including water, gas, electricity, heat, house fee and other services. Electric will be billed on a monthly basis based on the usage of your unit. The gas, water and garbage will be a flat fee of \$96.00 per month on your utility statement. Tenant shall pay any reimbursement to Owner within 30 days after Owner sends the statement. Tenant recognizes that the heat to the premises provided by Owner may not be adequate, and agrees to provide such additional heat as Tenant may desire.

**12. SIGNS:** Owner reserves the exclusive right to signage on the roof, side and rear walls of the premises. Tenant shall not construct any projecting sign or awning without the prior written consent of Owner.

**13. ABANDONMENT OF PREMISES:** Tenant shall not vacate or abandon the premises at any time during the term. If Tenant shall abandon or vacate the premises while in default in the payment of rent, or be dispossessed by process of law or otherwise, Owner may elect to consider any property left upon the premises to be abandoned and may dispose of the same in any manner allowed by law. In the event Owner reasonably believes that such abandoned property has no value, such property may be discarded. All property on the premises will be subject to a lien for the benefit of Owner securing the payment of all sums due, to the maximum extent allowed by law.

**14. TRADE FIXTURES:** Any and all improvements made to the premises during the term shall belong to the Owner, except trade fixtures of the Tenant and such improvements as Owner may, by notice to Tenant prior to expiration or earlier termination, require Tenant to remove. Tenant shall, prior to expiration of the term or earlier termination of this Lease, remove such Tenant improvements as Owner may designate for removal and all Tenant's trade fixtures, and repair or pay for all repairs of damage to the premises occasioned by the removal.

**15. DESTRUCTION OF PREMISES:** In the event of a partial destruction of the premises from any cause during the term, Owner shall forthwith repair the same, if such repairs can be made within sixty (60) days under existing governmental laws and regulations. Such partial destruction shall not terminate this Lease. Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs interferes with the business of Tenant on the premises. If such repairs cannot be made within such sixty (60) days, Owner, at Owner's option, may elect to make the repairs within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, failing which election this Lease may be terminated: by Tenant, by written notice within 30 days after Owner's election not to make the repairs; or by Owner, by written notice to Tenant at any time.

In the event that the building in which the demised premises may be situated is destroyed to the extent of 10% or more of the cost of replacing the destroyed and damaged portions, Owner may elect to terminate this Lease, whether the demised premises are damaged or not. A total destruction of the building in which the premises are situated shall terminate this Lease.

**16. HAZARDOUS MATERIALS:** Tenant shall not use, store, or dispose of any hazardous substance on the premises, except use and storage of such substances if they are customarily used in Tenant's business, Tenant has first obtained all required permits, and such use and storage complies with all environmental laws. Hazardous substance means any hazardous waste, substance or toxic material regulated under any environmental law or regulation applicable to the property.

- 22. NOTICES:** Any notice which either party may or is required to give shall be given in writing and may be given personally or by mailing the same, postage prepaid, to Tenant at the premises, or Owner at the address shown below, or at such other places as may be designated by the parties from time to time, and shall be deemed effective on the first to occur of personal delivery, 5 days after mailing, or when receipt is acknowledged in writing.
- 23. HOLDING OVER:** Any holding over after the expiration of this Lease with the consent of Owner shall be construed as a month-to-month tenancy at a rent of \$1,750.00 per month payable in advance and otherwise on all the terms of this Lease, as applicable, until either party terminates the same by giving the other party 30 days written notice.
- 24. TIME:** Time is of the essence of this Lease.
- 25. HEIRS, ASSIGNS, SUCCESSORS:** Subject to Section 5, this Lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.
- 26. LESSOR'S LIABILITY:** The term "Owner", as used in this Section 26, shall mean only the owner of the real property of which the premises are a part or of a tenant's interest in a ground lease of such real property. In the event of any transfer of such Owner's title or interest in such property or ground lease, such Owner (or the grantor in case of any subsequent transfer) shall be relieved of all liability related to Owner's obligations to be performed after such transfer. However, any Tenant security deposit in the hands of such Owner or grantor at the time of such transfer shall be delivered to the grantee. The obligations of Owner under this Lease shall be binding upon Owner's successors and assigns only during their respective periods of ownership.
- 27. ANIMALS:** No animals shall be brought on the premises without the prior written consent of Owner.
- 28. HOUSE RULES:** In the event that the premises are a portion of a building containing more than one unit, Tenant agrees to abide by any and all house rules, whether promulgated before or after the execution of this Lease, including, but not limited to, rules with respect to noise, odors, disposal of refuse, animals, parking, and use of common areas. Tenant shall not have water-filled furniture on the premises without prior written consent of the Owner.
- 29. FAIR HOUSING.** Owner and Tenant understand that the state and federal housing laws prohibit discrimination in the sale, rental, appraisal, financing or advertising of housing on the basis of race, color, religion, sex, marital status, sexual orientation, national origin, ancestry, familial status, age or disability.
- 30. NO BARBECUES:** Barbecues and open grilles are not permitted on the rooftops under any circumstances.
- 31. ROOF:** Absolutely no walking on the rooftops. Roof access is strictly limited to emergency access only, otherwise prohibited.
- 32. INSURANCE:** Tenant understands that Owner's insurance does not cover Tenant's personal property. During the term Tenant shall maintain in effect a tenant's policy of insurance on the premises, including liability insurance coverage of at least \$100,000 per occurrence with a deductible not in excess of \$1,000. Such insurance shall name as additional insureds Owner and the officers, employees, agents and contractors of Owner, shall waive the insurer's subrogation rights against the additional insureds, and shall be issued by an insurance carrier with a Best's rating of A:VII or better. Concurrently with execution of this Lease, Tenant shall furnish Owner with a copy of a certificate of insurance and of endorsements to the policy indicating Tenant's compliance with the preceding, and upon request of Owner, with a copy of the policy or such other evidence of the insurance coverage as Owner shall reasonably request. To the maximum extent permitted by the insurance policies owned by the parties, but only to the extent of actual insurance coverage, Owner and Tenant waive any and all rights of subrogation against each other that may exist. Tenant acknowledges that Owner strongly recommends higher and greater coverage than that required by the preceding provisions of this Section 32.
- 33. MULTIPLE OCCUPANCY.** The relationship between Owner and Tenant is one of landlord and tenant, and not one of partnership, trust, joint venture or other fiduciary relationship. Without modifying Section 3(a) or Section 5, if there is more



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

For date stamp.

2015 APR 18 PM 1:30

**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T18 - 0372**

|  |   |  |
|--|---|--|
| Your Name<br><br>Green Sage Management   | Complete Address (with zip code)<br><br>1137 Bannock Street<br>Denver, CO 80204         | Telephone:<br><br>(303) 435 - 0064         |
|  |   | Email:<br><br>patrick@greensagemb.com      |
| Your Representative's Name (if any)<br><br>Timothy A. Larsen, Attorney at Law  | Complete Address (with zip code)<br><br>717 Washington Street<br>Oakland, CA 94607      | Telephone:<br><br>(510) 238 - 9333         |
|  |   | Email:<br><br>tlarsenlaw@gmail.com         |
| Tenant(s) Name(s)<br><br>Brett Amory   | Complete Address (with zip code)<br><br>5707 San Leandro St. Apt A<br>Oakland, CA 94621 |  |
| Property Address (If the property has more than one address, list all addresses)<br><br>5707 San Leandro Street, Oakland, CA 94621 |   | Total number of units on property<br><br>9 |

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00206270  
 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: Exempt  
 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: 9 / 23 / 17.

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

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

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

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

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

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

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

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

The tenant moved into the rental unit on 3/1/2013.

The tenant's initial rent including all services provided was: \$ 1600.00 / month.

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

If yes, on what date was the Notice first given? No date given. Based on tenant's petition.

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

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

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

**III. EXEMPTION**

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

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**

4.17.19  
\_\_\_\_\_  
**Date**

**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

**Mediation Program**

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

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

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

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

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

\_\_\_\_\_  
Date

**ARTIST STUDIO COMMERCIAL LEASE--RENTAL AGREEMENT**

PACIFIC AMERICAN MANAGEMENT (PAMCO), LLC, ("Owner"), hereby acknowledges that Owner has received from BRETT STEVEN AMORY ("Tenant"), the sum of \$3,700.00 (Three Thousand Seven Hundred dollars and no/100), in the form of [ ] personal check [X] cashier's check [ ] cash, as deposit which, upon acceptance of this lease-rental agreement, shall belong to Owner and shall be applied as follows:

|                                    |                 |
|------------------------------------|-----------------|
| First month rent (3/1/12-3/31/12)  | \$1,450.00      |
| Security deposit.....              | \$2,175.00      |
| Credit check fee (1 @ \$30 ea).... | \$ --paid--     |
| Other (Garage opener deposit)...   | <u>\$ 75.00</u> |
|                                    | \$3,700.00      |

The security deposit which, upon Owner's signature and acceptance of this lease-rental agreement ("Lease"), shall be held by Owner in accordance with Section 18 below.

Tenant hereby offers to lease from Owner the premises situated in the City of Oakland, County of Alameda, State of California, described as Artist Studio which includes one garage space located at the "Oakland Cannery" 5707 San Leandro Street, Studio A, upon the following TERMS and CONDITIONS:

1. **TERM:** The term will commence on March 1, 2012, and continue (check one of the two following alternatives):  
 LEASE until February 28, 2013, for a total rent of \$17,400.00.  
 RENTAL on a month-to-month basis, until either party terminates this Lease by giving the other party 30 days notice.
2. **RENT:** Rent will be \$1,450.00, per month, payable in advance on the 1<sup>st</sup> day of each calendar month to Owner or Owner's authorized agent, at the following address: PAMCO, LLC, 104 Caledonia St., Ste. C, Sausalito, California 94965, or at such other place as may be designated by Owner from time to time. On March 1, 2013, the rent shall be increased by the increase during the previous year in the Consumer Price Index (CPI) (All Urban Consumers-All Items) for the Bay Area. In the event rent is not received by owner in full within 10 days after due date, Tenant agrees that it would be impracticable or extremely difficult to fix the actual damages to Owner caused by that failure, and Tenant agrees to pay a late charge in an amount equal to 6% of the monthly rent due. Tenant further agrees to pay \$25.00 for each dishonored bank check. All late fees and returned check fees will be considered additional rent. The late charge period is not a grace period, and Owner is entitled to make written demand for any rent if not paid when due and to collect interest on such rent. Any unpaid balance, including late charges, will bear interest at 10% per annum, or the maximum rate allowed by law, whichever is less.
3. **USE:** The premises are to be used only by Tenant and only as an artist's studio, and not by any other person on any regular basis and not for any other purpose without the prior written agreement of Owner. However, Tenant may elect to live in the studio to the extent permitted by City zoning and other requirements. If Tenant so elects, the following will apply.

a. Only the named Tenant(s), and not any other person, may live in the premises. As agreed between Landlord and Tenant the premises are to be used only as a private residence for not more than 1 person(s) and for no other purpose without the prior written consent of Owner. The premises shall be occupied only by the following named person(s):

BRETT STEVEN AMORY *bsa*

No substitute or additional occupant, whether a boarder, lodger, roommate or other person, is permitted without Owner's prior written agreement. Tenant may have a guest on the premises for not more than seven (7) consecutive days during any one stay or a total of thirty (30) days in a calendar year, and no more than one (1) guest(s) at any one time. Any guest whose stay exceeds the specified limits, or any substituted or additional occupant without Owner's prior written consent, is



not a tenant of the premises, and will be subject to eviction by Landlord under legal process without prior service of notice to quit or other termination notice. Without limiting the generality of Section 21 below, acceptance of rent by Owner shall not operate as a waiver or otherwise prevent enforcement of the preceding provisions of this Section or of Section 5 (prohibiting sublease or assignment without prior written consent).

b. Tenant understands and accepts that the premises are part of an industrial building intended for industrial and commercial uses, and that as such the premises will not comply with normal residential housing standards. For example, the building will not provide adequate heat to the premises, the roof may leak, and there may be other shortcomings. By electing to live in the premises, which are being rented as an artist's studio and not as residential housing, Tenant waives all claims of lack of habitability.

**4. USES PROHIBITED:** Tenant shall not use any portion of the premises for purposes other than those specified in Section 3 above. Tenant shall not commit any waste upon the premises, or any nuisance or act which may disturb the quiet enjoyment of any tenant in the building or of any neighbor. Tenant shall not use the premises for any unlawful purpose including, but not limited to, using, storing or selling prohibited drugs. No use shall be made or permitted to be made of the premises, nor any act done, which will increase the existing rate of insurance upon the property, or cause cancellation of insurance policies covering such property. Tenant shall not conduct or permit any sale by auction on the premises.

**5. ASSIGNMENT AND SUBLETTING:** Tenant shall not assign this Lease or sublet any portion of the premises without the prior written consent of Owner, which consent shall not be unreasonably withheld. Any such assignment or subletting without such consent shall be void; in addition to all other remedies, Owner may elect by written notice to Tenant to terminate this Lease.

**6. ORDINANCES AND STATUTES:** Tenant shall comply with all laws pertaining to the premises, including all statutes, ordinances and requirements of all municipal, state and federal authorities, now in force or which may hereafter be in force. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the premises shall, at the option of the Owner, be deemed a breach of this Lease.

**7. MAINTENANCE, REPAIRS, ALTERATIONS:** Tenant acknowledges that the premises are in good order and repair and clean and sanitary condition, unless otherwise indicated in this Lease. Tenant shall, at Tenant's own expense and at all times, maintain the premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations and any other system or equipment upon the premises. Tenant shall be responsible for any damage caused by Tenant (or by Tenant's family, licensees, guests and invitees) to the premises, to the electrical, plumbing, telephone and other systems of the building of which the premises are a part, to the remainder of the building, to other improvements or to the property of which the premises are a part. Tenant shall surrender the premises upon expiration or earlier termination of the term, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for all repairs required, excepting the following, which shall be maintained by Owner unless caused by Tenant or Tenant alterations: roof, exterior walls, structural foundations, existing plumbing and existing electrical wiring.

No improvement or alteration of the premises shall be made without the prior written consent of the Owner. Prior to the commencement of any substantial repair, improvement, or alteration, Tenant shall give Owner at least five (5) days written notice in order that Owner may post appropriate notices to avoid any liability for liens.

**8. ENTRY AND INSPECTION:** Tenant shall permit Owner or Owner's agents to enter upon the premises at reasonable times and upon reasonable notice, for repairs, inspections, and other reasonable purposes. For 60 days prior to the expiration or earlier termination of the term, Owner may post on and about the premises "To Let" and "For Lease" signs. During such 60 days, Tenant shall permit inspections of the premises by prospective tenants and their accompanying individuals.

9. **INDEMNIFICATION OF LESSOR:** Owner shall not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on any part of the demised premises or on the property of which the premises are a part, except those arising out of Owner's reckless disregard or intentional misconduct. Tenant agrees to indemnify, defend, and hold Owner harmless from and against any claim, demand or liability arising out of the premises no matter how or by who caused or, if caused by Tenant, its agents, licensees or invitees, arising out of the remainder of the property, unless (in either case) arising out of Owner's reckless disregard or intentional misconduct.

10. **POSSESSION:** If Owner is unable to deliver possession of the premises at the commencement of the term, Owner shall not be liable for any damage caused thereby, nor shall this Lease be void or voidable, but Tenant shall not be liable for any rent until possession is delivered. Tenant may terminate this Lease if possession is not delivered within N/A days of the commencement of the term.

11. **UTILITIES:** Tenant agrees that he shall be responsible for payment of, or reimbursement to Owner of the cost of, all utilities delivered to the premises, including water, gas, electricity, heat, house fee and other services. Electric will be billed on a monthly basis based on the usage of your unit. The gas, water and garbage will be a flat fee of \$75.00 per month on your utility statement. Tenant shall pay any reimbursement to Owner within 30 days after Owner sends the statement. Tenant recognizes that the heat to the premises provided by Owner may not be adequate, and agrees to provide such additional heat as Tenant may desire.

12. **SIGNS:** Owner reserves the exclusive right to signage on the roof, side and rear walls of the premises. Tenant shall not construct any projecting sign or awning without the prior written consent of Owner.

13. **ABANDONMENT OF PREMISES:** Tenant shall not vacate or abandon the premises at any time during the term. If Tenant shall abandon or vacate the premises while in default in the payment of rent, or be dispossessed by process of law or otherwise, Owner may elect to consider any property left upon the premises to be abandoned and may dispose of the same in any manner allowed by law. In the event Owner reasonably believes that such abandoned property has no value, such property may be discarded. All property on the premises will be subject to a lien for the benefit of Owner securing the payment of all sums due, to the maximum extent allowed by law.

14. **TRADE FIXTURES:** Any and all improvements made to the premises during the term shall belong to the Owner, except trade fixtures of the Tenant and such improvements as Owner may, by notice to Tenant prior to expiration or earlier termination, require Tenant to remove. Tenant shall, prior to expiration of the term or earlier termination of this Lease, remove such Tenant improvements as Owner may designate for removal and all Tenant's trade fixtures, and repair or pay for all repairs of damage to the premises occasioned by the removal.

15. **DESTRUCTION OF PREMISES:** In the event of a partial destruction of the premises from any cause during the term, Owner shall forthwith repair the same, if such repairs can be made within sixty (60) days under existing governmental laws and regulations. Such partial destruction shall not terminate this Lease. Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs interferes with the business of Tenant on the premises. If such repairs cannot be made within such sixty (60) days, Owner, at Owner's option, may elect to make the repairs within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, failing which election this Lease may be terminated: by Tenant, by written notice within 30 days after Owner's election not to make the repairs; or by Owner, by written notice to Tenant at any time.

In the event that the building in which the demised premises may be situated is destroyed to the extent of 10% or more of the cost of replacing the destroyed and damaged portions, Owner may elect to terminate this Lease, whether the demised premises are damaged or not. A total destruction of the building in which the premises are situated shall terminate this Lease.

**16. HAZARDOUS MATERIALS:** Tenant shall not use, store, or dispose of any hazardous substance on the premises, except use and storage of such substances if they are customarily used in Tenant's business, Tenant has first obtained all required permits, and such use and storage complies with all environmental laws. Hazardous substance means any hazardous waste, substance or toxic material regulated under any environmental law or regulation applicable to the property. Tenant shall indemnify, defend and hold harmless Owner from and against all hazardous substances on or about the premises caused by Tenant or any third person during the term, any prior term of Tenant or any one or more persons comprising or owning Tenant, or any possession of the premises by Tenant. This indemnity and that in Section 9 above shall survive expiration of the term and any termination of this Lease.

**17. REMEDIES OF OWNER ON DEFAULT:** If Tenant fails to pay rent when due, or to perform any provision of this Lease, after not less than 3 days written notice of such default given in the manner required by law, Owner may, at Owner's option, terminate this Lease and all rights of Tenant, unless Tenant, within such time, cures such default.

In the event of a default by Tenant, Owner may elect to terminate all of Tenant's rights and recover from Tenant: (a) the worth at the time of award of the unpaid rent which was earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Owner for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under the Lease or which in the ordinary course of things would be likely to result from such a failure to perform.

Owner may, in the alternative, continue this Lease in effect, as long as Owner does not terminate Tenant's right to possession, and Owner may enforce all Owner's rights and remedies under this Lease, including the right to recover the rent as it becomes due under the Lease. If such breach of Lease continues, Owner may, at any time thereafter, elect to terminate the Lease pursuant to the preceding paragraph(s).

Nothing contained in this Section 17 or in this Lease shall be deemed to limit any other rights or remedies which Owner may have.

**18. SECURITY:** The security deposit set forth in this Lease, if any, shall secure the performance of the Tenant's obligations under this Lease. Owner may, but shall not be obligated to, apply all or portions of such deposit to payment of Tenant's obligations under this Lease, and may hold such deposit commingled with other funds. Any balance remaining upon termination shall be returned to Tenant at such address as Tenant may provide (failing which the address shall be the Premises), together with an accounting of any disbursements, no later than three weeks after Tenant returns the keys and vacates the premises or earlier if required by law. Tenant may not apply the security deposit to the payment of the last (or any other) month's rent. No interest will be paid to Tenant on account of the security deposit, unless required by local ordinance.

**19. DEPOSIT REFUNDS:** The balance of all deposits shall be refunded within three weeks from the date possession is delivered to Owner or his authorized Agent, together with a statement showing any charges made against such deposits by Owner.

**20. ATTORNEY'S FEES:** In the event that Owner is required to employ an attorney to enforce the terms and conditions of this Lease or to recover possession of the premises from Tenant, Tenant shall pay to Owner the reasonable attorneys fees and other expenses incurred by Owner, whether or not a legal action is filed or a judgment is obtained.

**21. WAIVER, ETC:** No failure of Owner to enforce any portion of this Lease shall be deemed to be a waiver. The acceptance of rent by Owner will not waive Owner's right to enforce any provision of this Lease. If any clause or other

portion, of this Lease is determined invalid or unenforceable for any reason by an arbitrator or court of competent jurisdiction, then such portion shall be deemed severed to the extent of the invalidity or unenforceability, and the remainder of this Lease shall remain in effect.

**22. NOTICES:** Any notice which either party may or is required to give shall be given in writing and may be given personally or by mailing the same, postage prepaid, to Tenant at the premises, or Owner at the address shown below, or at such other places as may be designated by the parties from time to time, and shall be deemed effective on the first to occur of personal delivery, 5 days after mailing, or when receipt is acknowledged in writing.

**23. HOLDING OVER:** Any holding over after the expiration of this Lease with the consent of Owner shall be construed as a month-to-month tenancy at a rent of \$1,500.00 per month payable in advance and otherwise on all the terms of this Lease, as applicable, until either party terminates the same by giving the other party 30 days written notice.

**24. TIME:** Time is of the essence of this Lease.

**25. HEIRS, ASSIGNS, SUCCESSORS:** Subject to Section 5, this Lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

**26. LESSOR'S LIABILITY:** The term "Owner", as used in this Section 26, shall mean only the owner of the real property of which the premises are a part or of a tenant's interest in a ground lease of such real property. In the event of any transfer of such Owner's title or interest in such property or ground lease, such Owner (or the grantor in case of any subsequent transfer) shall be relieved of all liability related to Owner's obligations to be performed after such transfer. However, any Tenant security deposit in the hands of such Owner or grantor at the time of such transfer shall be delivered to the grantee. The obligations of Owner under this Lease shall be binding upon Owner's successors and assigns only during their respective periods of ownership.

**27. ANIMALS:** No animals shall be brought on the premises without the prior written consent of Owner.

**28. HOUSE RULES:** In the event that the premises are a portion of a building containing more than one unit, Tenant agrees to abide by any and all house rules, whether promulgated before or after the execution of this Lease, including, but not limited to, rules with respect to noise, odors, disposal of refuse, animals, parking, and use of common areas. Tenant shall not have water-filled furniture on the premises without prior written consent of the Owner.

**29. FAIR HOUSING.** Owner and Tenant understand that the state and federal housing laws prohibit discrimination in the sale, rental, appraisal, financing or advertising of housing on the basis of race, color, religion, sex, marital status, sexual orientation, national origin, ancestry, familial status, age or disability.

**30. NO BARBECUES:** Barbecues and open grilles are not permitted on the rooftops under any circumstances.

**31. ROOF:** Absolutely no walking on the rooftops. Roof access is strictly limited to emergency access only, otherwise prohibited.

**32. INSURANCE:** Tenant understands that Owner's insurance does not cover Tenant's personal property. During the term Tenant shall maintain in effect a tenant's policy of insurance on the premises, including liability insurance coverage of at least \$100,000 per occurrence with a deductible not in excess of \$1,000. Such insurance shall name as additional insureds Owner and the officers, employees, agents and contractors of Owner, shall waive the insurer's subrogation rights against the additional insureds, and shall be issued by an insurance carrier with a Best's rating of A:VII or better. Concurrently with execution of this Lease, Tenant shall furnish Owner with a copy of a certificate of insurance and of endorsements to the policy indicating Tenant's compliance with the preceding, and upon request of Owner, with a copy of the policy or such other evidence of the insurance coverage as Owner shall reasonably request. To the maximum extent permitted by the insurance policies owned by the parties, but only to the extent of actual insurance coverage, Owner and

Tenant waive any and all rights of subrogation against each other that may exist. Tenant acknowledges that Owner strongly recommends higher and greater coverage than that required by the preceding provisions of this Section 32.

**33. MULTIPLE OCCUPANCY.** The relationship between Owner and Tenant is one of landlord and tenant, and not one of partnership, trust, joint venture or other fiduciary relationship. Without modifying Section 3(a) or Section 5, if there is more than one named Tenant, the named Tenants are jointly and severally responsible for payment of rent and performance of the Tenant's other obligations under this Lease.

**34. STATEMENT OF DISCLOSURE.** Your live-work units are located in a commercial and industrial character of the City of Oakland. Tenant to accept the potential of the uses in the area could result certain off-site impacts at higher levels than would be expected in residential areas. You may only engage in the activities determined by the relevant City of Oakland General Plan and Zoning Designation.

**35. OAKLAND BUSINESS TAX CERTIFICATE.** Tenant shall apply for and maintain a valid City of Oakland Business Tax Certificate for a business.

**36. ENTIRE AGREEMENT:** This Lease constitutes the entire agreement between the parties and may be modified only in writing signed by both parties. The following addendum and exhibits, if checked, have been made a part of this Lease before the parties' execution:

Addendum.


Exhibit A: Lease-Based Paint Disclosure (required by law for rental property built prior to 1978)

Exhibit B: The Oakland Cannery House Rules and Regulations.

Notice: The California Department of Justice, sheriff's departments, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The database is updated on a quarterly basis and a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.

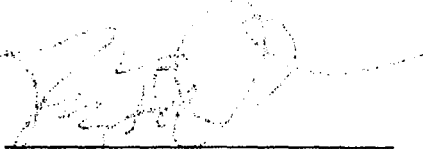
The undersigned Tenant hereby enters into this Lease, and acknowledges receipt of a copy of this Lease.

Dated: 02/12/12

  
BRETT STEVEN AMORY  
Tenant

**ACCEPTANCE:**

Dated: 02/12/12

  
THERON BULLMAN  
Agent for Owner  
PACIFIC AMERICAN MANAGEMENT (PAMCO), LLC  
Address for notices: 104 Caledonia St., Ste. C, Sausalito, CA 94965

**TARGET HOUSING RENTAL/LEASE AGREEMENT ADDENDUM**      Page 8  
**DISCLOSURE OF INFORMATION ON**      of agreement  
**LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS**      **EXHIBIT A**

Resident is renting from Owner/Agent the premises located at:

5707 SAN LEANDRO ST , Unit #(if applicable) A  
(Street Address)  
OAKLAND , CA 94621  
(City) (Zip)

**Lead Warning Statement**

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not taken care of properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and lead-based paint hazards in the dwelling. Tenants must also receive a Federally approved pamphlet on lead poisoning prevention. **NOTE: The existence of lead on the rental property is not, by itself, cause for termination of the tenancy. (Public Law 102-550 sec. 1018(c))**

**Owner's Disclosure or Agent\* acting on behalf of Owner (initial)**

*[Handwritten Initials]*

(a) Presence of lead-based paint or lead-based paint hazards (check one below):

Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

Owner has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the Owner (check one below):

Owner has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

Owner has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Agent's\* Acknowledgment (initial)**

\*The term Agent is defined as any party who enters into a contract with the Owner, including anyone who enters into a contract with a representative of the Owner for the purpose of leasing housing. An on-site resident manager may act as the Agent if authorized to do so by either the Owner or the property management company.

(c) Agent has informed the Owner of his/her obligations under 42 U.S.C. 4852d, and the Agent is aware of his/her responsibility to ensure compliance.

**Lessee's Acknowledgment (initial)**

(d) Lessee has received copies of all information listed above.

(e) Lessee has received the pamphlet *Protect Your Family from Lead in Your Home*.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

2/21/12  
 Date  
2/12/12  
 Date  
 \_\_\_\_\_  
 Date

*[Handwritten Signature]*  
 Owner/Agent  
Sarah Connor      2/12/12  
 Lessee  
 \_\_\_\_\_  
 Lessee



## THE OAKLAND CANNERY HOUSE RULES AND REGULATIONS

In order to protect your safety, comfort and privacy as well as that of your neighbors, we ask that you please read and abide by the following rules during your residency at the Oakland Cannery studios.

### 1. Emergency Telephone Numbers:

Manager JAMES DAWSON, STUDIO #4 (5733 SAN LEANDRO ENTRANCE) Telephone # (510) 599-4573

### 2. Conduct:

All activities and conduct of Residents, their family, children and guests, in and around the premises and common areas must be reasonable and not interfere with the peace, comfort and quiet enjoyment of other residents.

### 3. Noise:

Residents, their family, children and guests will respect the peace, comfort and quiet enjoyment of other residents. Musical instruments, radio, television sets, stereos, etc., should be played only during reasonable hours, normally 10 a.m. to 10 p.m. and at a reasonable volume.

### 4. Parking:

Park only in your designated space. (Cars parked in unauthorized areas will be towed.) It is the Resident's responsibility to inform guests to park on the street. No car repairs and washing are allowed. (Abandoned or inoperable vehicles will be towed away.) Do not let your vehicle warm up in the garage. No smoking allowed in the garage area.

### 5. Garbage:

Wrap all wet garbage before placing in the appropriate containers. Boxes should be crushed and stacked neatly in the corner. Residents are expected to keep the garbage areas clean and free of litter.

### 6. Laundry Room:

The laundry room hours from 8:00 a.m. to 9:00 p.m. Report any malfunction of the equipment to the Management or Laundry Repair Service whose numbers are listed above. The laundry room equipment is to be used only for washing and drying the usual personal and household items. Do not use flammable cleaning solutions or dye clothing in the washing machines. Children are not allowed in the laundry unless accompanied by an adult.

Management shall not be responsible for lost or stolen articles. Do not leave clothes unattended; others may remove them when machines have completed their cycles.

Please keep laundry room clean. Clean out lint in the dryers. Use the garbage can to dispose of lint, empty detergent boxes, etc. Kindly wipe up any spilled detergent immediately.

No smoking or children playing permitted in the laundry room.

### 7. Maintenance:

Contact the Management for repairs or maintenance at the number listed above between 9 a.m. and 5 p.m. Monday through Friday. Emergency calls will be handled promptly. Residents will be charged for repairs or maintenance for damages caused by Resident's neglect or abuse of the property.

### 8. Alterations and Locks:

Please check with Management for acceptable methods of hanging pictures, posters, lamps, plants, etc. so as to avoid excessive damage to walls and ceilings. Painting, staining, wallpapering or changing or replacing locks will not be done without the prior written permission of the Management. Management will retain a passkey to all premises for emergency purposes.

### 9. Signs:

No signs, signals or advertisements shall be affixed to any part of the premises which can be seen by the general public. Exterior installation of television or radio aerials must also first receive written permission from Management.

### 10. Windows:

No venetian blinds, awnings, draw shades, curtains or drapes will be installed on exterior windows without the prior written permission of the Management. Resident will close all doors and windows when necessary to avoid possible damage from storm, rain or other elements, and will be responsible for all damage resulting from failure to do so. Resident will replace any broken glass or PAMCO will replace at a cost of \$100.00 / pane.

### 11. Electric Light Bulbs:

Each rental unit is completely furnished with light bulbs at the time the Resident takes possession. It is the Resident's responsibility to replace them thereafter.

### 12. Roof:

The roof access is restricted. Walking on the roof area is strictly prohibited. Neither BBQ, plant, chairs nor storage allowed on the roof area. No smoking on the roof is allowed at any time.

### 13. Storage:

Bicycles, toys and other personal effects are to be stored in the areas provided and are not to be left in the common areas of the premises or on balconies or patios. No gasoline, paint or other flammable materials will be stored on the premises. Management is not responsible for any



loss or damage of any kind to Resident's belongings left in the storage rooms, lockers, or common areas. Use of the storage rooms or lockers, if available, is voluntary and at the Resident's risk.

**14. Furniture Moving:**

Resident will notify the Management one business day in advance of any intention to move furniture or bulky articles into or out of the premises.

**15. Improper Use of Appliances/Plumbing Fixtures:**

Residents shall be responsible for the cost of repairing any appliance or plumbing fixture damaged by their improper use. Do not put objects such as metal, hairpins, utensils, fibrous foods, such as artichoke leaves, cigarette butts, tin foil, etc. into garbage disposal, drains or toilets. Always run cold water while using the garbage disposal. NEVER run the disposal without water running.

**16. Keys and Locks:**

Residents should take care not to lock themselves out of their apartments. Lock out assistance is provided as a courtesy. Repeat offenders may be subject to a \$10.00 charge after the second time. Residents shall not install any special locks requiring extra keys. Door chains are not safe, and are strongly not recommended. Children will not be admitted to homes by the management when parents are absent. If you wish to provide extra security measures, please contact Management first. Lost keys requiring replacement shall cost \$5.00 each.


**17. House Policy Modifications:**

Management reserves the right, upon thirty (30) days written notice to Resident, to make such further reasonable rules and policies as in its judgment may, from time to time, be needed for the safety, care, cleanliness, protection and preservation of good order therein.

  
\_\_\_\_\_  
THERON BULLMAN  
AGENT FOR OWNER

  
\_\_\_\_\_  
BRETT STEVEN AMORY  
TENANT

  
\_\_\_\_\_  
DATE

BY   
\_\_\_\_\_  
TITLE                      DATE

**Bank of America** 

Cashier's Check

No. 434615828

Notice to Purchaser: In the event this check is lost, misplaced or stolen, a stop statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Date: FEBRUARY 13, 2012 1-25/1210  
NCA

Banking Center **ROCKRIDGE**

0000560 00003 0004615828

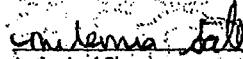
**BRETT AMORY**  
Remitter (Purchased By)

\$ **\*\*3700.00\*\***

05-14-3774B 01-2010

Pay **\*\*THREE THOUSAND SEVEN HUNDRED DOLLARS AND 00 CENTS\*\***

To The Order Of **\*\*PACIFIC AMERICAN MANAGEMENT LLC (PAMCO)\*\***  
\*\*\*\*

  
Authorized Signature

Bank of America, N.A.  
San Francisco, CA

VOID AFTER 90 DAYS

⑈ 434615828 ⑈ ⑆ 121000358 ⑆ 13970⑈85076⑈

■ THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK

THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK ■

000075

**LEASE AMENDMENT NO. 1**

1. Existing Lease:
  - a. Original Lease: Artist Studio Commercial Lease—Rental Agreement dated February 10, 2012.
  - b. Prior Amendments (if any): N/A
2. Landlord (Lessor/Owner): Pacific American Management (PAMCO), LLC.
3. Tenant (Lessee): Brett Steven Amory.
4. Premises Address: 5707 San Leandro Street, Studio A, Oakland, CA 94621.
5. Date of this Amendment (for purposes of reference only): August 9, 2012.

This is an amendment (this "Amendment") to the Existing Lease between Landlord and Tenant. Such Existing Lease, Landlord and Tenant are those set forth above.

Landlord and Tenant agree as follows.

1. Matthew Warren Waggle named as Co-Tenant as of August 1, 2012.
2. Except as modified above, the Existing Lease remains in full force and effect. This Amendment shall prevail over anything to the contrary in the Existing Lease, but in all other respects the Existing Lease and this Amendment shall be construed together as one and the same agreement.

**Landlord**

Pacific American Management  
(PAMCO), LLC

By: \_\_\_\_\_  
Name Printed: Theron Bullman  
Title: Property Manager  
duly authorized signer

Signature date: \_\_\_\_\_

**Tenant**

Brett Steven Amory

By: Brett Amory  
Name Printed: Brett Amory

Signature date: 10/31/12

**Tenant**

Matthew Warren Waggle

By: M Waggle  
Name Printed: Matt Waggle

Signature date: 10/31/12

15 / (15) SK

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

For date stamp: 2019 AUG 14 PM 4:04

|   |   |
|---|---|
| <br><b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>250 Frank H. Ogawa Plaza, Suite 5313<br>Oakland, CA 94612-0243<br>(510) 238-3721 | <b>PROPERTY OWNER</b><br><b><u>RESPONSE</u></b> |
|---|---|

**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-19-0218** 19-0220

|  |  |  |
|--|--|--|
| Your Name<br><br>Green Sage Management   | Complete Address (with zip code)<br><br>1137 Bannock Street<br>Denver, CO 80204              | Telephone:<br>(303) 435 - 0064             |
|  |  | Email:<br>patrick@greensagemb.com          |
| Your Representative's Name (if any)<br><br>Timothy A. Larsen,<br>Attorney at Law   | Complete Address (with zip code)<br><br>123 Bay Place, Suite 11<br>Oakland, CA 94610         | Telephone:<br>(510) 238 - 9333             |
|  |  | Email:<br>tlarsenlaw@gmail.com             |
| Tenant(s) Name(s)<br><br>Dustin Schultz  | Complete Address (with zip code)<br><br>5707 San Leandro Street, Unit D<br>Oakland, CA 94621 | (612) 850 - 7139<br><br>dust@ofaust.in     |
| Property Address (If the property has more than one address, list all addresses)<br><br>5707 San Leandro Street, Oakland, CA 94621 |  | Total number of units on property<br><br>9 |

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00206270

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: Exempt

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: 9/23/17.

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

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

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

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

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

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

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

The tenant moved into the rental unit on 6/1/2009\_\_\_\_\_.

The tenant's initial rent including all services provided was: \$ 1,477 / 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 X I don't know \_\_\_\_\_

If yes, on what date was the Notice first given? N/A

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

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

| <u>Date Notice Given (mo./day/year)</u> | <u>Date Increase Effective</u> | <u>Rent Increased</u> |             | <u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u> |
|---|--------------------------------|-----------------------|-------------|---|
|   |                                | <u>From</u>           | <u>To</u>   |   |
| 1/29/19                                 | 3/1/19                         | \$ 1,671.51           | \$ 1,838.00 | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No       |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |

### 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: COMMERCIAL PROPERTY, and,

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.

Tenant has not submitted description of the reduced services or problems, date of lost services or problems, notifications to owner or calculation of value of lost services or problems.

**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

August 6, 2019

\_\_\_\_\_  
Date

**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

**Mediation Program**

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

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

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

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

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

\_\_\_\_\_  
Date



MS/

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM

2019 AUG 29 PM 12:49  
For date stamp.

|  |  |  |
|--|--|--|
| <br>CITY OF OAKLAND | <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>250 Frank H. Ogawa Plaza, Suite 5313<br>Oakland, CA 94612-0243<br>(510) 238-3721 | <b><u>PROPERTY OWNER</u></b><br><b><u>RESPONSE</u></b> |
|  |  |  |

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

**CASE NUMBER** T19 - 0251

|   |  |  |
|---|--|--|
| Your Name<br>Green Sage Management, LLC   | Complete Address (with zip code)<br>1137 Bannock Street<br>Denver, CO 80204            | Telephone:<br>(720) 612 - 7739<br>Email:                         |
| Your Representative's Name (if any)<br>Timothy A. Larsen  | Complete Address (with zip code)<br>123 Bay Place, Suite 11<br>Oakland, CA 94610       | Telephone:<br>(510) 238 - 9333<br>Email:<br>tlarsenlaw@gmail.com |
| Tenant(s) Name(s)<br>Abigail Baird  | Complete Address (with zip code)<br>5707 San Leandro St., Suite G<br>Oakland, CA 94021 | (505) 629 - 8163   |
| Property Address (If the property has more than one address, list all addresses)<br>5707 San Leandro Street | Total number of units on property<br>9   |  |

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00206270  
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: Exempt  
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: 9/23/17.

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

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

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

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

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

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

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

The tenant moved into the rental unit on 10/20/2014.

The tenant's initial rent including all services provided was: \$ 1,700 / 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 X No \_\_\_\_\_ I don't know \_\_\_\_\_

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

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

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

| <u>Date Notice Given (mo./day/year)</u> | <u>Date Increase Effective</u> | <u>Rent Increased</u> |             | <u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u> |
|---|--------------------------------|-----------------------|-------------|---|
|   |                                | <u>From</u>           | <u>To</u>   |   |
| 1/28/2019                               | 3/1/2019                       | \$ 1,804.02           | \$ 1,984.00 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No       |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |
|   |                                | \$                    | \$          | <input type="checkbox"/> Yes <input type="checkbox"/> No                  |

RECEIVED  
 CITY OF OAKLAND  
 RENT ARBITRATION PROGRAM  
 2019 AUG 29 PM 12:49

2019 AUG 29 PM 12: 50

**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:

Commercial Property

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.



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**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

8/28/19

Date

**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

**Mediation Program**

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

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

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

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



Property Owner's Signature

8/28/19

Date

CITY OF OAKLAND



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

Department of Housing and Community Development  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBERS:** T18-0281, Monroe v. Green Sage (5733 #7)  
T18-0399 & T19-0027, Stewart v. Green Sage (5733 #2)  
T19-0029, Szklanecki v. Green Sage (5733 #6)  
T18-0372, Amory v. Green Sage (5707 #A)  
T19-0032, Long v. Green Sage (5707 #H)  
T19-0035, Cavenee v. Green Sage (5707 #E)  
T19-0218, Laws v. Green Sage (5707 #B)  
T19-0220, Schultz v. Green Sage (5707 #D)  
T19-0251, Baird v. Green Sage (5707 #G)

**PROP. ADDRESSES:** 5707 and 5733 San Leandro St., Oakland, CA

**DATES OF HEARINGS:** May 8, 2019  
January 3, 2020  
April 26, 2021, remotely via Zoom

**DATE OF DECISION:** July 1, 2021

**APPEARANCES:** Douglas Stewart, Tenant (5733, Unit #2)  
Brett Amory, Tenant (5707, Studio A)  
Matt Laws, Tenant (5707, Studio B)  
Dustin Schultz, Tenant (5707, Studio D)  
Abigail Baird and Jaron Hollander, former Tenants  
(5707, Studio G)  
Bradley Long, Tenant (5707, Studio H)  
Lina Tcheremisina, Observer and co-tenant of Bradley  
Long (5707, Studio H)  
Juliet Smith, Witness for Tenants  
Lisa Giampaoli, Attorney for Tenants  
Ken Greer, Owner, Managing Partner of Green Sage  
Bruce Miller, Owner, Member of Green Sage  
Timothy Larsen, Attorney for Owners  
Ariel Gershon, Observer  
Richard Palenchar, Attorney for Tenants  
(limited appearance to dismiss Tenant Petitions)

000085

## **SUMMARY OF DECISION**

The units located at 5707 San Leandro Street are exempt from the Rent Adjustment Ordinance as new construction. The units located at 5733 San Leandro Street are subject to the jurisdiction of the Rent Adjustment Program.

## **BACKGROUND**

This case involves two buildings located at 5707 and 5733 San Leandro Street. Originally, the tenants filed 23 tenant petitions alleging decreased housing services and/or illegal rent increases. The petitions were filed during the time period from May of 2018 through October of 2018. Additionally, some tenants filed second petitions in the Spring of 2019 and requested that all pending petitions be consolidated and set for one single hearing. The tenants also requested mediation.

The cases were consolidated and a mediation was conducted on May 7, 2019. The mediation was unsuccessful and a hearing began on May 8, 2019, by Hearing Officer Elan Lambert. The hearing was not completed and the cases were re-assigned to Hearing Officer Stephen Kasdin to complete the hearing. Officer Kasdin conducted a hearing on January 3, 2020. The parties informed the Hearing Officer at the hearing on January 3, 2020, that Arthur Monroe died in the fall of 2019. He lived at 5733 San Leandro St., Unit #7. His petition (T19-0025) alleged a single claim for a loss of housing services and did not allege a claim for illegal rent increase. No representative appeared for any hearings on January 3, 2020 and April 26, 2021.

The hearing on January 3, 2020, was not completed and a follow-up hearing was scheduled for March 11, 2020. Due to the COVID-19 pandemic, the hearing could not be held. The Rent Adjustment Program (RAP) began holding remote hearings in June of 2020. However, Officer Kasdin retired and the hearing had to be further postponed and re-assigned to a third Hearing Officer, Linda Moroz.

A hearing was scheduled for April 26, 2021. Since the initial filing, a majority of the petitioners requested to dismiss their petitions either by submitting a request for dismissal or by making a request at the remote hearing by their representative. Out of the original 23 consolidated petitions, only the 10 petitions listed in this Hearing Decision remain pending. They are listed below as follows:

### **5707 Building**

- Brett Armory, T18-0372
- Brad Long, T19-0032
- Katherine Cavenee, T19-0035
- Matthew Laws, T19-0218
- Dustin Schultz, T19-0220
- Abigail Baird/Jaron Hollander, T19-0251

### 5733 Building

- Alistair Monroe, T18-0281
- Douglas Stewart, T18-0399 and T19-0027
- Jeff Szklanecki, T19-0029

## **CONTENTIONS OF THE PARTIES**

### **Petitions Relating to 5733 Building**

Tenant Petitions T18-0281 (Monroe), T18-0399 and T19-0027 (Stewart), and T19-0029 (Szklanecki) allege a claim of decreased housing services relating to a loss of resident manager, security issues and a lack of general maintenance and upkeep of the subject property.

### **Petitions Relating to 5707 Building**

Tenant Petition T18-0372 (Amory) alleges decreased housing services relating to a loss of parking and storage.

Tenant Petitions T19-0032 (Long) and T19-0035 (Cavenee) allege decreased housing services relating to security issues and a lack of general maintenance.

Tenant Petition T19-0218 (Laws) contests a single rent increase from \$1,618.86 to \$1,779.00, effective March 1, 2019, alleging that no RAP notice was ever provided to the tenant. The petition also alleges decreased housing services relating to the lack of a resident manager.

Tenant Petition T19-0220 (Schultz) contests a single rent increase from \$1,671.51 to \$1,838.00, effective March 1, 2019, alleging that no RAP notice was ever provided to the tenant. The petition also alleges decreased housing services relating to the lack of a resident manager.

Tenant Petition T19-0251 (Baird) contests a single rent increase from \$1,804.02 to \$1,984.00, effective March 1, 2019, alleging that no RAP notice was ever provided to the tenant. The petition also alleges decreased housing services relating to the lack of a resident manager.

The owner filed a Property Owner Response, alleging that the subject property is exempt as newly constructed and a certificate of occupancy was issued for it on or after January 1, 1983, and attached copies of the Certificate of Occupancy (3 pages).

### **Representatives Requested to Limit Issues at 4/26/21 Hearing**

At the beginning of the remote hearing on April 26, 2021, the parties' representatives clarified that the only issue for adjudication by the RAP is whether the



subject property is exempt from the Rent Adjustment Ordinance. The representatives explained that the parties have a pending civil lawsuit relating to the subject property and the tenancies.

The tenants' representative withdrew the tenants' claims for alleged decreased housing services. The only remaining claim in the tenant petitions is for illegal rent increases. A claim for illegal rent increases is only raised in Tenant Petitions T19-0218 (Laws), T19-0220 (Schultz) and T19-0251 (Baird).

The owners allege that nine (9) units located at 5707 San Leandro Street are exempt from the Rent Adjustment Ordinance as newly constructed.

The owners' representative clarified at the hearing that the owners do not allege exemption for eleven (11) units located at 5733 San Leandro Street due to residential use prior to 1983.

### **ISSUE**

Are the units located at 5707 San Leandro Street exempt from the Rent Adjustment Ordinance?

### **EVIDENCE**

The current owners acquired the subject property, consisting of two buildings, 5707 and 5733 San Leandro Street, on September 23, 2017. The buildings have different numbers but they are located on one parcel, having one parcel number: APN 041-3848-013-03.

#### **Owners' Testimony**

One of the owners, Bruce Miller, testified that the original two buildings that existed since the 1920's on the parcel originally were 5601 and 5733 San Leandro Street and were part of a complex called Continental Can. The cannery and a warehouse were located on the main ground floor and only 5733 had a second floor that contained barracks-type living quarters with a common bath/shower room for the cannery workers. The 5707 building was another large warehouse that was built later and did not have a 2<sup>nd</sup> story. Miller testified that the second story within the warehouse was developed and built after 1983 and that there was no prior residential use.

Patrick Koentges, one of the owners, testified that the 5707 building was a large commercial warehouse on the main floor that was built in the 30's and the residential live/work units were developed and built on the 2<sup>nd</sup> floor after 1983. He testified that the permit records show the first permit activity to construct the nine residential units as they exist today in the 5707 building began around the year 2002.

The blue prints dated February 27, 2003, for the 5707 building show the warehouse, workshop, retail space, 8 parking stalls, 9 storage units, and a laundry facility on the main (1<sup>st</sup>) Floor and nine two-story Studios A through I on the 2<sup>nd</sup> and 3<sup>rd</sup> Floors.

The blue prints for the 5733 building show eleven units on the second floor, numbered #1, 2, 3A, 3B, 4, 5A, 5B, 6, 7, 8 and 9. Koentges also testified that these eleven units existed before 1983. This testimony is undisputed and was corroborated by submission of Arthur Monroe's Tenant Petition to the Rent Board, stating under penalty of perjury that he moved into 5733 San Leandro Street in June of 1978. The petition is dated August 4, 1989, stating that there was a total of 11 units in 1989.

### Tenant Testimony

Several tenants testified at the hearing on January 3, 2020, as follows:

James Dawson testified that he was a building manager from 1999 to May 2018 while he lived at 5733 San Leandro St., Unit #4. He requested to dismiss his petition via his representative at the 4/26/21 remote hearing.

Rebecca Firestone testified that she met the current owners in 2017 while they were touring the building. She lived at 5733 San Leandro St., Unit #1. Her representative requested to dismiss her petition at the 4/26/21 remote hearing and stated that she and other tenants from the 5733 building are pursuing a civil lawsuit.

Douglas Stewart testified that he has been a resident at 5733 San Leandro St., Unit #2, since 2007. He testified that he is a cannabis owner and there has been a lack of maintenance since Green Sage acquired the property. His two tenant petitions allege code violations (T18-0399) and a loss of housing services (T18-0399 and T19-0027) but no claim for illegal rent increase.

Sara Herrera testified that she worked in an art gallery relating to the history of the cannery and talked to Arthur Monroe who told her he moved into 5733 San Leandro in 1978. Ms. Herrera's petition (T19-0033) did not allege a claim for illegal rent increase and was subsequently dismissed.

### Documents

The parties submitted the following documents, many of them containing duplicates but they were admitted into evidence without objections:

1. Two binders submitted by Rebecca Firestone (T18-0282) on April 16, 2019, containing correspondence relating to alleged decreased housing services, tenant affidavits relating to residency at the 5733 building, Certificate of Occupancy, building records, newspaper articles, and lease documents.<sup>1</sup>

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<sup>1</sup> Exhibit A

2. Tenant Petition Addendum submitted by Rebecca Firestone on July 3, 2019, which contains a revised submission relating to alleged decreased housing services claims, and duplicate copies of prior binder submission.<sup>2</sup>

3. Evidence Packet numbered pages 1 through 68, prepared by Rebecca Firestone, containing photographs of the 5733 San Leandro Street building, Certificate of Occupancy, sample “artist studio commercial leases” with Pamco, Arthur Monroe’s Tenant Petition dated August 4, 1989, entries from Tracers google search for people and addresses at the subject property, building department complaint entries, and email correspondence with Green Sage Management.<sup>3</sup>

4. Evidence Packet submitted by the owner prior to the January 3, 2020, hearing, containing 41 pages, including three Certificates of Occupancy, and the City of Oakland Building Department permit/complaint records for each building.<sup>4</sup>

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

#### **Exemption – 5707 San Leandro Street**

The Rent Ordinance exempts certain dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983.<sup>5</sup> The unit must be newly constructed or created from space that was formerly entirely non-residential.<sup>6</sup> Newly constructed units include legal conversions of spaces that were formerly entirely commercial.<sup>7</sup>

The Housing Residential Rent and Relocation Board (HRRRB) has ruled that exemptions are allowed for units constructed after 1/1/83.<sup>8</sup> Even a unit located in a building that was built prior to 1983 was exempt as newly constructed because it was created after 1983 out of space not previously used for housing.<sup>9</sup> A Certificate of Occupancy or its functional equivalent, such as a finalized permit, is sufficient for exemption.<sup>10</sup>

The tenants assert that the *Da Vinci* decision is applicable. Their reliance on this decision is misplaced. The Court in *Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board* (1992), 5 Cal. App. 4<sup>th</sup> 27, held that the live/work units were not exempt as newly constructed even though the Certificate of Occupancy was issued after 1979 because of residential occupancy that existed between 1979 and

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<sup>2</sup> Exhibit B

<sup>3</sup> Exhibit C

<sup>4</sup> Exhibit D

<sup>5</sup> O.M.C. §8.22.030 (A)(5)

<sup>6</sup> O.M.C. §8.22.030 (A)(5)

<sup>7</sup> O.M.C. Regulations §8.22.030 (B)(2)(a)(iv)

<sup>8</sup> HRRRB Appeal Decision in T01-0178, Parfait v. Miller

<sup>9</sup> HRRRB Appeal Decision in T01-0107, Castellanos v. Geer

<sup>10</sup> HRRRB Appeal Decision in T04-0163, Garson v. Collins and T12-0112, Williams v. Taplin

the issuance of the Certificate of Occupancy. The San Francisco Rent Ordinance exempts all units if the Certificate of Occupancy was issued after June 13, 1979 (enactment of the ordinance) but limits the exemption specifically for live/work units. The ordinance has a specific provision for live/work units that exempts only those live/work units if there was no residential use prior to the issuance of the Certificate of Occupancy even if the Certificate of Occupancy was issued after June 13, 1979.

The Oakland Rent Ordinance does not have such provision. The Oakland Rent ordinance exempts all units built after January 1, 1983, that are entirely newly constructed from the ground up or units that were converted or created from a non-residential space. If the unit is not build entirely from the ground up, the property must be created or converted from a non-residential space after January 1, 1983.<sup>11</sup> If the property was converted and received a certificate of occupancy after January 1, 1983, but the unit was used for a residential purpose prior to 1983, it is not exempt.<sup>12</sup>

#### 5733 Building

It is undisputed that there was residential use in the 5733 San Leandro St. building prior to January 1, 1983, and therefore, the eleven units located in that building are not exempt from the Rent Adjustment Ordinance.

#### 5707 Building

All nine residential units, located on the 2<sup>nd</sup> floor of the 5707 San Leandro St. were newly constructed and created within a space of a warehouse, a commercial space and a non-residential space. The Certificate of Occupancy was issued on May 18, 2011, and shows the final inspection approved on September 3, 2010. The Certificate of Occupancy lists separately 9 units (located on the 2<sup>nd</sup> floor of 5707 building) and 11 units (located on the 2<sup>nd</sup> floor of 5733 building). Both buildings have one parcel number but two addresses. While only one address (5733 San Leandro St) is listed on the Certificate of Occupancy as the Jobsite Address, each building is clearly described separately, showing what is located on the 1<sup>st</sup> and 2<sup>nd</sup> story of each building.

The permit history shows there was a permit issued to “alter 2<sup>nd</sup> floor to create 31,363 sq.ft. of new livable space” in 2002. On August 25, 2003, a permit was approved to “legalize 20 existing joint living and working quarters” and to “create more than 25,000 sq. feet of new joint living and working quarters.” The new joint living and working quarters were the nine units created on the 2<sup>nd</sup> floor of the 5707 warehouse building. The existing 11 units located in 5733 were also converted to joint living and working quarters at the same time the units at the 5707 building were created. The final inspections for all 20 units (11 in the 5733 building and 9 in the 5707 building) were approved in 2010.

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<sup>11</sup> HRRRB Appeal Decision in L15-0061, 4CH Inc. v. Tenants

<sup>12</sup> HRRRB Appeal Decision in L18-0081, Michelsen v. Sherman

The Permit History also shows that the City of Oakland approved the Zoning Clearance for units located at the 5707 building for art (paintings and sculptures), music, light custom manufacturing, home occupations for on-line sales of vintage objects, music production and education, advertising and promotion service, digital photography, and graphic design, separately and individually for each Studio (A through H) in 2001, 2003, 2004, 2005, 2010, 2014 and 2016.

### **CONCLUSION**

There was evidence that only 11 units existed in 1989 in the 5733 building per tenant Monroe's Petition. It is undisputed that a residential use existed in the 5733 building prior to January 1, 1983.

There was no evidence of a residential use before January 1, 1983, in the 5707 building. These units were newly created and converted from a commercial/warehouse space after January 1, 1983. The owner has met the requirements of the Rent Ordinance, and the subject property, consisting of the 9 units located at the 5707 San Leandro Street building, is exempt from the Rent Ordinance.

Therefore, the RAP does not have jurisdiction to address any issues in the Tenant Petitions relating to illegal rent increases for the units located in the 5707 building.

While the units located in the 5733 building are subject to RAP jurisdiction, the tenants have withdrawn their claims of decreased housing services and there are no claims of illegal rent increases.

### **ORDER**

1. The units located at 5707 San Leandro St. are exempt from the Rent Adjustment Ordinance as new construction.
2. The Tenant Petitions T18-0372, T19-0032, T19-0035, T19-0218, T19-0220 and T19-0251 are denied as they pertain to units at 5707 San Leandro Street.
3. The property is still subject to the RAP fee because the units are subject to the Just Cause Ordinance.<sup>13</sup>
4. A certificate of exemption shall be issued after expiration of the appeal period.
5. The units located at 5733 San Leandro St. are not exempt from the Rent Adjustment Ordinance and are under the jurisdiction of the Rent Adjustment Program.

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<sup>13</sup> O.M.C. §8.22.350 I (1)

6. The Tenant Petitions T18-0281, T18-0399, T19-0027 and T19-0029 pertaining to 5733 San Leandro Street are denied since they do not allege any claims for illegal rent increases and the tenants withdrew all claims of decreased housing services.

Right to Appeal: This decision is the final decision of the Rent Adjustment Program. Either party may appeal this decision by filing a RAP appeal form within 15 days after service of the decision. The date of service is shown on the attached Proof of Service.

Dated: July 1, 2021

*Linda Moroz*

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Linda M. Moroz  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Numbers T18-0281, T18-0372, T18-0399, T19-0027, T19-0029, T19-0032, T19-0035, T19-0218, T19-0220, T19-0251**

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 document 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:**

**Document Included**

Hearing Decision

**Owner**

Green Sage Management  
1137 Bannock Street  
Denver, CO 80204

**Owner Representative**

Timothy Larsen, Attorney at Law  
123 Bay Place, Suite 11  
Oakland, CA 94610

**Tenants**

Alistair Monroe  
5733 San Leandro Street #7  
Oakland, CA 94621

Brett Amory  
5707 San Leandro Street, Unit A  
Oakland, CA 94621

Douglas Stewart  
5733 San Leandro Street #2  
Oakland, CA 94621

Jeff Szklanecki  
5733 San Leandro Street #6  
Oakland, CA 94621

**000094**



Brad Long  
5707 San Leandro Street, Unit H  
Oakland, CA 94621

Katherine Cavenee  
5707 San Leandro Street, Unit E  
Oakland, CA 94621

Matthew Arthur Laws  
5707 San Leandro Street, Unit B  
Oakland, CA 94621

Dustin Schultz  
5707 San Leandro Street, Unit D  
Oakland, CA 94621

Abigail Baird  
785 7th Street  
Oakland, CA 94607

**Tenant Representative**

Lisa Giampaoli, Giampaoli Law  
100 Pine Street, Ste.1250  
San Francisco, CA 94111

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 02, 2021** in Oakland, CA.



---

Ava Silveira  
Oakland Rent Adjustment Program

**000095**



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

For date stamp.

**APPEAL**

|  |  |  |  |
|--|--|--|--|
| <b>Appellant's Name</b><br>Matthew Laws, et. al. (Amory, Schultz, Baird, Long)                                     |  | <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant                                      |  |
| <b>Property Address (Include Unit Number)</b><br>5707 San Leandro Street, Units A, B, D, G, H<br>Oakland, CA 94621 |  | See attached table of parties and addresses  |  |
| <b>Appellant's Mailing Address (For receipt of notices)</b>  |  | <b>Case Number</b><br>T19-0218 (Laws), T18-0372 (Amory), T19-0220 (Schultz), T19-0251 (Baird), T19-0032 (Long) |  |
| Same as property addresses above, see attached table of parties and addresses.                                     |  | <b>Date of Decision appealed</b><br>July 1, 2021   |  |
| <b>Name of Representative (if any)</b><br><br>Lisa Giampaoli   | <b>Representative's Mailing Address (For notices)</b><br><br>100 Pine Street, Ste 1250, San Francisco CA 94111 |  |  |

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.)*    [Decision order #6.](#)
- 2) Appealing the decision for one of the grounds below (required):
  - a)  The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)*
  - b)  The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
  - c)  The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
  - d)  The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
  - e)  The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

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

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

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

I declare under penalty of perjury under the laws of the State of California that on 7/16, 2021, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows: **SERVED VIA ELECTRONIC EMAIL**

And provided copies to Matthew Laws to serve by mail to:

|                        |                                  |
|------------------------|----------------------------------|
| <b>Name</b>            | Green Sage Property Mgt.         |
| <b>Address</b>         | 1137 Bannock Street              |
| <b>City, State Zip</b> | Denver, CO 80204                 |
| <b>Name</b>            | Tim Larsen                       |
| <b>Address</b>         | tlarsenlaw@gmail.com             |
| <b>City, State Zip</b> | 23 Bay Pl #11, Oakland, CA 94610 |

|   |         |
|---|---------|
|  | 7/16/21 |
|---|---------|

**SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE**

**DATE**

For more information phone (510) 238-3721.

**PARTIES AND ADDRESSES:**

Brett Amory (T18-0372)  
5707 San Leandro Street, Unit A  
Oakland, CA 94621

Abigail Baird (T19-0251)  
2801 Ashby Ave  
Berkeley Ca 94705

Matthew Laws (T19-0218)  
5707 San Leandro Street, Unit B  
Oakland, CA 94621

Brad Long (T19-0032)  
5707 San Leandro Street, Unit H  
Oakland, CA 94621

Dustin Schultz (T19-0220)  
5707 San Leandro Street, Unit D  
Oakland, CA 94621

**ADDENDUM TO APPEAL FORM FOR CASE NUMBERS:**

T19-0218 (Laws), T18-0372 (Amory), T19-0220 (Schultz), T19-0251 (Baird), T19-0032 (Long)

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

Tenants withdrew their petitions for decrease in services, as noted by hearing officer in both the decision and the order. The RAP has no jurisdiction to “deny” withdrawn petitions. Therefore order number 6 denying the withdrawn petitions is moot and must be removed from the record.

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

a) **X** **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.)*

The decision is inconsistent with OMC 8.22.010 C.;

The decision is inconsistent with OMC §8.22.030 A.5.

The decision is inconsistent with RAP rules and regulations 8.22.020 B.

The Decision is inconsistent with the decision in L18-0030- *French v. Tenants*;

The Decision is inconsistent with the decision in T05-0233- *Rose v. Polanski*

The Decision is inconsistent with the decision in T14-0163- *Garsson v. Collins*

c) **X** **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.)*

The current decisions interpreting RAP’s New Construction Exemption in inconsistent with appellate court decisions, the stated purpose of the RAP, and common sense. Case law and the stated purpose of the RAP are clear that pre-existing tenancies, regardless of whether the tenancy began before or after the effective date of the local rent control ordinance, do not lose the benefit of rent control upon a change in the legal status of the unit. The intended purpose of the new construction exemption is to encourage the creation of *new* housing, not the legalization of pre-existing housing. The RAP recognizes illegal dwellings as residential units, therefore, upon legalization of those pre-existing illegal units, it is an impossibility to claim those units had no pre-existing residential use.

d) **X** **The decision violates federal, state or local law.** *(In your explanation, you must provide a detailed statement as to what law is violated.)* A “Detailed” statement will be provided in the supporting documents.

This decision violates state and local law. (See: *BURIEN, LLC v. Wiley*, 230 Cal. App. 4th 1039; and *Da Vinci Group v. San Francisco Residential Rent etc. Bd.* (1992) 5 Cal.App.4th 24.

**000099**

See also OMC 8.22.020 A.5, OMC 8.22.010 C.;

and Oakland Rent Adjustment Program Regulations § 8.22.030 B.2.

e) **X** **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.*)

Landlords have burden of proof to show a unit is exempt. Landlord failed to provide substantial evidence that the dwelling units/space at issue were not use for residential purposes prior to issuance of a finalized permit, a certificate of occupancy, or even prior to 1983. Hearing officer relied on Landlord's unsubstantiated hearsay testimony. Landlords provided no documentary or other ascertainable evidence for which their hearsay testimony would corroborate. The Hearing officer manual provides that Hearsay is "Admissible to supplement and explain[...]need corroborating evidence-[...] Landlords purchased building in 2017. They claimed they were told there was no residential use prior to 1983, but did not have any information on who they heard it from, when they heard it, or in what context. Reliance on an interested party's testimony without more fails to meet even the laxest standard of evidence.

f) **X** **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.**

Petitioners made several public record requests to the Oakland RAP at the inception of their petitions. Nearly two years later and they have not yet received the records requested. The Oakland RAP's violation of the CA Public Records Act has put Petitioners at a disadvantage, prejudicing the case against them. The prior hearing officer Kasdin, and current hearing officer Morosz accepted as fact the unsubstantiated hearsay testimony from landlords regarding the existence of dwelling units in the property decades prior to landlord's purchase. Though the burden is on the landlord to show the units are exempt, they were not required to provide any documentary evidence or witnesses to support their claim; yet tenants were then required to rebut the unsubstantiated hearsay testimony with documentary evidence that they could not obtain as a result of the RAP's failure to fulfill their public records requests. Prior to the hearing with HO Morosz, she suggested not holding the hearing, suggesting she did not need to hear anything on the matter, despite substituting into the case nearly a year after a hearing with HO Kasdin was prematurely terminated due to Tenants' evidence binders being misplaced by the RAP.

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

The hearing officer made a mistake of law when distinguishing the *Da Vinci* case and failing to apply the court's reasoning to the current matter. The HO's claim that San Francisco Rent Ordinance has an exception from the New Construction exemption for Live/Work units is incorrect. San Francisco's exemption contains no such exception.

The decision also failed to address, or even mention, *BURIEN, LLC v. Wiley*, 230 Cal. App. 4th 1039, despite Tenants' extensive reference to that case, and its applicability to the current matter.

**000100**

**SEE: 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: .*



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

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

**NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR 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: [APPEAL FORM ADDENDUM](#)  
 (insert name of document served)  
 And Additional Documents

and (write number of attached pages) \_\_\_\_\_ 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.

X d. [Electronic Mail](#)

**PERSON(S) SERVED:**

|                  |                             |
|------------------|-----------------------------|
| Name             | <b>Timothy Larsen</b>       |
| Address          | <b>tlarsenlaw@gmail.com</b> |
| City, State, Zip |                             |



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 7/23/21 \_ (insert date served).

Lisa Giampaoli

PRINT YOUR NAME



SIGNATURE

7/23/21

DATE

1 Lisa Giampaoli, SBN 291234  
Giampaoli Law  
2 100 Pine Street, Suite 1250  
San Francisco, CA 94111  
3 Telephone: (415) 890-6529

4 Attorney for Tenants/Appellants  
Matthew Laws, Brett Amory, Dustin Schultz,  
5 Abigail Baird, Jaron Hollander, and Brad Long.

6  
7  
8 OAKLAND RENT ADJUSTMENT BOARD  
9 CITY OF OAKLAND

10 RE: 5707 San Leandro St.  
11 MATTHEW A. LAWS, *et. al.*,  
12 Tenant-Appellants,  
13  
14 v.  
15 GREEN SAGE MANAGEMENT, LLC and  
16 OAKLAND CANNERY REAL ESTATE,  
LLC,  
17 Landlord-Respondent.

**Consolidated petitions:**  
T19-0218 (Laws), T18-0372 (Amory),  
T19-0220 (Schultz), T19-0251  
(Baird/Hollander), T19-0032 (Long).  
  
**MEMORANDUM IN SUPPORT OF  
APPEAL OF TENANT-APPELLANTS  
MATT LAWS, BRETT AMORY,  
DUSTIN SCHULTZ, ABIGAIL BAIRD,  
JARON HOLLANDER, and BRAD LONG.**  
  
Hearing Date: TBD

18  
19  
20  
21 **INTRODUCTION**

22 Tenant/Appellants appeal the decision finding that that their dwelling units located in the  
23 historic Cannery in East Oakland are exempt from the RAP as new construction. Appellants are a  
24 group of artists and small business owners residing in live-work units that have been rented out for  
25 residential use since at least 1994. Their units do not qualify as new construction because all  
26 dwelling units in question had been constructed and were used residentially since at least 1994-  
27 sixteen (16) years before any legal conversion took place, as evidenced by public records and  
28

1 witness testimony. Permits were not finalized until 2010 and the only certificate of occupancy for  
2 the property was issued in 2011.

3 There was no “new construction;” there was a legalization of pre-existing dwelling units  
4 that had been used residentially for at least sixteen years.

5 Landlord/Respondent Green Sage (“Landlord”) is a Colorado based real estate investment  
6 group that “provides strategic real estate investments for the legal cannabis industry.”<sup>1</sup> Since  
7 purchasing the property in 2017, Landlord has refused to make necessary repairs, has created  
8 serious habitability and security problems, and removed housing services such as parking spaces  
9 and storage from Tenants for the benefit of the commercial cannabis tenants to whom Landlord  
10 has leased the majority of the property. When Tenants refused to give up services and pay large  
11 rent increases, Landlords claimed all live-work units at the property were commercial and exempt  
12 from any and all Tenant protections. When that tactic failed, Landlords claimed all 20 units at the  
13 property were exempt as new construction.  
14

15  
16 Though the decision issued found 11 units in the adjacent building to be covered by rent  
17 control, it inexplicably determined that 9 units, including those of Appellants, are exempt as “new  
18 construction.” Inexplicable because though it is the Landlord’s burden to prove an exemption,<sup>2</sup>  
19 Landlord failed to provide any evidence other than its own unsubstantiated hearsay testimony to  
20 support its claim that the units at issue were built after 1983. Also inexplicable because the  
21 interpretation of the new construction exemption, i.e. determining a unit is “new construction”  
22 based solely on whether it was built before or after 1983, regardless of when or how long it was  
23 actually rented out and used residentially prior to legalization, not only violates the ordinance on  
24 its face, but also undermines the very purpose of the exemption: to “encourage investment in *new*  
25

26 \_\_\_\_\_  
27 <sup>1</sup> <https://www.bloomberg.com/profile/company/1340967D:US>

28 <sup>2</sup> OMC § 8.22.030 (B)(l)(b)

1 residential rental property in the city.”<sup>3</sup> A purpose which is not furthered by simply legalizing pre-  
2 existing housing that had been illegally rented for years by landlords seeking financial gain by  
3 gaming the system

4 The decision’s reliance on unsubstantiated testimony that fails to meet even the laxest  
5 interpretation of the substantial evidence rule illustrates the most egregious aspect of the decision  
6 itself: the longstanding but clearly illogical misinterpretation of the RAP’s “new construction”  
7 exemption language.

8  
9 Though clearly defined as the “legal conversion[s] of **uninhabited spaces not used by**  
10 **Tenants**”,<sup>4</sup> the definition has somehow been unjustifiably narrowed through a series of RAP  
11 decisions to ignore the qualifier that the space must not have been used by tenants prior to  
12 legalization, and instead now looks only to whether a unit was built after 1983. This is despite the  
13 fact that the RAP acknowledges illegal units are covered by rent control, including those  
14 constructed after 1983, and that such acknowledgment necessarily precludes a claim that a  
15 previously rented dwelling unit had not been used residentially.  
16

17 This black-letter approach leads to the absurd result of tenants losing rent control after  
18 years of living in an illegal unit, making a mockery of the stated purpose of the RAP, i.e.  
19 “providing relief to residential tenants in Oakland by limiting rent increases for *existing* tenants.”<sup>5</sup>

20 Even if Landlord had provided any credible evidence that the units in question were built  
21 after 1983, which they did not, the real issue here is not whether a unit was built after 1983, but  
22 whether a pre-existing illegal dwelling unit rented out for years can suddenly lose its rent control  
23 status as a result of the landlord legalizing the unit.. The California Court of Appeals has  
24

---

25 <sup>3</sup> O.M.C. 8.22.010 (C) (Emph. added.)

26 <sup>4</sup> RAP rules and regulations 8.22.020(B) (Emph. added.)

27 <sup>5</sup> O.M.C. 8.22.010 (C) (Emph. added.)

28

1 repeatedly answered this question with a resounding “no.” It is time for the Oakland RAP to  
2 follow suit.

### 3 STATEMENT OF FACTS

4 The Cannery property is a single parcel, located on San Leandro Street in Oakland,  
5 California, and designated by the Alameda County Assessor's Office as APN 41-3848-13-3. The  
6 Cannery was originally built in the 1920's and the property has numerous buildings on the parcel,<sup>6</sup>  
7 but the two relevant addresses in this matter are 5733 San Leandro and 5707 San Leandro. 5733 is  
8 still the only address recorded with the property parcel number.<sup>7</sup> Both buildings have been there  
9 for decades, as shown on very early plot maps, but until relatively recently the entirety was  
10 referred to as 5733.<sup>8</sup> There is no mention of a 5707 prior to 1994 and no records have been  
11 produced indicating when or how 5707 obtained its own address.  
12

13 The 5733 building has eleven dwelling units. The 5707 building has nine dwelling units.  
14 The hearing decision concluded that the eleven units in 5733 existed and were occupied  
15 residentially prior to 1983, and are therefore subject to rent control, but deemed the 9 units in 5707  
16 as new construction. However, Landlord provided no evidence of when the units in the building  
17 now referred to as 5707 were actually built, or when the building obtained its own address.  
18

19 A rent board petition dated August 4, 1989 was found among the effects of now deceased  
20 long-time Cannery tenant Arthur Monroe. The petition lists the number of units at the 5733  
21 property as “11+,” indicating that in 1989 there were already more than the eleven units at the  
22 property.<sup>9</sup> The building now referred to as 5733 has only ever had 11 live -work units, therefore  
23 any “+” units would have been in the building that was later addressed as 5707.  
24

---

25 <sup>6</sup> There are more buildings on the Cannery parcel than described in the Decision, but there are only two  
26 structures containing dwelling units relevant for the purposes of this appeal.

27 <sup>7</sup> See Alameda County Assessor’s Office Parcel Viewer:  
[http://gis.acgov.org/Html5Viewer/index.html?viewer=parcel\\_viewer](http://gis.acgov.org/Html5Viewer/index.html?viewer=parcel_viewer)

28 <sup>8</sup> See Tenant evidence binders submitted for 1/3/20 and 4/26/21 Hearings

<sup>9</sup> See Tenant Supplemental Hearing Brief Submitted For 1/3/20 and 4/26/21 Hearings- Ex. 6

1 Landlord alleges that there were no dwelling units or tenants living at the 5707 building  
2 prior to 1983. However, when asked if he knew for a fact that nobody lived in the 5707 building  
3 prior to 1983, Landlord managing partner Koentjes stated "I have no idea."<sup>10</sup> Koentje also  
4 admitted that he had no evidence as to when the 5707 address came into use,<sup>11</sup> and made it clear  
5 that his knowledge of the property was based on building records showing the legal use of the  
6 property, not on any personal knowledge of its actual use.<sup>12</sup>

7  
8 The earliest city of Oakland public record that references the 5707 address is a 1994  
9 citation, No. 9501278, that cites 5707 Unit A for having no heat, instructs removal of a fireplace,  
10 and notes that there are no permits.<sup>13</sup> The noted violations suggest residential use of the space, as  
11 only a residential dwelling unit is legally required to have a heat source.<sup>14</sup> From the record it  
12 appears that a "Leti Lune" made the complaint. Public records show a Leticia Luna resided at  
13 5707 San Leandro Street in 1995, along with a number of other residents.<sup>15</sup> Sworn witness  
14 testimony evidenced residential use and the existence of the dwelling units at 5707 as early as  
15 1994.<sup>16</sup>

16  
17 The earliest evidence of any application to obtain permits for residential occupancy at the  
18 Cannery is an Oakland building record from 1998, indicated by permit application ZP980053 for  
19 5733 San Leandro Street. The application was for a permit "To legalize 9 of 18 existing live-work  
20 (or residential) units,"<sup>17</sup> making it clear that there 18 illegal live work units already existed at the  
21

---

22 <sup>10</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 21:18-21:29.

23 <sup>11</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 16:52-17:14

24 <sup>12</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 12:39-14:04.

25 <sup>13</sup> See Tenant Supplemental Hearing Brief Submitted For 1/3/20 and 4/26/21 Hearings- Ex. 7

26 <sup>14</sup> 25 CCR § 34, 25 CA ADC § 34

27 <sup>15</sup> See Tenant Supplemental Hearing Brief Submitted For 1/3/20 and 4/26/21 Hearings- Ex. 8

28 <sup>16</sup> 1/3/20 RAP hearing recording -sworn testimony of Juliet Smith.

<sup>17</sup> See Tenant Supplemental Hearing Brief Submitted For 1/3/20 and 4/26/21 Hearings- Ex. 9

1 property. Despite this evidence, Landlord managing partner Patrick Koentjes testified that there  
2 was no record of anything being constructed in the 5707 building prior to permits filed in 2002.<sup>18</sup>

3 Koentjes also testified that “[they had] had several iterations of certificate of occupancies  
4 for the building” though he provided no evidence of his claim. There is only one Certificate of  
5 Occupancy ("COO") recorded for the Cannery parcel. COO number 10-0286, was issued on May  
6 18, 2011. Final inspection was approved on September 3, 2010.<sup>19</sup>

### 7 PROCEDURAL HISTORY

8  
9 The RAP has conducted three hearings on this matter: May 8, 2019, January 3, 2020, and  
10 April 26, 2021. In addition, hearing officer Linda Morosz required counsel for the parties to attend  
11 an unprecedented “pre-hearing management conference.” The RAP received documentary  
12 evidence submitted in anticipation of the 2019 hearing. That 2019 hearing was continued due to a  
13 RAP administrative error. The 2020 and 2021 hearings included both documentary evidence and  
14 testimony from witnesses. The Tenants submitted documentary evidence to the RAP several  
15 times at the request of the various hearing officers assigned to the matter. Prior to the first  
16 evidentiary hearing on May 8, 2019, Cannery tenant Rebecca Firestone (T18-0282) filed with the  
17 RAP several binders containing documentary evidence which she submitted on behalf of all the  
18 consolidated Cannery tenant petitioners, including Appellants.  
19

20 At the January 3, 2020 hearing Tenants discovered that the hearing officer (“H.O.”) did not  
21 have, nor had he reviewed, the three large evidence binders that Tenants had timely filed in  
22 support of their claims.<sup>20</sup> Upon further inquiry it was discovered that the RAP had misplaced the  
23 three large binders.<sup>21</sup> Despite the fact that the H.O. did not have the evidence, nor had he reviewed  
24 it, he wanted to proceed with the hearing. It was only upon insistence by counsel for both parties,  
25

26 \_\_\_\_\_  
27 <sup>18</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 1:54

28 <sup>19</sup> See Tenant Supplemental Hearing Brief Submitted For 1/3/20 and 4/26/21 Hearings- Ex. 2.

<sup>20</sup> 1/3/20 Hearing Recording Part 3: 38:57

1 supported by a RAP administrator, that the hearing was postponed until such time that the  
2 evidence could be found.<sup>22</sup>

3 The Covid 19 pandemic hit shortly thereafter. When the RAP reconvened hearings, the  
4 former H.O. had retired and a new H.O. was assigned to the matter. On April 15, 2021, the new  
5 H.O. noticed an unprecedented “pre-hearing management conference” with only counsel for the  
6 parties present. Despite the requirement to record for the public record all RAP hearings, the H.O.  
7 did not record the conference. During the conference the H.O. recommended foregoing any further  
8 hearings, asserting that she had all the information needed to decide the issue of exemption. When  
9 Tenants’ counsel took issue with the recommendation and pointed out that the vast majority of the  
10 Tenants’ evidence had not been reviewed due to the RAP’s misplacing of their evidence binders,  
11 the H.O. along with Landlord’s counsel insisted that the documentary evidence was irrelevant to  
12 the issue of exemption. When asked if she had reviewed all of the evidence that had been missing  
13 at the prior hearing, the H.O. said that she had spoken with the prior H.O., to whom she referred as  
14 her “mentor,” and expressed confidence in his assessment of the previous hearing, despite the  
15 premature termination of that hearing resulting from the missing evidence.  
16  
17

18 Though a hearing was held on April 26, 2021, it was apparent to Tenants and their counsel  
19 from the outset that the H.O. had made up her mind about the exemption status of the units, in no  
20 small part due to her statement that she believed all evidence relevant to the issue of exemption  
21 had been presented.<sup>23</sup>

22 **THE RAP HAS JURISDICTION TO HEAR THE APPEAL**

23 The final decision in the underlying petitions was served by mail on July 2, 2021.  
24 Appellants timely filed their appeal on July 16, 2021. Tenants requested and were granted an  
25

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26 <sup>21</sup> 1/3/20 Hearing Recording Part 2: 0:23.

27 <sup>22</sup> 1/3/20 Hearing Recording Part 4: 8:04.

28 <sup>23</sup> 4/26/21 Hearing Recording 34:16.



1 extension to file supporting documents in their appeal due to extremely long delays in obtaining  
2 relevant public records requested from the city of Oakland more than a year prior. A second  
3 extension was granted Tenants as a result of a death in the family Tenants' counsel.

4 The RAP can and must consider this appeal because “[i]n general, a party must exhaust  
5 administrative remedies before resorting to the courts.” (*Coachella Valley Mosquito and Vector*  
6 *Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1080.)  
7 “[A]n administrative remedy is exhausted only upon ‘termination of all available, nonduplicative  
8 administrative review procedures.’” *Id.* (citing to *California Correctional Peace Officers Assn. v.*  
9 *State Personnel Bd.* (1995) 10 Cal.4th 1133, 1151.)

11 Here the RAP has issued a decision for which Tenants have ample grounds to appeal.  
12 Tenants must exhaust all administrative remedies before resorting to the courts. Tenants must  
13 therefore be afforded the opportunity to exhaust all administrative remedies before filing a writ.

#### 14 **GROUND FOR APPEAL**

15 Tenants submit their appeal pursuant to RAP Regulations 8.22.120(B)(1), (B)(3),(B)(4),  
16 and (B)(5), and (B)(6).

#### 18 **A. THE DECISION IS INCONSISTENT WITH OMC CHAPTER 8.22, RENT BOARD 19 REGULATIONS OR PRIOR DECISIONS OF THE BOARD.**

##### 20 **i) The Decision Grants an Exemption Despite Landlord's Failure to Meet its 21 Burden of Proving and Producing Evidence for an Exemption. (OMC 8.22.020 22 B(1)(b)).**

23 The burden of proving and producing evidence for the exemption is on the owner.<sup>24</sup>  
24 OMC 8.22.030(A)(5) provided the definition for new construction as follows:

25 Dwelling units which were newly constructed and received a certificate of  
26 occupancy on or after January 1, 1983. This exemption does not apply to any  
27 newly constructed dwelling units that replace covered units withdrawn from the  
28 rental market in accordance with O.M.C. §8.22.400, et seq. (Ellis Act  
Ordinance). To qualify as a newly constructed dwelling unit, the dwelling unit

<sup>24</sup> OMC 8.22.030(B)(1)(b)

1 must be entirely newly constructed or created from space that was formerly  
entirely non-residential.

2 This definition is further defined by the RAP rules and regulations §8.22.030(B)(2):

- 3 2. Newly constructed dwelling units (receiving a certificate of occupancy after  
4 January 1, 1983).
- 5 a. Newly constructed units include legal conversions of uninhabited spaces  
not used by Tenants, such as:
    - 6 i. Garages;
    - 7 ii. Attics;
    - 8 iii. Basements;
    - 9 iv. Spaces that were formerly entirely commercial.
  - 10 b. Any dwelling unit that is exempt as newly constructed under applicable  
interpretations of the new construction exemption pursuant to Costa-Hawkins  
(California Civil Code Section 1954.52).
  - 11 c. Dwelling units not eligible for the new construction exemption include:
    - 12 i. Live/work space where the work portion of the space was  
converted into a separate dwelling unit;
    - 13 ii. Common area converted to a separate dwelling unit

14 As noted above, for a new construction exemption, the owner must show the dwelling  
unit was “entirely newly constructed or created from space that was formerly entirely non-  
15 residential,”<sup>25</sup> i.e. “uninhabited spaces not used by Tenants[.]”<sup>26</sup> By Landlord’s own testimony,  
16 they did not own the building in 1983, and do not know if anyone lived there prior to 1983.<sup>27</sup>  
17 Instead they based their allegations on public building records, citing the *legal* use of the  
18 property, rather the *actual* use of the property.<sup>28</sup> Having failed to meet their burden of proof,  
19 tenants had nothing to rebut. Landlord has failed to prove the units are exempt as new  
20 construction. Thus the exemption should not have been granted.

21 **ii) The Decision is Inconsistent with and Makes a Mockery of the Primary Purpose**  
22 **of the Rent Ordinance (OMC 8.22.010 C.)**

23 The first stated purpose of the Oakland Residential Rent Adjustment Programs is  
24 “providing relief to residential tenants in Oakland by limiting rent increases for existing  
25 tenants[.]”<sup>29</sup>

26 <sup>25</sup> OMC 8.22.030(A)(5).

27 <sup>26</sup> RAP regulation 8.22.030(B)(2)(a)

28 <sup>27</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 21:18-21:29.

29 <sup>28</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 13:47.

29 <sup>29</sup> O.M.C. 8.22.010(C).

1 Appellants are existing residential tenants. They live in units that have been occupied  
2 residentially since at least 1994. The units were not legalized until 2011. Illegal units are covered  
3 under Oakland’s rent control ordinance.<sup>30</sup> Not only did the units not qualify as “uninhabited  
4 space” when legally converted in 2011, they could not possibly qualify as “new construction,”  
5 having been in existence and occupied residentially since at least 1994, and some at least as early  
6 as 1989. If the stated purpose of the Rent Ordinance is to be met, then there is simply no way a  
7 decision removing rent protections from longstanding tenants can be supported.

8  
9 **iii) The Decision in Inconsistent with OMC §8.22.030(A)(5) and RAP Rules and**  
10 **Regulations §8.22.020(B) as the Dwelling Units Were Not Newly Constructed or**  
11 **Created from “Uninhabited Space”**

12 The new construction exemption applies to “dwelling units which were newly  
13 constructed and received a certificate of occupancy on or after January 1, 1983.”<sup>31</sup> The units  
14 must be created from legal conversions of uninhabited spaces not used by Tenants.<sup>32</sup>

15 As already noted above, Landlord has provided no evidence that the units were created  
16 on or after 1983. Nor have they provided any evidence that would indicate the space from which  
17 the units were created was uninhabited. To the contrary, Landlord testified that they did not  
18 know if anyone was living in the building prior to 1983 and even conceded people may have  
19 been living there, just “not legally” because according to Landlord, it was not a “residential  
20 complex.”<sup>33</sup> Since the RAP recognizes residential use in units legally zoned commercial,<sup>34</sup>  
21 Landlord’s contention that residential use would have been illegal because the property was not  
22 yet legalized for residential use is moot.

23 Landlord has provided no evidence that the units in 5707 were built on or after 1983, and  
24 has admitted they do not know if people were living in the building prior to 1983, therefore the

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25 <sup>30</sup> OMC 8.22.020

26 <sup>31</sup> OMC §8.22.030(A)(5)

27 <sup>32</sup> RAP Rules and Regulations §8.22.020(B)

28 <sup>33</sup> 1/3/20 RAP hearing recording -sworn testimony of Patrick Koentjes -Track #3: 21:15-21:33.

<sup>34</sup> *Rose v. Polanski*, T05-0233.

1 units cannot meet even the overly broad definition of “new construction” traditionally afforded  
2 in RAP decisions.

3 **B. O.M.C. 8.22.120(B)(3) THE DECISION RAISES A NEW POLICY ISSUE THAT HAS**  
4 **NOT PREVIOUSLY BEEN DECIDED BY THE BOARD**

5 This issue is of significant importance to Oakland Tenants, as there are undoubtedly  
6 thousands of tenants living in illegal dwelling units that were first occupied after 1983. All of  
7 those people will be at risk of unprecedented rent increases if the RAP continues to hold that pre-  
8 existing illegal units occupied for years can suddenly qualify as “new construction” upon  
9 legalization.  
10

11 Illegal units are extremely common in the Bay Area, including Oakland. That is why the  
12 RAP, the Just Cause for Eviction ordinance, and the Tenant Protection Ordinance all recognize  
13 and provide protection for tenants living in illegal units, as evidenced by the definition of “covered  
14 units” under OMC§ 8.22.020, which makes no mention of an exemption for illegal units:  
15

16 “Covered Unit” means any dwelling unit, including joint living and work quarters,  
17 and all housing services located in Oakland and used or occupied in consideration  
18 of payment of rent with the exception of those units designated in Section 8.22.030  
19 A. as exempt.”

20 Since the RAP recognizes and provides coverage for illegal units, it makes no sense to  
21 remove rent control from a unit once it is legalized, as it not only goes against the stated purpose  
22 of the ordinance, it also jeopardizes the tenant already living in the unit through no fault of their  
23 own while rewarding an owner twice – initially with profiting from their illegal rental, and again  
24 by exemption from rent control.

25 Recognizing this problem, San Francisco amended its planning code in 2016 to require a  
26 landlord to legalize an illegal dwelling unit whenever feasible<sup>35</sup> but does not remove the unit from  
27

28 <sup>35</sup> See San Francisco Planning Code §317.

1 rent control. The effect of the amendment has been to hold landlords accountable and protect  
2 tenants from losing their housing to giant rent increases.

3 That said, while these additional protections have not yet been enacted in Oakland, the  
4 present case need not rely on them because landlord has not provided any credible evidence that  
5 the units were constructed after 1983 or that the property was not used residentially by tenants  
6 before 1983.

7 **C. THE DECISION VIOLATES STATE AND LOCAL LAW (O.M.C. 8.22.120(B)(4))**

8 **i. THE HEARING DECISION IGNORES BINDING CALIFORNIA APPELLATE**  
9 **CASES THAT CONTRADICT THE DECISION'S INTERPRETATION OF NEW**  
10 **CONSTRUCTION**

11 The Decision's interpretation of the RAP's New Construction Exemption is inconsistent  
12 with appellate court decisions, the stated purpose of the RAP, and common sense. Case law and  
13 the stated purpose of the RAP are clear that pre-existing tenancies, regardless of whether the  
14 tenancy began before or after the effective date of the local rent control ordinance, do not lose the  
15 benefit of rent control upon a change in the legal status of the unit. The intended purpose of the  
16 new construction exemption is to encourage the creation of *new* housing, not the legalization of  
17 pre-existing housing. The RAP recognizes illegal dwellings as residential units, therefore, upon  
18 legalization of those pre-existing illegal units, it is an impossibility to claim those units had no pre-  
19 existing residential use.

20 **a. The Decision Relies Upon an Unsupported and Erroneous Reading of the *Da Vinci***  
21 **Case to Ignore Controlling Legal Authority**

22 The Decision's reasoning for rejecting controlling authority, *DaVinci Group v. San*  
23 *Francisco Residential Rent Etc. Bd.* (1992) 5 Cal.App.4th 24, relies on an erroneous reading of *Da*  
24 *Vinci* and either a misunderstanding or affirmative misstatement of the San Francisco Residential  
25 Rent Stabilization and Arbitration Ordinance ("SFRO") at issue in the case. The Decision states  
26 that *Da Vinci* is not applicable to the Cannery Tenants' matter, claiming the

27 San Francisco rent ordinance exempts all units if the Certificate of Occupancy  
28 was issued after June 13, 1979 (enactment of the ordinance) but limits the  
exemption specifically for live/work units. The ordinance has a specific  
provision for live/work units that exempts only those live/work units if there

1 was no residential use prior to the issuance of the Certificate of Occupancy  
2 even if the Certificate of Occupancy was issued after June 13, 1979.

3 The Oakland Rent Ordinance does not have such [a] provision. (HD at 7.)

4 Nothing in *Da Vinci* supports the Decision's claim regarding the language of the SFRO. At  
5 the time of the 1992 *Da Vinci* decision, *neither the San Francisco Ordinance nor the Rules and*  
6 *Regulations* contained any specific live/work provision. The San Francisco Rent Board had an  
7 internal policy position regarding exemption when residential use preceded the issuance of a COO,  
8 but this policy position was not codified in the Rules and Regulations until 1997, five years *after*  
9 the *Da Vinci* decision issued. The Decision's attempt to distinguish the logic and *Da Vinci's*  
10 controlling interpretation of a nearly identical statute therefore fails, particularly in light of the fact  
11 that the Oakland RAP has also taken the stance that illegal units are covered by the RAP. The only  
12 discernible difference between the language of the Oakland new construction exemption and that  
13 of San Francisco, is that San Francisco amended its language to ensure there was no  
14 misunderstanding of the intent, an amendment that is clearly sorely needed in the Oakland  
15 Ordinance to ensure no further misinterpretations are made under the auspices of following the  
16 ordinance.

17 In *DaVinci*, the Court of Appeal interpreted a section of San Francisco's rent control  
18 ordinance dealing with "new construction" that exempted "rental units located in a structure for  
19 which a certificate of occupancy was first issued after the effective date of this ordinance."<sup>36</sup> (*Da*  
20 *Vinci Group*, 5 Cal.App.4th at 28 [quoting San Francisco Ordinance 37.2, subdivision (p)(6)].)  
21 The effective date of the rent ordinance was June 13, 1979. (*Id.* at 29.)

22 *Da Vinci* involved a commercial warehouse built in 1905. The evidence showed the  
23 warehouse had been used residentially since 1980, and it was then later renovated and granted a  
24 COO in 1986, seven years after the 1979 effective date of the rent ordinance. In 1988, the *DaVinci*  
25 group bought the building and applied for an exemption from rent control, claiming substantial  
26 rehabilitation and/or new construction, based on the date of the COO. (*Id.* at 27-28.)

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27 <sup>36</sup> The language in the Rules and Regulations adopted by the Rent Board did not add anything significant to  
28 the language of the Ordinance, exempting "newly constructed rental units for which a certificate of occupancy was  
first issued after June 13, 1979." (*Id.* at 29.)

1 The *DaVinci* Court held that the units did not come within the San Francisco Ordinance's  
2 "new construction" exemption. (*Id.* at 27.) The Court examined the intent of the legislature and  
3 held that the Ordinance's "explicit mandate is to protect tenants, especially from excessive rent  
4 increases." (*Id.* at 30, [citing *Fox v. San Francisco Rent etc. Bd.* (1985) 169 Cal.App.3d 651,  
5 656].) The Court found the Ordinance had a "major goal of easing the housing shortage by  
6 encouraging creation of new residential rental units where there were none before." The Court  
7 determined that the Rent Board's artist live-work policy "extending the 'new construction'  
8 exemption to converted warehouses with new certificates of occupancy, but 'only where there has  
9 been no residential use since the enactment of the Ordinance' " effectuated the Ordinance's  
10 purpose. (*Id.* at 29-30.)

11 The Court observed that "while restructuring a *nonresidential* warehouse for live-work use  
12 creates new residential units, i.e., additional housing, remodeling a warehouse *already inhabited*,  
13 albeit illegally, by residential tenants does not." (*Id.* at 30 [emphasis added].) Given the purpose of  
14 the Ordinance, the Court held that "the 1986 certificate of occupancy in this case created legal  
15 residential units where there were illegal ones before. Legalizing de facto residential use does not  
16 enlarge San Francisco's housing stock." (*Id.*)

17 Here, Oakland's RAP sets forth in plain language the same goals that motivated the SFRO.  
18 Like the housing shortage in San Francisco, the Oakland "City Council [found] that a shortage of  
19 decent, safe, affordable and sanitary residential rental housing continues to exist in Oakland."<sup>37</sup>  
20 The intent of the RAP is to "[e]ncourage investment in residential housing while also protecting  
21 the welfare of residential tenants."<sup>38</sup> Just as the SFRO has the "major goal of easing the housing  
22 shortage by encouraging creation of new residential rental units where there were none before;"  
23 (*Da Vinci* at 30); the RAP clearly states that

24 [t]he purposes of this Chapter are providing relief to residential tenants in  
25 Oakland by limiting rent increases for *existing tenants*; encouraging  
26 rehabilitation of rental units, encouraging investment in *new residential rental*  
*property* in the city; reducing the financial incentives to rental property owners  
who terminate tenancies . . .

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27 <sup>37</sup> OMC § 8.22.010(A)

28 <sup>38</sup> OMC § 8.22.010(B)

1 (OMC 8.22.010(C) [emphasis added].)

2 The language of the SFRO dealing with new construction is substantially similar to the  
3 RAP new construction exemption in OMC § 8.22.030(A)(5), which states that "Dwelling units  
4 which were newly constructed and received a certificate of occupancy on or after January 1,  
5 1983." However, the RAP under OMC § 8.22.030(A)(5) goes further than the SFRO did at the  
6 time of the *Da Vinci* decision in 1992. The RAP explicitly states that "To qualify as a newly  
7 constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from  
8 space that was formerly entirely non-residential."<sup>39</sup>

9 Moreover, despite the Decision's claim that the SFRO has a special carve-out for live/work  
10 units, which therefore makes *Da Vinci* inapplicable; (*See* Decision at p. 7); it is rather the RAP's  
11 Rules and Regulations ("Regulations") that have specific guidance applicable to the situation at  
12 the Cannery, which involves claims of commercial and live/work space. Section  
13 8.22.030(B)(2)(a) of the Regulations states that "Newly constructed units include legal  
14 conversions of uninhabited spaces *not used by Tenants*, such as: . . . iv. Spaces that were *formerly*  
15 *entirely* commercial." (emphasis added). Section 8.22.030(B)(2)(c) of the Regulations states that  
16 "Dwelling units not eligible for the new construction exemption include: i. Live/work space where  
17 the work portion of the space was converted into a separate dwelling unit; ii. Common area  
18 converted to a separate dwelling unit."

19 The Decision's claim that a provision of San Francisco's Ordinance influenced the Court of  
20 Appeals holding in *Da Vinci* is demonstrably incorrect. At best, at the time *Da Vinci* was issued,  
21 the San Francisco Rent Board had a policy correctly interpreting the SFRO, given the SFRO's  
22 plain language and intent. In contrast, the RAP currently has *codified* within its statute and the  
23 Regulations language that is more protective and specific than did the SFRO at the time of the *Da*  
24 *Vinci* decision in 1992.

25 *DaVinci* is indistinguishable from the facts of the present case. As in *DaVinci*, the former  
26 landlord of the Cannery property knowingly allowed residential use for years before legalizing the

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27 <sup>39</sup> OMC § 8.22.030(A)(5)



1 units.<sup>40</sup> After the certificate of occupancy was obtained, the building was sold to *DaVinci*, who  
2 then tried to claim the pre-existing residential units were exempt from the local rent ordinance.  
3 The only difference is that here, the Oakland Cannery had been used residentially for over 30  
4 years by the time a certificate of occupancy was issued, rather than seven years, and there is ample  
5 evidence that the 5707 dwelling units were used residentially at least 4 years before the previous  
6 owners even attempted to get legal permits for the existing construction in 1998.

7 **b. The Decision Ignores an Appellate Decision that Explicitly Cites the Oakland Rent**  
8 **Ordinance's "New Construction" Exemption and Directly Contradicts the Decision's**  
9 **Interpretation Requiring Proof of Residential Use Prior to 1983**

10 The Tenants both briefed and relied upon *Burien, LLC v. Wiley*, (2014) 230 Cal.App.4th  
11 1039, in their arguments prior to the issuance of the Decision.<sup>41</sup> Curiously, the Decision does not  
12 even mention the *Burien* case, despite *Burien* being additional binding appellate authority directly  
13 applicable to the issue of new construction here. The Decision's choice to ignore *Burien* is  
14 especially concerning given that *Burien* specifically looks to Oakland's rent ordinance, OMC  
15 § 8.22.030(A)(5), to interpret a provision in Costa-Hawkins that exempts units with a COA issued  
16 after 1995, and the Court holds that if residential use preceded the COA, the COA does not  
17 operate to exempt the units from rent control.

18 In *Burien*, a landlord converted a rent-controlled apartment building to condominiums,  
19 obtained a new COA based on the change in use, and raised the rent. When a tenant objected, the  
20 landlord sought a declaration from the court that the unit was exempt from local rent control  
21 ordinances under the Costa-Hawkins Rental Housing Act, Civ. Code, § 1954.50 *et seq.*. The  
22 landlord argued the condos were exempt as new construction under Costa-Hawkins because the  
23 new COA was issued in 2009, after the 1995 date that Costa-Hawkins sets to exempt units from  
24 local rent control ordinances. The trial court found the unit was not exempt and entered judgment  
25 in favor of the tenant. (*Burien, supra*, 230 Cal.App.4th at 1042-43.)

26 On appeal, the landlord again argued the unit qualified under Civil Code § 1954.52(a)(1),

---

27 <sup>40</sup> In addition to the 1998 permit application, ZP980053, which applied to "*legalize 9 of 18 existing live-*  
28 *work (or residential) units,*"(emphasis added) the Decision cites to an August 25, 2003 permit to "*legalize 20*  
*existing joint living and working quarters.*" (HD at 7, [emphasis added].)

<sup>41</sup> (*See, e.g.*, Tenants' Supp. Hrg. Brief, p. 8-9, filed Dec. 11, 2019; April 26, 2021 Hearing Recording at 1:27:30.)

1 which states units are exempted from local rent control ordinances if the unit "has a certificate of  
2 occupancy issued after February 1, 1995." (*Id.* at 1044.) The landlord argued that the statute's  
3 plain language applied broadly to any certificate of occupancy issued after February 1, 1995. (*Id.*  
4 at 1047.)

5 The Court interpreted subdivision (a)(1) by reading section 1954.52 as a whole and held  
6 that "the exemption can only apply to certificates of occupancy that *precede residential use of the*  
7 *unit.*" (*Id.* at 1044 [emphasis added].) The Court held that section 1954.52(a)(1) could only refer to  
8 certificates of occupancy issued *prior to residential use* of the unit because such an "interpretation  
9 furthers the purpose of the exemption by encouraging construction and conversion of buildings  
10 which *add to the residential housing supply.*" (*Id.* at 1047. Emph. added.)

11 To aid in its interpretation, the Court looked at "[s]imilar exemptions in local rent control  
12 ordinances [that] encourage the creation of new residential housing[]" specifically noting that  
13 "[t]he City of Oakland's Residential Rent Adjustment Program *provides a similar exemption from*  
14 *rent control* [cite to OMC§ 8.22.030, subd. (A)(5)]" (*Id.* at 1048. Emph. added)

15 The Court in *Burien* clearly held that unit in question was NOT exempt from rent control  
16 because "the 2009 certificate of occupancy did not precede the residential use of the property." (*Id.*  
17 at 1048.) Here, as in *Burien*, the certificate of occupancy did not precede the residential use of the  
18 property, and just as the Court in *Burien* points to the Oakland RAP's new construction exemption  
19 as support for their reasoning, so, too, do Appellants.

20 **ii. THE DECISION VIOLATES THE RAP BY GRANTING AN EXEMPTION FOR**  
21 **UNITS THAT DO NOT MEET THE REQUIREMENTS FOR NEW**  
22 **CONSTRUCTION (OMC §8.22.030(A)(5))**

23 Chapter 8.22 of the Oakland Municipal Code is entitled **RESIDENTIAL RENT**  
24 **ADJUSTMENTS AND EVICTIONS.** (Emph. added.) Article I of O.M.C. 8.22 is entitled  
25 "**Residential** Rent Adjustment Program." (Emph. added.) As stated in the title, the RAP applies to  
26 *residential* rental units.

27 O.M.C. §8.22.020 defines units covered by the RAP as "**any** dwelling unit, **including joint**  
28 **living and work quarters**, and all housing services located in Oakland and used or occupied in  
consideration of payment of rent with the exception of those units designated in Section 8.22.030

1 A. (Emph. added.)

2 A unit zoned or otherwise classified as commercial but used as a residence with the  
3 knowledge of the owner, meets the criteria of a covered unit under the Rent Adjustment  
4 Ordinance. (*Rose v. Polanski*, T05-0233.)

5 Illegally Converted Dwelling units for which no certificate of occupancy or “finaled”  
6 permit have been issued also meet the definition of a covered unit under the RAP. (*French v.*  
7 *Tenants*, L18-0030.)

8 OMC §8.22.030(A)(5) defines the exemption for new construction as follows:

9 Dwelling units which were newly constructed and received a certificate of  
10 occupancy on or after January 1, 1983...**To qualify as a newly constructed**  
11 **dwelling unit, the dwelling unit must be entirely newly constructed or created**  
12 **from space that was formerly entirely non-residential.** (Emph. added.)

13 RAP rules and regulations 8.22.020(B) provides further guidance, defining “newly  
14 constructed” as the “**legal conversion[s] of uninhabited spaces not used by Tenants** , such as: i.  
15 Garages; ii. Attics; iii. basements; iv. Spaces that were formerly entirely commercial.” (Emph.  
16 added.)

17 As already noted, Appellants provided substantial evidence demonstrating that residential  
18 use of 5707 San Leandro pre-existed the issuance of a certificate of occupancy and all finaled  
19 permits by many years. Records of residential use go back to at least 1995, whereas finaled  
20 permits were not issued until 2010, and certificate of occupancy was not issued until 2011.<sup>42</sup>

21 Despite the proffered evidence, the Decision fails to note or otherwise take into account  
22 that the units were *illegally* converted from a warehouse space and rented out to tenants for  
23 residential use, years before any permits were issued.

24 By the time the COO was issued, the space had long been converted and inhabited by  
25 tenants for years with the knowledge of the former owners, as evidenced by written rental  
26 agreements. Therefore there was no *legal conversion* prior to residential use.  
27

28 <sup>42</sup> See Tenant Supplemental Hearing Brief Submitted For 1/3/20 and 4/26/21 Hearings- Ex. 2.

1 In order for the new construction exemption to apply, there has to be a legal conversion  
2 of uninhabited space not used by Tenants. Here there was an **illegal** conversion of a space that  
3 was then rented out for residential use at least sixteen years prior to any finalized permit or  
4 issuance of a COO. By the time any legalization occurred, the units had long been converted,  
5 and inhabited and used by Tenants, for years.

6 Nowhere in the definition of the “new construction” exemption does it provide for *illegal*  
7 conversions, nor does it provide for legalization of pre-existing illegal dwelling units already  
8 rented for residential use. To the contrary, the language of the ordinance, coupled with the  
9 applicable rules and regulations, make it clear that a space already inhabited by tenants for  
10 residential purposes does *not* qualify for the exemption. And because the RAP recognizes illegal  
11 units, the glaring absence of any mention of legalization of an illegal unit stands out.  
12

13 The most obvious reason the drafters did not include legalization of illegal units under the  
14 new construction exemption is because it seemed glaringly obvious that a new construction  
15 exemption was meant to encourage the creation of new housing in a market, not simply legalize  
16 what already existed. This is exactly what the Court in *DaVinci*, and repeated by the Court in  
17 *Burien*, was referring to when they stated: “a certificate of occupancy for the warehouse property  
18 created legal residential units from existing residential use, but did not enlarge the city's available  
19 housing. The units did not qualify for the exemption, because they were not newly constructed,  
20 nor was the building restructured to permit new residential use.” (Ibid.) *BURIEN, LLC v. Wiley*,  
21 230 Cal. App. 4th 1039, 1049 (citing to *DA VINCI GR. v. SAN FRANCISCO RESIDENTIAL*  
22 *RENT*, 5 Cal. App. 4th 24.)  
23  
24

25 Nor is there any way to reconcile the contradiction presented in the Decision that an  
26 unpermitted, illegal dwelling unit covered by the RAP as a *residential* dwelling unit (*French v.*  
27 *Tenants*, L18-0030), could then inexplicably meet the definition of new construction, i.e.  
28

1 “created from space that was formerly entirely non-residential” and “uninhabited space not used  
2 by Tenants,” upon legalization.

3 Therefore a decision which grants a new construction exemption for a unit that would  
4 met the qualifications for rent control prior to legalization is necessarily violative of the Oakland  
5 RAP.

6 Here Appellants have provided evidence that the units in question were all rented out for  
7 residential use years before they were legalized. All of them subject to rent control as residential  
8 rentals in the city of Oakland. Thus finding them exempt as new construction violates the RAP  
9 and the decision must be overturned.

11 **D. THE DECISION'S FACTUAL FINDING THAT THE 5707 DWELLING UNITS WERE**  
12 **CONSTRUCTED AFTER 1983 IS NOT SUPPORTED BY THE EVIDENCE AND**  
13 **THEREFORE THE HEARING OFFICER COMMITTED AN ABUSE OF**  
14 **DISCRETION (O.M.C. 8.22.120(B)(5))**

15 Hearing decisions are to be supported by substantial evidence. (2017 RAP Hearing Officer  
16 Policies and Procedures Manual, p. 11.) “Substantial evidence means that the evidence must be of  
17 ponderable legal significance...It must be reasonable in nature, credible, and of solid value; it must  
18 actually be substantial proof of the essentials that the law requires in a particular case.” *Id.*  
19 paraphrasing *In Re Alcala*, 222 Cal. App. 3d 345.

20 Landlord provided no evidence of ponderable legal significance to support its claim for a  
21 new construction exemption. The only evidence provided by Landlord pertaining to a new  
22 construction exemption was the unsubstantiated testimony of its managing partners, who admitted  
23 they did not know if anyone lived in the 5707 property prior to 1983, did not know when the units  
24 were actually constructed, and did not even know when the building obtained the 5707 address.  
25 Not one statement relevant to this matter was substantiated with any documentary evidence. While  
26 Koenjes repeatedly stated he had documents supporting his claims, when asked to identify the  
27

28

1 documents, he could not do so. The bulk of the Landlord testimony was hearsay for which the  
2 managing partners could not even provide an ascertainable source.

3 When Appellant's counsel referred to one of Tenants' exhibits, and asked Koentges if he  
4 would know why a unit in the 5707 building would have had a fireplace or heater installed. Mr.  
5 Koentges admitted that he had no personal knowledge, stating that he "ha[d] no idea. We didn't  
6 own the building."<sup>43</sup> In follow up counsel asked Koentges:

7 Q: Do you know for a fact that nobody lived in 5707 before 1983?

8 PK: I have no idea. Not legally.

9 Q: You don't know?

10 PK: Exactly. How could I?<sup>44</sup>

11  
12 The admissions by Koentges prove he had no personal knowledge regarding the Cannery  
13 prior to November 2017, and he was therefore not competent to testify regarding the residential  
14 use or the state of the building prior to November 2017. Additionally, without personal  
15 knowledge, Koentges could not provide hearsay testimony to explain or supplement any of the  
16 documentary evidence in the case. Because Koentges admitted he had no personal knowledge, the  
17 Decision should not have credited any of his testimony.

18  
19 Moreover, a letter dated December 15, 2006 from Oakland's Planning & Zoning Services  
20 Division to the previous Cannery owner confirms that all 20 dwelling units at the Cannery were  
21 built without permits, which is why there is no official permit record that could prove precisely  
22 when any of the Cannery dwelling units were constructed, let alone the construction date of the  
23 5707 units.<sup>45</sup>

24  
25 

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<sup>43</sup> (Jan. 3, 2020 Hrg. Track #3 at 13:10 – 13:40.)

26 <sup>44</sup> (Id. at 21:15 – 21:32.)

27 <sup>45</sup> See Dec. 15, 2006 Letter included in evidence binder: Condition of Approval #11 stating that prior to  
28 issuance of building permits the "owner shall submit plans for review and approval that show the legalization of 20  
joint quarters for living and working that were previously constructed without permits at the subject site."

1 The Tenants objected to Koentges' hearsay testimony and noted that hearsay was the only  
2 evidence in the record regarding the Owners' claim that the 5707 dwelling units did not exist prior  
3 to 1983.<sup>46</sup> Still the Decision relies on that testimony as though it were fact, stating that “[Patrick  
4 Koentges] testified that the permit records show the first permit activity to construct the nine  
5 residential units as they exist today in the 5707 building began around the year 2002.”<sup>47</sup> Yet the  
6 permit records submitted clearly show that the first permit activity was in 1998, and states the  
7 permit application was to “legalize 9 of 18 pre-existing live-work units.” The Decision makes no  
8 mention of the obvious discrepancy between Landlord’s testimony and the actual public records  
9 obtained from the City of Oakland.  
10

11 And while the Decision seems to take as true the Landlords’ testimony, it oddly fails to  
12 even mention the testimony of Juliet Smith, a tenant that has lived in the 5733 building since 1994,  
13 who credibly testified at both the January 3, 2020 hearing and the April 26, 2021 hearings that  
14 when she first came to the Cannery to view an available unit in 1994, she was shown the place by  
15 a person residing in unit on the 5707 side, and had seen other evidence of residential use in that  
16 building.<sup>48</sup>  
17

18 Appellants demonstrated with records from the building department, records from the  
19 assessor’s office, and other public records that the testimony of Landlord lacked credibility.  
20 Landlord’s representatives repeatedly testified to things that upon cross examination they admitted  
21 they could not prove or for which they had no basis other than their opinion.  
22

23 Landlord’s lack of documentary evidence of legal significance or solid value, and  
24 Landlord’s unreliable testimony would lead a reasonable person to conclude that Landlord lacked  
25 credibility, making it unreasonable for the hearing officer to accept as true Landlord’s testimony  
26

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27 <sup>46</sup> Apr. 26, 2021 Hrg. At 1:00:50 – 1:02:00.

28 <sup>47</sup> Decision p.4.

<sup>48</sup> 1/3/20 and 4/26/21 RAP hearing recording -sworn testimony of Juliet Smith.

1 that it had any knowledge of when the units were constructed or when people first resided in the  
2 building.

3 With nothing but unreliable testimony to support its position, Landlord has failed to  
4 provide any substantial evidence that would lead a reasonable person to believe that the units in  
5 question were built after 1983, or that the building was not occupied residentially prior to 1983.

6 **CONCLUSION**

7 Pursuant to the foregoing, there is no basis for a finding the subject property was exempt  
8 from the RAP as new construction. For the reasons above, Tenants respectfully request that  
9 Landlord's claim of exemption from the Rent Adjustment Program be denied and Tenant  
10 Petitioners' petitions for unlawful rent increases be granted or remanded for further  
11 consideration.  
12

13 Dated: October 19, 2021

14 Giampaoli Law

15   
\_\_\_\_\_  
16 LISA GIAMPAOLI

17 Attorney for Tenants/Appellants  
18  
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23  
24  
25  
26  
27  
28





February 28, 1997

**EXHIBIT 1-  
JUDICIAL NOTICE  
REQUESTED**

**NOTICE OF PUBLIC  
HEARING**

|               |  |
|---------------|--|
| <b>DATE:</b>  | March 11, 1997   |
| <b>TIME:</b>  | 6:00 P.M.  |
| <b>PLACE:</b> | 25 VAN NESS AVENUE (AT MARKET ST.)<br>SUITE 70, LOWER LEVEL<br>SAN FRANCISCO, CALIFORNIA |

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE REGARDING THE ISSUE BELOW:

**AMENDING SECTION 1.17 RENTAL UNITS**

PROPOSED AMENDMENT TO THE RENT BOARD RULES AND REGULATIONS TO CODIFY THE BOARD'S POLICY AS TO LIVE/WORK FACILITIES.

Written comments may be sent to the Rent Board. As the Commission often receives many comments, they should be in the office no later than **Thursday March 6, 1997, 5 P.M.**, so that the Commissioners will have time to receive and review them prior to the meeting. **12 copies are requested.** While written comments may be submitted after this date or at the hearing, the opportunity to have your written comments fully considered may be jeopardized. Interested parties will also have an opportunity to comment regarding the amendments during the public hearing. Please note that a three-minute speaking rule may be imposed.

**PAGE 2**  
**PUBLIC HEARING NOTICE**

(New text is underlined)

**Section 1.17 Rental Units**

“Rental Unit” means a residential dwelling unit, regardless of zoning or legal status, in the City and County of San Francisco and all housing services, privileges, furnishings including parking facilities supplied in connection with the use or occupancy of such unit which is made available by agreement for residential occupancy by a tenant in consideration of the payment of rent. The term does not include:

(g) live/work units in a building where all of the following conditions have been met: (1) a lawful conversion to commercial/dwelling use occupancy (F-2/H) has occurred; (2) a Certificate of Occupancy has been issued by the San Francisco Department of Public Works after June 13, 1979; and (3) there has been no residential tenancy in the building of any kind between June 13, 1979 and the date of issuance of the Certificate of Occupancy. This term also shall not include commercially zoned space where there is incidental and infrequent residential use.



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

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

**NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR 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: **APPEAL- SUPPORTING DOCUMENT - (MEMORANDUM)**

(insert name of document served)

And Additional Documents

and (write number of attached pages) 25 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.

X d. **Electronic Mail**


**PERSON(S) SERVED:**

|                  |                             |
|------------------|-----------------------------|
| Name             | <b>Timothy Larsen</b>       |
| Address          | <b>tlarsenlaw@gmail.com</b> |
| City, State, Zip |                             |

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 10/19/21 (insert date served).

Lisa Giampaoli

PRINT YOUR NAME



SIGNATURE

10/19/21

DATE

## CHRONOLOGICAL CASE REPORT

Case No.: T19-0272 & T19-0325

Case Name: Jeffers v. BD Opportunity 1 LP

Property Address: 7123 Holly Street, Oakland, CA 94621

Parties: Colleen Jeffers (Tenant)  
David Hall (Tenant Representative)  
BD Opportunity 1 LP (Owner)  
Nevin Iwatsuru (Property Manager)  
Helen Grayce Long (Owner Representative)

### OWNER APPEAL:

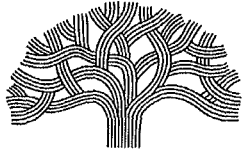
| <u>Activity</u>                          | <u>Date</u>       |
|--|-------------------|
| Tenant Petition filed (T19-0272)         | April 29, 2019    |
| Tenant Petition filed (T19-0325)         | June 24, 2019     |
| Property Manager Submission              | August 28, 2019   |
| Property Owner Response filed (T19-0272) | September 9, 2019 |
| Hearing Date (T19-0272 & T19-0325)       | November 7, 2019  |
| Hearing Decision mailed                  | January 23, 2020  |
| Owner Appeal filed                       | February 10, 2020 |

000131

|                         |                    |
|-------------------------|--------------------|
| Appeal Hearing Date     | September 10, 2020 |
| Appeal Decision mailed  | December 7, 2020   |
| Remand Decision Date    | August 9, 2021     |
| Owner Appeal filed      | August 12, 2021    |
| Remand Decision Emailed | August 16, 2021    |

T19-0272 KM/EL

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
For date stamp.

|  |  |   |
|--|--|---|
| <br>CITY OF OAKLAND | <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>P.O. Box 70243<br>Oakland, CA 94612-0243<br>(510) 238-3721 | 2019 APR 29 PM 2:17<br><br><b>TENANT PETITION</b> |
|--|--|---|

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

**Please print legibly**

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

Number of units on the property: 6

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

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

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

|                                     |   |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | (a) The CPI and/or banked rent increase notice I was given was calculated incorrec <sup>4</sup>   |
| <input checked="" type="checkbox"/> | (b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are)   |
| <input checked="" type="checkbox"/> | (c) I received a rent increase notice before the property owner received approval fr<br>Program for such an increase and the rent increase exceeds the CPI Adjustment and |

Rev. 2/10/17

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

TENANT PETITION  
**000133**

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

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

Date you moved into the Unit: 2/2013 Initial Rent: \$ 950 /month

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

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |            | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|--|--|-----------------------|------------|---|---|
|  |  | From                  | To         |   |   |
| 3/9/2019                                   | 4/1/2019                                     | \$ 951.39             | \$ 1046.00 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 9/2019                                     | 10/1/2017                                    | \$ 930.00             | \$ 951.39  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |



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

Have you ever filed a petition for this rental unit?

- Yes  
 No

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

**T16-0526**

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

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

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

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

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

Please attach documentary evidence if available.

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

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

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

Callie Jeff  
Tenant's Signature

4-29-2019  
Date

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

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

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

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

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

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

\_\_\_\_\_  
Date

**VI. IMPORTANT INFORMATION:**

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

**File Review**

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

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

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

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

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

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

**TO RESIDENT(S):**

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

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

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

Effective Date: April 1, 2019

Rent Due Date: 1st day of each calendar month

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

**Rent Increase over 10%-**

Old Rental Amount  
New Rental Amount

Effective Date:

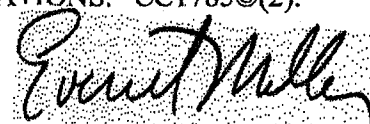
Rent Due Date: 1st day of each calendar month.

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

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

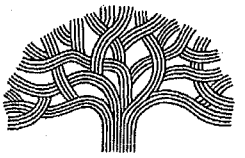
“AS REQUIRED BY LAW, YOU ARE HEREBY NOTIFIED THAT A NEGATIVE CREDIT REPORT REFLECTING ON YOUR CREDIT RECORD MAY BE SUBMITTED TO A CREDIT REPORTING AGENCY IF YOU FAIL TO FULFILL THE TERMS OF YOUR CREDIT OBLIGATIONS.” CC1785©(2).

Date: February 17, 2019



\_\_\_\_\_  
Landlord

T19-0325 KM/EL

|  |  |   |
|--|--|---|
| <br>CITY OF OAKLAND | <b>CITY OF OAKLAND</b><br><b>RENT ADJUSTMENT PROGRAM</b><br>P.O. Box 70243<br>Oakland, CA 94612-0243<br>(510) 238-3721 | <b>RECEIVED</b><br>JUN 24 2019<br>RENT ADJUSTMENT PROGRAM<br><b>TENANT PETITION</b> |
|  |  |   |

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

**Please print legibly**

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

Number of units on the property: 6

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

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

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

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

|   |  |
|---|--|
|   | rent increase.   |
| 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 <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.   |

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

Date you moved into the Unit: 2/2013 Initial Rent: \$ 950 /month

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

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |            | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|--|--|-----------------------|------------|---|---|
|  |  | From                  | To         |   |   |
| 5/15/2019                                  | 7/1/2019                                     | \$ 951.39             | \$ 1018.16 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3/9/2019                                   | 4/1/2019                                     | \$ 951.39             | \$ 1046.00 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 9/2017                                     | 10/1/2017                                    | \$ 930.00             | \$ 951.39  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |

\* 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:

**I filed a petition on 5/29/2019, T16-0526**

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

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

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

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

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

Please attach documentary evidence if available.

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

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

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

Collie Jeff  
Tenant's Signature

5-30-2019  
Date

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

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

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

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

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

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

\_\_\_\_\_  
Date

## **VI. IMPORTANT INFORMATION:**

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

### **File Review**

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

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

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

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

**Addendum A- Decreases in Services and Bad Conditions**

The bad conditions and decreases of service I am experiencing are enumerated in the tenant petition I filed on April 29, 2019.



## Mason, Keith

---

**From:** Nevin Iwatsuru <nevin@pamamgt.com>  
**Sent:** Friday, September 6, 2019 2:11 PM  
**To:** Mason, Keith  
**Cc:** Everet  
**Subject:** RE: Send data from TOSHIBA37276 09/06/2019 11:29

Hi Keith,

These are related to unit conditions and functions. The tenant has currently stated no other issues, and in which we are repairing anything the tenant is stating. How are these considered a reduction in services, and no unit condition/maintenance?

Thank you

4900 Santa Anita Ave Suite 2C, El Monte, CA 91731 Nevin Iwatsuru | Accounting Department nevin@pamamgt.com  
Ext. 226 | Fax: 626-575-3084

-----Original Message-----

**From:** Mason, Keith [mailto:KMason@oaklandca.gov]  
**Sent:** Friday, September 6, 2019 11:44 AM  
**To:** Nevin Iwatsuru <nevin@pamamgt.com>  
**Subject:** FW: Send data from TOSHIBA37276 09/06/2019 11:29

Hello again Nevin,

Attached, please find the list of the tenant's claims of decreased housing services. Please confirm receipt of this email.

Kind Regards,

Keith Mason  
Program Analyst II  
City of Oakland  
Rent Adjustment Program  
250 Frank Ogawa Plaza, Suite 5313  
Oakland, CA 94612  
(510) 238- 3721 main  
(510) 238- 6205 direct  
(510) 238- 6181 fax  
kmason@oaklandca.gov

-----Original Message-----

**From:** cityofOakland@oaklandca.gov [mailto:cityofOakland@oaklandca.gov]  
**Sent:** Friday, September 6, 2019 11:30 AM  
**To:** Mason, Keith <KMason@oaklandca.gov>

# PAMA MANAGEMENT INC.

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

26 August, 2019

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

**RECEIVED**

**AUG 28 2019**

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

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

Dear Mr. Mason,

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

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

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

Thank you



Pama Management

000144

# PAMA MANAGEMENT INC.

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

26 August, 2019

Colleen Jeffers  
7123 Holly St  
Oakland, CA 94621

RE: New Rental Increase

Dear Ms. Jeffers:

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

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

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

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

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

Thank you



Pama Management

000145

**PAMA MANAGEMENT INC.**

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

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

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

**TO RESIDENT(S):**

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

**Rent Increase of 10% or less -**  
Account #: 3021-0001-1  
Old Rental Amount: \$951.39  
New Rental Amount: \$1,018.16

Rent Due Date: 1st day of each calendar month      Effective Date: October 1, 2019  
(Pursuant to California Civil Code 827: If this rent increase plus all rent increases during the prior 12 months does not increase rent by a cumulative amount over 10%, this rent increase notice will be effective in 30 days if personally served upon you or 35 days if served by mail in accordance with Code of Civil Procedure 1013)

**Rent Increase over 10% or more -**  
Account #:  
Old Rental Amount:  
New Rental Amount:

Rent Due Date: 1st day of each calendar month      Effective Date:  
(Pursuant to California Civil Code 827: If this rent increase plus all rent increases during the prior 12 months does increase rent by a cumulative amount over 10%, this rent increase notice will be effective in 60 days if personally served upon you or 65 days if served by mail in accordance with Code of Civil Procedure 1013)

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

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

Date: Aug 26, 2019



Landlord Signature

**000146**

CITY OF OAKLAND



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases...
• Starting on February 1, 2017, an owner must petition the RAP for any rent increase...
• Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases...
• If you contest a rent increase, you must pay your rent with the contested increase until you file a petition...
• Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22)...
• Oakland charges owners a Rent Program Service Fee per unit per year...
• Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords...
• The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations...

TENANTS' SMOKING POLICY DISCLOSURE

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

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

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

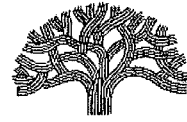


P.O. BOX 70243, OAKLAND, CA 94612-2043  
 Departamento de Desarrollo Comunitario y Vivienda  
 Programa de Ajustes en el Alquiler

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

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

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



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

房屋與社區發展部 (Department of Housing and Community Development)

租金調整計劃 (Rent Adjustment Program)

電話 (510) 238-3721

傳真 (510) 238-6181

TDD (510) 238-3254

### 住宅租金調整計劃的租客通知書

- 屋崙(奧克蘭)市的租金調整計劃(RAP)旨在限制租金調漲(屋崙(奧克蘭)市政法規 8.22 章),且主要是針對建於 1983 年以前大多數的出租住宅單位。若要了解哪些單位在本計劃限制範圍內,請聯絡 RAP 辦事處。
- 從 2017 年 2 月 1 日起,如果租金調漲幅度超出一般租金年漲幅(「CPI 漲幅」)或允許的「調整存放」漲幅,業主就必須向 RAP 陳情。調漲原因可包括固定資產整修和營運支出增加。對於這些類型的租金調漲方案,業主必須在聽證官同意調漲後才能提高您的租金。任何租金年漲幅不得超過 10%。如果不同意建議的租金調幅,您有權對業主的陳情提出抗辯,但您不需要自己提出陳情。
- **對租金調漲提出抗辯:**您可以租金調漲違法或者住房服務縮為由,向 RAP 陳情抗辯。如果您要對租金調漲提出抗辯,(1)且業主隨同這份「租客通知」一併提供租金調漲通知,則您必須在收到租金調漲通知後九十(90)天內提出陳情;(2)但業主未隨這份「租客通知」提供租金調漲通知,則您必須在收到租金調整通知後的 120 天內提出陳情。如果業主在租期一開始時沒有提供這份租客通知,您就必須在第一次收到這份租客通知後的九十(90)天內提出請願。如需相關資訊並索取請願書,請前往房屋協助中心(Housing Assistance Center)的租金調整計劃(RAP)中心親自索取:250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at:  
<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>。
- 如果您對租金調漲有異議,在提出陳情之前,您仍必須支付所要抗辯的調漲租金。若調漲金額獲准但您並未支付,您將積欠從調漲生效日期算起的調漲金額。
- 屋崙(奧克蘭)市的驅逐管制規則(屋崙(奧克蘭)市政法規 8.22 中的「驅逐正當理由»)對所管制單位的驅逐理由設有限制。若要瞭解更多資訊,請聯絡 RAP 辦公室。
- 屋崙(奧克蘭)市政府每年會向業主收取每個出租單位的「租金計劃服務費」(Rent Program Service Fee)。若業主準時支付這筆費用,就有權向您收取一半費用。受補助單位的租客無需支付該費用的租客部分。
- 屋崙(奧克蘭)市的租客保護法令(Tenant Protection Ordinance, TPO)旨在遏阻房東的騷擾行為,並且在租客受房東騷擾的情況下賦予租客法律追索權(屋崙(奧克蘭)市政法規 8.22.600)。(市議會條例 13265 號 C.M.S.)
- 業主 \_\_\_ 得以 \_\_\_ 不得對本單位設下毫無限制的起租租金(例如根據 Costa-Hawkins 法案規定)。如果業主不得設下毫無限制的起租租金,則前任房客遷出後生效的租金是 \_\_\_\_\_。

#### 針對租客的吸煙政策聲明

- 住房單位 \_\_\_\_\_ (您有意承租的單位)「允許」或「不允許」吸煙(圈選一項)。
- 您所住建築物中的其他單位「允許」或「不允許」吸煙(圈選一項)。(若租客所住的建築物中同時包含可吸煙和不可吸煙的單位,應附上一張可吸煙單位列表。)
- 本建築物「有」或「沒有」指定的戶外吸煙區(圈選一項)。該吸煙區位於 \_\_\_\_\_。

我於 \_\_\_\_\_ 收到本通知書  
(日期) (租客簽名)

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

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

# CITY OF OAKLAND



Department of Housing and Community Development  
 Rent Adjustment Program  
<http://rapwp.oaklandnet.com/about/rap/>

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

## CALCULATION OF DEFERRED CPI INCREASES (BANKING)

|  |            |  |           |  |   |
|--|------------|--|-----------|--|---|
| Initial move-in date   | 1-Oct-2017 | <b>MUST FILL IN D9,<br/>D10, D11 and D14</b> | Case No.: |  | <b>CHANGE<br/>YELLOW<br/>CELLS ONLY</b> |
| Effective date of increase   | 1-Oct-2019 |  | Unit:     |  |   |
| Current rent (before increase and without prior cap. improve pass-through) | \$951.59   |  |           |  |   |
| Prior cap. imp. pass-through   | \$ -       |  |           |  |   |
| Date calculation begins  | 1-Oct-2017 |  |           |  |   |
| Base rent when calc. begins  | \$951      |  |           |  |   |

## ANNUAL INCREASES TABLE

| Year Ending | Debt Serv. or Fair Return increase | Housing Serv. Costs increase | Base Rent Reduction | Annual % | CPI Increase | Rent Ceiling |
|-------------|------------------------------------|------------------------------|---------------------|----------|--------------|--------------|
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
|             |                                    |                              |                     |          |              |              |
| 10/1/2019   |                                    |                              |                     | 3.5%     | \$ 34.43     | \$ 1,018.17  |
| 10/1/2018   |                                    |                              |                     | 3.4%     | \$ 32.35     | \$ 983.74    |
| 10/1/2017   |                                    |                              |                     | -        | -            | \$951        |

## Calculation of Limit on Increase

|   |             |
|---|-------------|
| Prior base rent   | \$951.59    |
| Banking limit this year (3 x current CPI and not more than 10%) | 10.0%       |
| Banking available this year                                     | \$ 66.58    |
| Banking this year + base rent                                   | \$ 1,018.17 |
| Prior capital improvements recovery                             | \$ -        |
| Rent ceiling w/o other new increases                            | \$ 1,018.17 |

### Notes:

1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases include all past annual CPI adjustments.
5. An Increased Housing Service Cost increase takes the place of the current year's CPI adjustment.
6. Past increases for unspecified reasons are presumed to be for banking.
7. Banked annual increases are compounded.
8. The current CPI is not included in "Banking", but it is added to this spreadsheet for your convenience.



**Uninsured Repair Costs:** Uninsured repair costs are casualty losses that are not reimbursed to the property owner. See Regulations for details. An increase for uninsured repairs is calculated the same way as an increase for capital improvements.

**Increased Housing Service Costs:** Housing Service Costs are expenses for services provided by the property owner. The costs are related to the use of a rental unit and also known as "operating expenses". The most recent two years of operating expenses are compared to determine if a rent increase greater than the CPI is justified. The calculation in both years must provide a reasonable comparison of all expenses. Evidence is required to prove each of the claimed expenses.

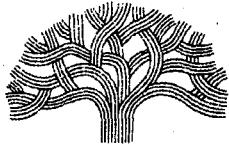
**Fair Return:** A property owner may submit evidence to show that without the requested rent increase he or she is being denied a fair return on the investment. A fair return will be measured by maintaining the net operating income (NOI) produced by the property in a base year (2014), subject to CPI related adjustments. Permissible rent increases will be adjusted upon a showing that the NOI in the comparison year is not equal to the base year NOI.

**Banking:** "Banking" refers to deferred allowed annual rent increases. These annual rent increases are known as CPI increases. CPI rent increases that were not given, or were not given in full, can be carried forward to future years. Subject to certain limitations, property owners may defer giving CPI increases up to ten years. CPI increases that were not imposed within ten years expire. No banked increase can exceed three times the then current CPI allowable increase. If your petition includes a request for a banked increase, **attach a rent history for the current tenant(s) in each affected unit.**

You do not need to petition the Rent Adjustment Program for approval to increase rent based on banking. Rents can be increased for banked CPI rent increases by giving the Tenant a rent increase notice. (Note that the Tenant can file a petition contesting the increase if the Tenant believes the banking is incorrect or unjustified.) If you do choose to petition for approval of a banked rent increase, provide the documentation and calculations as required by this petition.

**Capital Improvements:** Capital improvements increases may be taken to reimburse the property owner for property improvements. Reimbursement is limited to 70% of the cost of the improvement spread out over an amortization period as set forth in the Amortization Schedule below. The property owner must show the costs incurred were to improve the property and benefit the tenants. Property owners must also show that these costs were paid. Examples include: copies of receipts, invoices, bid contracts or other documentation.

- If your petition contains capital improvements for which permits are first issued on or after February 1, 2017, capital improvements will be amortized according to an amortization schedule (attached at the end of this form).
- If the petition includes only work where permits were issued before February 1, 2017, improvements will be amortized over five years unless the increase causes a rent increase over 10 percent in one year or 30 percent in five years, in which case the amortization period will be extended until the rent increase is smaller than 10 percent in one year or 30 percent in five years.



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243  
(510) 238-3721

**RECEIVED**

For date stamp

SEP 09 2019

**RENT ADJUSTMENT PROGRAM  
OAKLAND  
PROPERTY OWNER  
RESPONSE**

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

**CASE NUMBER T19-0272**

|  |  |   |
|--|--|---|
| Your Name<br><b>BD OPPORTUNITY 2, LP</b>   | Complete Address (with zip code)<br><b>3340 WOODSIDE TERRACE<br/>FREMONT, CA 91731</b> | Telephone:<br><b>626-575-3070</b>   |
| Your Representative's Name (if any)  | Com: <b>INCORRECT<br/>ZIP<br/>CODE</b>   | Email:<br><b>NEVIN@NAYAMATI.COM</b>   |
| Tenant(s) Name(s)<br><b>COLLEEN JEFFERS</b>                                      | Com:<br><b>712 HUNTER ST<br/>OAKLAND, CA 94621</b>                                     | Telephone:  |
| Property Address (If the property has more than one address, list all addresses) |  | Email:  |
|  |  | * Please see attachment<br>A for response<br>explanation, regarding<br>increase |
|  |  | Total number of units on<br>property<br><b>6</b>                                |

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

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes  No  APN: 39930813  
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

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

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

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

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

Rev. 7/12/2019

*owner response*

**000152**

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

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

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

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

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

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

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

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

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

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

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

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

### III. EXEMPTION

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

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

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

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

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

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

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

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

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

### IV. DECREASED HOUSING SERVICES

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

**V. VERIFICATION**

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

David S. Nguyen  
Property Owner's Signature

9/8/19  
Date

**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

**Mediation Program**

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

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

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

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

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

\_\_\_\_\_  
Date

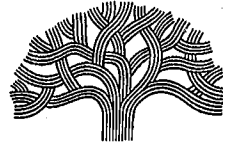
Attachment A

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

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

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

RESPONSE to the claims  
000156



Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION**

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

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

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

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

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

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

## **SUMMARY OF DECISION**

The Tenant's petition is granted.

## **INTRODUCTION**

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

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

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<sup>1</sup> Consumer Price Index

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

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

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

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

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

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

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

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

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## EVIDENCE

### Rental History

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

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

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

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

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

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

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

<sup>4</sup> Exhibit B.

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

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

### Decreased Housing Services

#### Water Leaks

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

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

#### Gas Shutoff

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

#### Kitchen cabinets and walls

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

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

<sup>6</sup> Exhibit G.

<sup>7</sup> Exhibit D.

<sup>8</sup> Exhibit C.

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

### Windows

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

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

### Infestation

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

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

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<sup>9</sup> Exhibit D.

<sup>10</sup> Exhibit E.

### Rebuttal testimony

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

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

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

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

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

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

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<sup>11</sup> O.M.C. § 8.22.060(A)

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

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

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

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

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

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

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

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

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

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

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

<sup>16</sup> O.M.C. § 8.22.070(F)

<sup>17</sup> O.M.C. § 8.22.110(E)

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

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

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

### Water Leaks

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

### Gas Shutoff

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

### Kitchen cabinets and walls

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

### Windows

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

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

Infestation

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

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

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

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

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

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

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

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

### ORDER

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

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

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

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

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



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

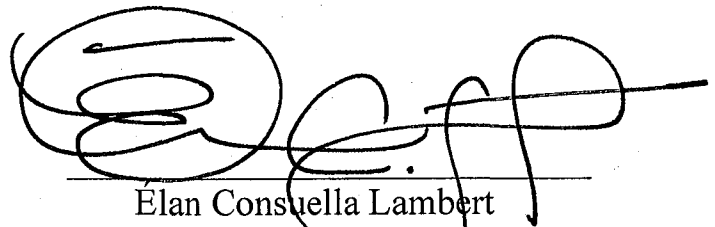
8. Once the windows, as noted in the Notice of Violation, are repaired and after further City inspection, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 5% (\$46.50).

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

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

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

Dated: January 21, 2020



Elan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

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

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

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

**Documents Included**

Hearing Decision

**Manager**

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

**Owner**

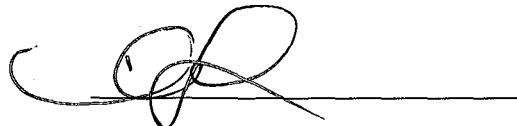
BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Tenant**

Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **January 23, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

**000168**

KMIEL

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
For date stamp.

2020 FEB 10 AM 8:57



CITY OF OAKLAND

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

**APPEAL**

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

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

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

For more information phone (510) 238-3721.


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

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

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

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

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

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

For more information phone (510) 238-3721.

## Appeal Attached Page

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

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

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

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

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

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



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

Housing and Community Development Department  
Rent Adjustment Program

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

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

### APPEAL DECISION

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

**APPEAL HEARING:** September 10, 2020

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

**APPEARANCES:**

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

### Procedural Background

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

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

### Grounds for Appeal

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



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

Appeal Decision

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

The Board voted as follows:

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

The motion carried.

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

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

12/7/20

\_\_\_\_\_  
DATE

**PROOF OF SERVICE**

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

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

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

**Documents Included**

Appeal Decision

**Manager**

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

**Owner**

BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Owner Representative**

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

**Tenant**

Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

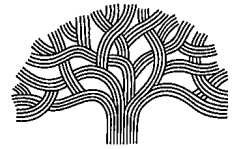
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

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



\_\_\_\_\_  
Brittni Lothlen  
Oakland Rent Adjustment Program



**REMAND DECISION**

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

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

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

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

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

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

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

**PROCEDURAL HISTORY**

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

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

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

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

## **DECISION ON REMAND**

The Hearing Decision is Amended as follows:

### **Restitution**

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

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

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

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

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

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

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

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

Gas Shutoff

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

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

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

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

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

The Hearing Decision is otherwise unchanged.

**Right to Appeal:** **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within fifteen (15) calendar days after the service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.



Dated: 09 August 2021

---

Élan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

## PROOF OF SERVICE BY ELECTRONIC MAIL

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

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

Today, I electronically served the following:


### **Remand Decision**

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

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

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

Date: August 16, 2021



Brittini Lothlen  
Administrative Assistant  
Oakland Rent Adjustment Program

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

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

08/12/2021

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

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

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

Regards,

HG Long

rec# 553196 - grayce

|                |                  |                |                   |                       |                |                 |
|----------------|------------------|----------------|-------------------|-----------------------|----------------|-----------------|
| <b>Encino</b>  | <b>Inglewood</b> | <b>Orange</b>  | <b>Long Beach</b> | <b>San Bernardino</b> | <b>Ventura</b> | <b>Pasadena</b> |
| (818) 986-3147 | (310) 673-2996   | (714) 634-8232 | (562) 434-5000    | (909) 877-6565        | (805) 653-7264 | (626) 798-1014  |

**000180**



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<br><b>BD Opportunity LP</b>   |  | <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant  |  |
| Property Address (Include Unit Number)<br><b>7123 HOLLY Street #1, Oakland, CA 94621</b>   |  |  |  |
| Appellant's Mailing Address (For receipt of notices)<br><b>174 Long Esq. Dennis P. Block + Assoc<br/>5437 Laurel Canyon Blvd. 2nd Fl.<br/>Valley Village, CA 91607</b> |  | Case Number<br><b>T19-0272 ; T19-0325</b>  |  |
|  |  | Date of Decision appealed<br><b>August 9, 2021 - Remand</b>  |  |
| Name of Representative (if any)<br><b>HC Long Esq.<br/>Dennis P. Block + associates</b>  |  | Representative's Mailing Address (For notices)<br><b>5437 Laurel Canyon Blvd.<br/>Valley Village, CA 91607<br/>2nd Floor</b> |  |

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

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

For more information phone (510) 238-3721.

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

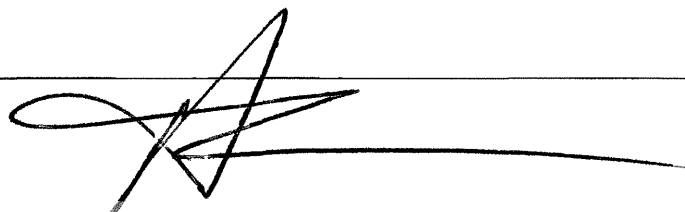
Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject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

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

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

I declare under penalty of perjury under the laws of the State of California that on August 12, 2021, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows: *fedex express*

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

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

For more information phone (510) 238-3721.



## **IMPORTANT INFORMATION:**

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

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

For more information phone (510) 238-3721.

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

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

08/11/2021

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

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

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

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

Attn: City of Oakand/Rent Adjustment Program:

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

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

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

Continued Next Page ...

| Encino         | Inglewood      | Orange         | Long Beach     | San Bernardino | Ventura        | Pasadena       |
|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| (818) 986-3147 | (310) 673-2996 | (714) 634-8232 | (562) 434-5000 | (909) 877-6565 | (805) 653-7264 | (626) 798-1014 |

**000184**

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

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

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

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

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

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

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

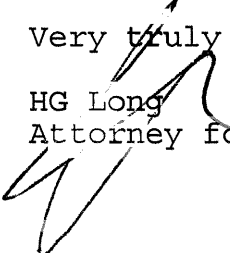
Furthermore, Ms. Jeffers as stated in the ruling of January 25, 2017 that habitability issues were addressed in the unlawful detainer handled by my office. I can attest as an officer of the court that repairs were made to Ms. Jeffers unit in 2016 which resulted in our client waiving a large portion of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

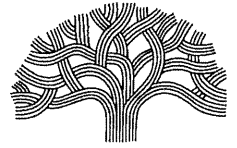
Ms. Lambert was directed on the remand to only award damages up to the date of the decision of January 2020. However, she failed to adjust her numbers and allowed the reductions to February 29, 2020.

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

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

Very truly yours,

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

**REMAND DECISION**

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

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

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

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

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

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

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

**PROCEDURAL HISTORY**

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

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

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

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

## **DECISION ON REMAND**

The Hearing Decision is Amended as follows:

### Restitution

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

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

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

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

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

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

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

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

Gas Shutoff

Y/21

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

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

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

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

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

The Hearing Decision is otherwise unchanged.

**Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within fifteen (15) calendar days after the service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.



Dated: 09 August 2021

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Élan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program





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

Housing and Community Development Department  
Rent Adjustment Program

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

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

### APPEAL DECISION

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

**APPEAL HEARING:** September 10, 2020

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

**APPEARANCES:**

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

### Procedural Background

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

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

### Grounds for Appeal

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

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

Appeal Decision

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

The Board voted as follows:

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

The motion carried.

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

*12/7/20*

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

\_\_\_\_\_  
DATE

**PROOF OF SERVICE**

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

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

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

**Documents Included**

Appeal Decision

**Manager**

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

**Owner**

BD Opportunity 1 LP  
3340 Woodside Terrace  
Fremont, CA 94539

**Owner Representative**

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

**Tenant**

Colleen Jeffers  
7123 Holly Street Unit 1  
Oakland, CA 94621

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

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



Brittini Lothlen  
Oakland Rent Adjustment Program

Item 7



# CITY OF OAKLAND

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

Housing and Community Development Department  
Rent Adjustment Program

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

## HEARING DECISION

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

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

DATE OF HEARING: January 4, 2017

DATE OF SITE INSPECTION: January 4, 2017 ✓

DATE OF DECISION: January 25, 2017

APPEARANCES: Colleen Jeffers Tenant  
No appearance by owner

## SUMMARY OF DECISION

The tenant petition is GRANTED IN PART.

### INTRODUCTION

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

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

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

3 -

Item 7

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

### ISSUES

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

### EVIDENCE

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

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

#### Decreased Housing Services/Code Violation

##### Illegal Parking

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

##### Removal of Laundry Room

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

##### Rodent Issue

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

Item 7

Site Inspection

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

FINDINGS OF FACT AND CONCLUSIONS OF LAWTenant Current in Rent

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

RAP Notice and Rent Increases

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

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

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

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

Code Violation in Tenant's Unit

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

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

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

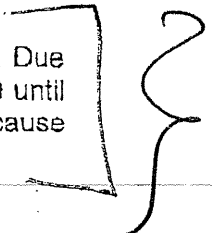
Item 7

Decreased Housing Services

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

Mice

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



Laundry Room

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

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

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

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

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


Item 7

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

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

- 2. When the owner restores the laundry room he may increase the tenant's rent by \$20.00 upon proper notice in accordance with Section 827 of the California Civil Code.
- 3. The owner may increase the tenant's rent after six months upon service of the City's form Notice of the existence of the Rent Adjustment Program and Section 827 of the California Civil Code.
- 4. **Right to Appeal:** This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Date: January 25, 2017

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



Item 7

**PROOF OF SERVICE**

Case Number T16-0526

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

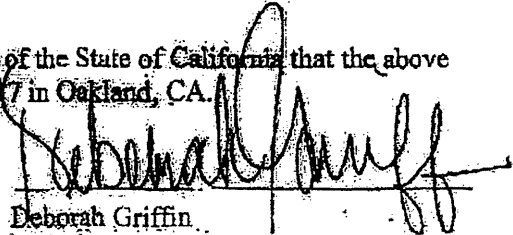
Today, I served the attached Hearing Decision by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Tenant  
Collen Jeffers  
7123 Holly St #1  
Oakland, CA 94619

Owner  
Pama Management  
625 Oak St #102  
Stockton, CA 95202

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

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

  
Deborah Griffin

MASKED

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

6 Attorney for Defendant Colleen Jeffers

7  
 8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA  
 9 RENE C. DAVIDSON COURTHOUSE-LIMITED JURISDICTION

10  
11 BD OPPORTUNITY 1 LP,

NO. RG 16 817 152

12 Plaintiff,

STIPULATION

13 v.

AND

14 COLLEEN JEFFERS,

COURT ORDER THEREON

15  
16 Defendant.

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

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

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

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

- 4 -

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

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

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

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

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

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

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

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

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

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

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

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

14. This is the entire agreement.

Date: \_\_\_\_\_ Date: 7/26/16

\_\_\_\_\_

Colleen Jeffers

Colleen Jeffers  
Defendant

BD Opportunity 1 LP  
Plaintiff

\_\_\_\_\_

H.G. Long

Ubaldo Fernandez  
Attorney for Defendant

H.G. Long  
Attorney for Plaintiff

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

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

THIS CASE SHALL REMAIN PERMANENTLY MASKED.  
ORDER TO SHOW CAUSE SET FOR DECEMBER 5, 2016 at 9:00 AM in DEPARTEMENT 511. IF DISMISSAL OR JUDGMENT HAS BEEN ENTERED, NO APPEARANCE IS NECESSARY.

EAST BAY  
COMMUNITY  
LAW CENTER

July 29, 2016  
Via U.S. Mail

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

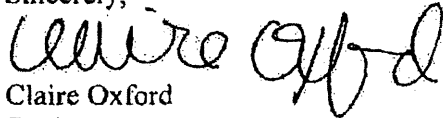
Re: *BD Opportunity 1 LP v. Jeffers*  
Alameda County Superior Court case no.: RG 16 817 152  
Settlement Stipulation

Dear Ms. Long:

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

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

Sincerely,



Claire Oxford  
Student Intern  
Supervised by Staff Attorney Ubaldo Fernandez

Ubaldo Fernandez

---

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

Ms. Long,

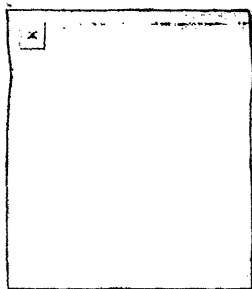
We have a client trust account for Ms. Jeffers' rent and are writing to confirm that is OK for us to send Ms. Jeffers' rent payments to your office and made out to "H.G. Long and Associates". If that is OK, I will mail a check for her rent to H.G. Long & Associates, 474 W. Orange Show RD, San Bernardino,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

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

Best,

Claire

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



*25 Years of Justice through  
Education and Advocacy*

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

**PAMA MANAGEMENT INC.**

Item 17

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

26 August, 2019

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

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

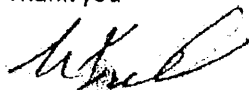
Dear Mr. Mason,

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

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

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

Thank you



Pama Management

5-

000206<sup>23</sup>



Item 17

**PAMA MANAGEMENT INC.**

---

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

26 August, 2019

Colleen Jeffers  
7123 Holly St  
Oakland, CA 94621

---

RE: New Rental Increase

Dear Ms. Jeffers:

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

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

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

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

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

Thank you



Pama Management

000207<sup>24</sup>

CITY OF OAKLAND



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases...
Starting on February 1, 2017, an owner must petition the RAP for any rent increase...
Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases...
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition...
Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22)...
Oakland charges owners a Rent Program Service Fee per unit per year...
Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords...
The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations...

TENANTS' SMOKING POLICY DISCLOSURE

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

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

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

CIUDAD DE OAKLAND



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

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

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

- Oakland tiene un Programa de Ajustes en el Alquiler (Rent Adjustment Program, RAP) que limita los aumentos en el alquiler...
• A partir del 1° de febrero de 2017, un propietario debe presentar una petición ante el RAP para todo aumento en el alquiler...
• Cómo disputar un aumento en el alquiler: Puede presentar una petición ante el RAP para disputar aumentos ilícitos...
• Si usted disputa un aumento en el alquiler, debe pagar su alquiler con el aumento disputado hasta que presente la petición...
• Oakland tiene controles de desalojo (Ordenanza de Desalojo por Causa Justa y Reglamentos, O.M.C. 8.22) que limitan los motivos de desalojo...
• Oakland les cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por vivienda al año...
• Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir el comportamiento abusivo...
• El propietario \_\_\_ tiene \_\_\_ no tiene permitido establecer el alquiler inicial de esta vivienda sin limitaciones...

Item 17

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

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

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

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

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

**Jeffers Timeline**

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

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

CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

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

**HEARING DECISION**

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

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

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

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

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

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

**SUMMARY OF DECISION**

The Tenant's petition is granted.

**INTRODUCTION**

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

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

<sup>1</sup> Consumer Price Index

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

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

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

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

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

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

### ISSUE(S) PRESENTED

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

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## EVIDENCE

### Rental History

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

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

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

*separate*

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

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

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

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

<sup>4</sup> Exhibit B.

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

*New York*

Windows

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

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

Infestation

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

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

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

Rebuttal testimony

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

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

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

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

*(Handwritten note: why # 20 p 021 water)*

<sup>11</sup> O.M.C. § 8.22.060(A)

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

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

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

Decreased Housing Services

*March 2016 fixed dates ✓*

Water Leaks

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

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



Gas Shutoff

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

Kitchen cabinets and walls

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

*ETM*

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

<sup>6</sup> Exhibit G.

<sup>7</sup> Exhibit D.

<sup>8</sup> Exhibit C.

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

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

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

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

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

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

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

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

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

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

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

<sup>16</sup> O.M.C. § 8.22.070(F)

<sup>17</sup> O.M.C. § 8.22.110(E)

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

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

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

#### Water Leaks

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

#### Gas Shutoff

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

#### Kitchen cabinets and walls

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

#### Windows

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

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

Infestation

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

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

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

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

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

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

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

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

### ORDER

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

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

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

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

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



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

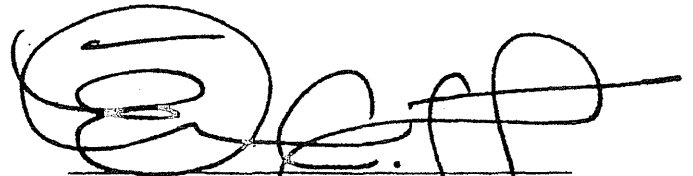
8. Once the windows, as noted in the Notice of Violation, are repaired and after further City inspection, and upon proper notice in accordance with Section 827 of the California Civil Code, they can increase the rent by 5% (\$46.50).

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

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

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

Dated: January 21, 2020

  
Elan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

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

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

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

**Documents Included**

Hearing Decision

**Manager**

Nevin Iwatsuru, Pama Management

~~4900 Santa Anita Avenue Suite 2C~~

El Monte, CA 91731

**Owner**

BD Opportunity 1 LP

3340 Woodside Terrace

Fremont, CA 94539

**Tenant**

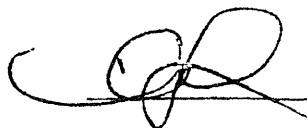
Colleen Jeffers

7123 Holly Street Unit 1

Oakland, CA 94621

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **January 23, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

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## CHRONOLOGICAL CASE REPORT

Case No.: T20-0182

Case Name: Gordon-Brown v. Best Bay Apartments

Property Address: 245 Lee Street, Oakland, CA 94610

Parties: Karen Gordon-Brown (Tenant)  
Joseph Baker (Owner Representative)  
Jun Lu (Manager)

### TENANT APPEAL:

| <u>Activity</u>                       | <u>Date</u>       |
|---------------------------------------|-------------------|
| Tenant Petition filed                 | July 28, 2020     |
| Property Owner Response filed         | August 11, 2021   |
| Hearing Date                          | August 18, 2021   |
| Hearing Decision mailed               | October 4, 2021   |
| Tenant Appeal filed                   | November 15, 2021 |
| Administrative Appeal Decision mailed | December 2, 2021  |

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PC/MF T20-0182

RECEIVED

|  |   |  |
|--|---|--|
| <br>CITY OF OAKLAND | <b>CITY OF OAKLAND<br/>         RENT ADJUSTMENT<br/>         PROGRAM</b><br>250 Frank H. Ogawa Plaza, Suite 5313<br>Oakland, CA 94612<br>(510) 238-3721 | For date stamp.<br><b>JUL 28 2020</b><br>RENT ADJUSTMENT PROGRAM<br><b>OAKLAND</b><br><b>TENANT PETITION</b> |
|--|---|--|

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

Please print legibly

|  |  |                                       |
|--|--|---------------------------------------|
| Your Name<br>Karen Gordon-Brown  | Rental Address (with zip code)<br>245 Lee Street, #404<br>Oakland, CA 94610    | Telephone:<br>510-282-6147            |
|  |  | E-mail:<br>karengordonbrown@gmail.com |
| Your Representative's Name   | Mailing Address (with zip code)  | Telephone:<br><br>Email:              |
| Property Owner(s) name(s)  | Mailing Address (with zip code)  | Telephone:<br><br>Email:              |
| Property Manager or Management Co.<br>(if applicable)<br>Best Bay Apartments, Inc. | Mailing Address (with zip code)<br>2744 E. 11th Street<br>Oakland, CA<br>94601 | Telephone:<br>510-982-0634            |
|  |  | Email:                                |

Number of units on the property: 45

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

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

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

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

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

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

Date you moved into the Unit: April 2014 Initial Rent: \$ 2670 /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: 4/25/2019. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

| Date you received the notice (mo/day/year) | Date increase goes into effect (mo/day/year) | Monthly rent increase |            | Are you Contesting this Increase in this Petition?*                 | Did You Receive a Rent Program Notice With the Notice Of Increase?  |
|--|--|-----------------------|------------|---|---|
|  |  | From                  | To         |   |   |
| 4/25/2019                                  | 6/1/2019                                     | \$ 2720               | \$ 2985.40 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
|  |  | \$                    | \$         | <input type="checkbox"/> Yes <input type="checkbox"/> No            | <input type="checkbox"/> Yes <input type="checkbox"/> No            |

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

**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.

Karen Gordon-Brown  
Tenant's Signature

07/28/2020  
Date

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

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

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

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

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

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

\_\_\_\_\_  
Date

## **VI. IMPORTANT INFORMATION:**

### **Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, 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, 6<sup>th</sup> 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): \_\_\_\_\_

| Housing Services:  | Date of Loss | When Owner Notified | Dollar Value  |
|--|--------------|---------------------|---|
| <p>Loss of Quiet Enjoyment Covenant Violation: On March 28, 2020, I and a friend were accosted in the courtyard by a neighbor who began policing us and who told to leave the Courtyard and to entertain my guests in my own house. Then they became hostile when I didn't and provoked a hostile situation causing me to tell my friend to leave. I immediately began to text the Apt. Manager to get help or something. No action was taken. This was reported to the police as a hate crime and proceedings have been slow. I asked if the manager followed up with the neighbor and report this violoation of my lease covenants. Instead he started blaming me.</p> | 2020         |                     | Peaceful enjoyment is impossible when the apartment manager refuses to enforce lease covenants when a tenant has violated them; especially when the violation is a hostile attack requiring police involvement. |
| <p>Courtyard Access - 100% Loss of Use: Since the assault, I have been afraid to use the courtyard. Until the building management informs the neighbor they are in violation of not only my rights but of the lease covenants, I am afraid to use the courtyard. Especially since this neighbor called out my apartment number the night of the assault, that was particularly scary since I don't even known their names.</p>   | 2020         |                     | Peaceful enjoyment is impossible when the apartment manager refuses to enforce lease covenants when a tenant has violated them; especially when the violation is a hostile attack requiring police involvement. |
| <p>Failure to Inforce COVID-19 Health Rules: People are constantly using the common areas without proper PPE and Social Distancing. This minimizes my ability to move throughout the building without health threat. As a result, I can not use the courtyard when people are present.</p>   | 2020         |                     | Peaceful enjoyment is impossible when building management overlooks State enforced COVID-19 policies regarding PPE and Social distancing in shared/common spaces in the building.                               |





## 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.<br><input checked="" type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date): <u>9/29/15</u> .<br><input type="checkbox"/> I have never provided a RAP Notice.<br><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.

|  |                                  |
|--|----------------------------------|
| <b>A.</b>  | <b>Unlawful Rent Increase(s)</b> |
| <i>Complete this section if any of the grounds for the Tenant Petition fall under Category A on the Tenant Petition.</i> |                                  |

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

| Date tenant given notice of rent increase: | Date rent increase went into effect: | 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                       |   |
| (mm/dd/yy)                                 | (mm/dd/yy)                           |                     |             | <input type="checkbox"/>                                       | <input type="checkbox"/> |   |
| 4/25/19                                    | 6/1/19                               | \$ 2,720.00         | \$ 2,985.40 | <input checked="" type="checkbox"/>                            | <input type="checkbox"/> | Banking                                       |
|  |                                      | \$                  | \$          | <input type="checkbox"/>                                       | <input type="checkbox"/> |   |
|  |                                      | \$                  | \$          | <input type="checkbox"/>                                       | <input type="checkbox"/> |   |
|  |                                      | \$                  | \$          | <input type="checkbox"/>                                       | <input type="checkbox"/> |   |
|  |                                      | \$                  | \$          | <input type="checkbox"/>                                       | <input type="checkbox"/> |   |

If 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). | Tenant does not claim insufficient notice of the rent increase or the RAP Notice. |
| (A3) | A government agency has cited the unit for serious health, safety, fire, or building code violations.                                    | Not Applicable  |

|  |                                   |
|--|-----------------------------------|
| <b>B.</b>  | <b>Decreased Housing Services</b> |
| <i>Complete this section if any of the grounds for the Tenant Petition fall under Category B on the Tenant Petition.</i> |                                   |

|      | 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. | See Attachment |
| (B2) | Tenant(s) is/are being unlawfully charged for utilities.  | Not Applicable |

|  |              |
|--|--------------|
| <b>C.</b>  | <b>Other</b> |
| <i>Complete this section if any of the grounds for the Tenant Petition fall under Category C on the Tenant Petition.</i> |              |

|      | Tenant Petition Grounds   | Owner Response |
|------|---|----------------|
| (C1) | Rent was not reduced after a prior rent increase period for capital improvements.   | Not Applicable |
| (C2) | Owner exemption based on fraud or mistake.  | Not Applicable |
| (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)). | Not Applicable |

## 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.

*Joshua Baker*

\_\_\_\_\_  
Property Owner 1 Signature  
Property Owner Representative (Attorney)

August 11, 2021  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

## CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

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

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

## MEDIATION PROGRAM

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

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

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

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

\_\_\_\_\_  
Date

## INTERPRETATION SERVICES

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

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

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

**-END OF RESPONSE-**



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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

- 1) Use this PROOF OF SERVICE form to indicate the date and manner of service and the person(s) served.
- 2) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 3) File a completed copy of this PROOF OF SERVICE form with RAP together with your Response. Your Response will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 08 / 11 / 2021 I served a copy of (check all that apply):

- PROPERTY OWNER RESPONSE TO TENANT PETITION** plus 59 attached pages (number of pages attached to Response not counting the Response form or PROOF OF SERVICE)
- Other: \_\_\_\_\_

by the following means (check one):

- United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.
- 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.

**X By email to all parties and Hearing Officer per RAP instructions.**

**PERSON(S) SERVED:**

|                  |                            |
|------------------|----------------------------|
| Name             | Karen Gordon-Brown         |
| Address          | karengordonbrown@gmail.com |
| City, State, Zip |                            |

|                  |  |
|------------------|--|
| Name             | Robert Costa, Rent Adjustment Program Analyst II |
| Address          | RCosta@oaklandca.gov                             |
| City, State, Zip |  |

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

Joshua Baker

PRINTED NAME

*Joshua Baker*

SIGNATURE

August 11, 2021

DATE SIGNED

Property Owner Response Attachment  
Case Number T20-0182  
Gordon-Brown v. Best Bay Apartments, Inc.

Owner: 2367 Washington, LLC and 245 Lee St. Partners, LLC  
Property: 245 Lee Street, Oakland, CA 94601  
Property Manager: Best Bay Apartments, Inc. ("BBA") (until 5/31/21), 2B Living, Inc. (6/1/21 to Present)  
Owner Representative: Joshua Baker (Attorney)

Supporting Documents Included with Owner Response:

1. Thirty-Day Notice of Change in Monthly Rent dated 4/25/19 and effective 6/1/19
2. Business License Tax Certificate
3. Proof of Payment for Rent Program Service Fee
4. RAP Notice Signed by Tenant and Dated 9/29/15
5. Unit 404 Tenant Ledger Through 7/1/21
6. Unit 404 Current Tenant Ledger
7. 10/19/20 Email "New Rent Board case – 245 Lee #404 – Case No. T20-0182" Containing Four (4) Screenshots of Text Messages Sent by Tenant on 3/28/20 Beginning at 11:01 PM
8. 9/2/20 Email "Fwd: Karen Cease and Desist" with Attachments:
  - a. Three (3) Photographs in the Body of the Email
  - b. Three (3) Videos Taken on 8/26/20
  - c. Oakland Police Department Report Number 20-915921
  - d. "Karen Cease and Desist" Dated 8/27/20
9. 10/2/20 Email (forwarding 10/1/20 email) "Fwd: Incident Update I 245 Lee St #104 with Attachment:
  - a. "Cease and Desist Order" Dated 9/20/20
10. BBA COVID-19 Notice to Residents Distributed 3/10/20
11. BBA COVID-19 Letter Distributed 7/24/20 – "Keeping our Community Safe"
12. Screenshot of Property Manager-Resident Manager Text Message from 8/11/21

Rent Increase Effective June 1, 2019

Tenant's Petition indicates that Tenant is contesting the rent increase that was effective June 1, 2019 (see Supporting Document #1). However, during a prior rent board hearing for Case Numbers T19-0284 and T19-0404 on May 3, 2021, Tenant stated that she was not contesting this Thirty-Day Notice, confirmed receipt on April 25, 2019, and agreed that the amount of the increase appeared to be correct. Owner maintains that the rent increase was properly noticed and properly calculated and should be upheld as valid.

Tenant Claim 1 –Decreased Housing Services Due to Loss of Quiet Enjoyment

Tenant's Petition appears to claim that, due to a late March 2020 incident between Tenant and another tenant at the Property, Owner breached the implied covenant of quiet enjoyment. Tenant claims that she and a guest were "accosted in the courtyard by a neighbor who began policing us and who told to leave the Courtyard..." and that the incident "was reported to the police as a hate crime and

proceedings have been slow.” For the value of this alleged breach, Tenant states “Peaceful enjoyment is impossible when the apartment manager refuses to enforce lease covenants when a tenant has violated them; especially when the violation is a hostile attack requiring police involvement.”

Owner is aware of an incident that occurred on the night of March 29, 2020 (please note that there is an inconsistent record of the actual date of the incident – Petition says 3/28/20 and the Police Report says 3/30/20, and text message screenshots show 3/29/20 – for purposes of this Response we will use the 3/29/20 date) and it seems clear that the incident occurred after 10 PM, which is the start of the building’s quiet hours.

The only evidence that Owner has received to date regarding this incident is included in the supporting documents of this Response. Owner has never received a copy of any police report filed by Tenant nor has Owner been contacted by OPD or any other law enforcement regarding this incident.

According to the tenants formerly of Unit 104 and the information they provided, Tenant was at fault for the March incident and they were the victims. Unit 104 provided photographs that show Tenant and a guest in the courtyard drinking alcohol and also show Tenant standing over the threshold into Unit 104, which all evidence indicates was uninvited. Tenant’s text messages to Michael Tien, the Property Manager for 245 Lee Street, beginning at 11:01 PM on the night of March 29, 2020 corroborate the claim that Tenant was in the courtyard during the building’s quiet hours. Unit 104 filed a police report about the incident with OPD, which lists Sara and Jonathan Duffield as the victims and Tenant as the suspect.

This dispute between tenants continued in late August 2020 when, on the night of August 26, 2020, Unit 104 made a noise complaint against Tenant for playing drums at night during quiet hours. In response, Tenant sent Unit 104 a “Cease and Desist Order” dated August 27, 2020 that claims Unit 104 was stalking/harassing/policing common areas. Unit 104 did not respond. Tenant sent Unit 104 another “Cease and Desist Order” dated September 20, 2020. On October 1, 2020, Unit 104 informed Mr. Tien that they would be moving out due to “the ongoing harassment/threats by Ms. Brown.”

With regard to Quiet Enjoyment, Tenant’s lease states in Section 7:

Resident shall not violate any criminal or civil law, ordinance, or statute in the use and occupancy of the premises, commit waste or nuisance, annoy, molest, or interfere with any other Resident or neighbor. Any such action may result in the termination of this Agreement as provided herein and by law.

In California, there is a presumption that every residential lease contains an Implied Covenant of Quiet Enjoyment, which provides tenants with the right to the use and enjoyment of their real property without substantial interference from the landlord.

Tenant has not presented any information that, even if viewed in a light most favorable to Tenant, would support a finding that Owner substantially interfered with Tenant’s quiet enjoyment of the premises. This was a dispute between two tenants at the Property and was not caused nor was it escalated by Owner’s actions. The Property Manager reasonably investigated the March 2020 incident, but it was not possible to make a definitive finding of fault when each party provided conflicting accounts. Further, both parties claimed to have reported the matter to local law enforcement, which made it reasonable for Owner to wait for more information from OPD before taken further action.



Lastly, while Owner did not breach the Quiet Enjoyment clause of Tenant's lease or the Implied Covenant of Quiet Enjoyment as a result of Unit 104's actions, it is possible that Unit 104 or Tenant could have breached their own lease by interfering with another tenant's quiet enjoyment. Such a breach could lead to an eviction of the violating tenant, which also makes this a moot point since Unit 104 moved out on October 19, 2020. Owner did not find a new tenant for Unit 104 until May 2021.

Thus, Tenant's claim of decreased housing services as a result of Landlord's breach of Tenant's covenant of quiet enjoyment should be denied.

#### Tenant Claim 2 – Decreased Housing Services for Loss of Use of Courtyard Due to March 2020 Incident

Tenant's Petition claims that as a result of the March 2020 incident with Unit 104, Tenant has been afraid to use the courtyard. Tenant blames Owner for this because Owner did not inform Unit 104 that they were in violation of Tenant's rights and of their own lease covenants. Tenant claims that her fear is exacerbated by the fact that Unit 104 knows which unit Tenant lives in. For the value of this alleged decrease in services, Tenant states the same as the prior claim, that "Peaceful enjoyment is impossible when the apartment manager refuses to enforce lease covenants when a tenant has violated them; especially when the violation is a hostile attack requiring police involvement."

In the interest of brevity and given the similar basis for this Tenant Claim 2 to the prior Tenant Claim 1, Owner will keep the response to this Tenant Claim 2 limited only to information that requires repeating as well as new information that was not included in the response to Tenant Claim 1.

Owner is not aware of any interactions or incidents between Tenant and Unit 104 between the March 2020 incident and Tenant's filing of this Petition. After Tenant filed the Petition was the August 26, 2020 noise complaint, but that cannot serve as the basis for this Tenant Claim 2 since the Petition was filed on July 28, 2020. Tenant never contacted Owner about this purported fear of Unit 104 nor any attempts to use the courtyard that were thwarted by Unit 104. If in fact Tenant did not use the courtyard after the March 2020 incident, it is reasonable to conclude that doing so was of Tenant's own volition.

Even if there were further interactions or incidents between Tenant and Unit 104 relating to Tenant's use of the courtyard, Owner did not receive any notice of this issue until receiving Tenant's Petition in August 2020. Therefore, even if Hearing Officer were to find that Owner was responsible for a decrease in services for Tenant's loss of use of the courtyard, such a finding would be limited to the period between when Owner received the Petition (August 18, 2020) and when Unit 104 moved out (October 19, 2020), which is only 2 months.

For the reasons stated in this Response, Tenant's claim of decreased housing services for loss of use of the courtyard should be denied in full.

#### Tenant Claim 3 – Decreased Housing Services Due to Owner's Failure to Enforce COVID-19 Rules

Tenant's Petition claims that she has suffered a decrease in housing services due to Owner's failure to enforce other tenants' compliance with "COVID-19 Health Rules." Tenant claims that "People are constantly using the common areas without proper PPE and Social Distancing" and this "minimizes [her] ability to move throughout the building without health threat." Tenant further claims that "As a result,

[she] can not use the courtyard when people are present.” For the value of this alleged decrease in services, Tenant states that “Peaceful enjoyment is impossible when building management overlooks State enforced COVID-19 policies regarding PPE and Social Distancing in shared/common spaces in the building.”

The COVID-19 pandemic has been difficult and complicated time for everyone. Health and Safety rules and recommendations have evolved over time and property owners and property managers have done their best to keep up and create as safe an environment as possible within their control. BBA sent notices to all tenants at the Property at the start of the pandemic, on March 10, 2020, and during the summer 2020 surge, on July 24, 2020. BBA posted signs throughout the Property about best practices to prevent the spread of COVID-19.

Tenant never made any complaint nor provided any other type of notice about this Tenant Claim 3 before filing this Petition. Both Mr. Tien and the on-site manager, Darlene Duff, confirmed that they never received any notice from Tenant about these stated concerns. In fact, when Ms. Duff was asked if she had received any complaints from Tenant, she noted that “The handful of times [Ms. Duff has] seen Karen since last year, she’s been unmasked.”

With regard to the lack of enforcement, it is unclear what Tenant has in mind that Owner should have done. If Owner were to police the Property at all times and take action against every potential offender, including Tenant, it is safe to assume that Owner would be, justifiably, accused of harassment. Owner has, and continues to, take realistic and reasonable precautions to protect its tenants and Tenant has failed to show otherwise.

Thus, Tenant’s Claim 3 of decreased housing services due to Owner’s failure to properly enforce COVID-19 “Health Rules” should be denied in its entirety.

---

It is Owner's position that Tenant is not entitled to any hearing and this Petition should be denied and dismissed given Tenant's ongoing failure to pay rent. At the hearing on May 3, 2021, Tenant stated that she was withholding rent due to decrease in services. Tenant's claims and the surrounding facts in no way justify such a self-help measure. If a hearing on this Petition does proceed, for the reasons stated herein and evidence and testimony presented at the upcoming hearing, Owner respectfully request the Hearing Officer denies all of Tenant’s claims of decreased housing services in this Petition T20-0182.

Sincerely,



JOSH BAKER  
Law Offices of Joshua D. Baker  
4224 California Street, Suite 106  
San Francisco, CA 94118  
jdb@jbakerlaw.com  
C 415.710.5062

1. Thirty-Day Notice of Change in Monthly Rent dated 4/25/19 and effective 6/1/19

# THIRTY-DAY NOTICE OF CHANGE OF MONTHLY RENT

TO: Karen Gordon-Brown, Et al.

*All Residents (tenants and subtenants) in possession (full name) and all others in possession*

of the premises located at:

245 Lee St., Unit UNIT404  
*(Street Address)*

Oakland CA , 94610  
*(City) (Zip)*

You are hereby notified, in accordance with Civil Code Section 827, that 30 days after service upon you of this Notice, or 6/1/19, whichever is later, your monthly rent which is payable in

*(Date)*  
advance on or before the 1<sup>st</sup> day of each month, will be the sum of \$2,985.40 instead of \$2,720.00 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.



4/25/2019

*Date*

*Owner/Agent*

Best Bay Apartments, Inc.

Pursuant to City of Oakland Ordinance 8.22.070 D 1: "While a Tenant petition is pending, a Tenant must pay when due pursuant to the rent increase notice, the amount of the Rent Increase that is equal to the CPI Rent Adjustment." The Amount of the Rent Increase that is equal to the CPI Adjustment, which is 3.4%, is \$ \$92.48.

Pursuant to City of Oakland Ordinance 8.22.070 H1 c, and if this adjustment to your rent exceeds that which is allowed under the CPI Rent Adjustment you have the right to request in writing a "summary of the justification for the amount of the Rent Increase in excess of the CPI Adjustment."

Herewith is such a summary: your rent adjustment is comprised of one or several elements as follows: Common Area Capital Improvements, \$ \_\_\_\_\_; Unit Specific Capital Improvements, \$ \_\_\_\_\_; Banking \$265.40.; Debt Service, \$ \_\_\_\_\_; Increased Housing Service Costs, \$ \_\_\_\_\_. The total amount is \$265.40.

**000242**

# CITY OF OAKLAND



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

Department of Housing and Community Development  
Adjustment Program

TEL (510) 238-3721 Rent

FAX (510) 238-6181

TDD (510) 238-3254

## NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program (“RAP”) that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. For more information on which units are covered, contact the RAP office.
- Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase (“CPI increase”) or allowed “banked” rent increases. These include capital improvements and operating expense increases. For these types of rent increases, the owner may raise your rent only after a hearing officer has approved the increase. No annual rent increase may exceed 10%. You have a right to contest the proposed rent increase by responding to the owner’s petition. You do not have to file your own petition.
- **Contesting a Rent Increase:** You can file a petition with the RAP to contest unlawful rent increases or decreased housing services. To contest a rent increase, you must file a petition (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>.
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. If the increase is approved and you did not pay the increase, you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance (“TPO”) to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)
- The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act). If the owner is not permitted to set the initial rent without limitation, the rent in effect when the prior tenant vacated was \_\_\_\_\_.

### TENANTS’ SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in UNIT404, the unit you intend to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant’s building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at \_\_\_\_\_.

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

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

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

**CITY OF OAKLAND**



Department of Housing and Community Development  
 Rent Adjustment Program  
<http://rapwp.oaklandnet.com/about/rap/>

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

**CALCULATION OF DEFERRED CPI INCREASES (BANKING)**

|   |  |            |  |
|---|--|------------|--|
| 1 | Initial move-in date   | 1-Apr-2014 | <b>MUST FILL IN D9,<br/>D10, D11 and D14</b> |
| 2 | Effective date of increase   | 1-Jun-2019 |  |
| 3 | Current rent (before increase and without prior cap. improve pass-through) | \$2,720.00 |  |
| 4 | Prior cap. imp. pass-through   | \$ -       |  |
| 5 | Date calculation begins  | 1-Apr-2014 |  |
| 6 | Base rent when calc. begins  | \$2,670    |  |

|           |     |   |
|-----------|-----|---|
| Case No.: | 245 | <b>CHANGE<br/>YELLOW CELLS<br/>ONLY</b> |
| Unit:     | 404 |   |

**ANNUAL INCREASES TABLE**

| Year Ending | Debt Serv. or Fair Return Increase | Housing Serv. Costs Increase | Base Rent Reduction | Annual % | CPI Increase | Rent Ceiling |
|-------------|------------------------------------|------------------------------|---------------------|----------|--------------|--------------|
| 11          |                                    |                              |                     |          |              |              |
| 10          |                                    |                              |                     |          |              |              |
| 9           |                                    |                              |                     |          |              |              |
| 8           |                                    |                              |                     |          |              |              |
| 7           |                                    |                              |                     |          |              |              |
| 6           |                                    |                              |                     |          |              |              |
| 5           | 4/1/2019                           |                              |                     | 3.4%     | \$ 98.17     | \$ 2,985.40  |
| 4           | 4/1/2018                           |                              |                     | 2.3%     | \$ 64.91     | \$ 2,887.24  |
| 3           | 4/1/2017                           |                              |                     | 2.0%     | \$ 55.34     | \$ 2,822.32  |
| 2           | 4/1/2016                           |                              |                     | 1.7%     | \$ 46.25     | \$ 2,766.98  |
| 1           | 4/1/2015                           |                              |                     | 1.9%     | \$ 50.73     | \$ 2,720.73  |
| 0           | 4/1/2014                           |                              |                     | -        | -            | \$2,670      |

CPI Rate beginning:

|            |      |
|------------|------|
| 1-Jun-2005 | 1.9% |
| 1-Jun-2006 | 3.3% |
| 1-Jul-2007 | 3.3% |
| 1-Jul-2008 | 3.2% |
| 1-Jul-2009 | 0.7% |
| 1-Jul-2010 | 2.7% |
| 1-Jul-2011 | 2.0% |
| 1-Jul-2012 | 3.0% |
| 1-Jul-2013 | 2.1% |
| 1-Jul-2014 | 1.9% |
| 1-Jul-2015 | 1.7% |
| 1-Jul-2016 | 2.0% |
| 1-Jul-2017 | 2.3% |
| 1-Jul-2018 | 3.4% |

**Calculation of Limit on Increase**

|    |   |             |
|----|---|-------------|
| 18 | Prior base rent   | \$2,720.00  |
| 19 | Banking limit this year (3 x current CPI and not more than 10%) | 10.0%       |
| 20 | Banking available this year                                     | \$ 265.40   |
| 21 | Banking this year + base rent                                   | \$ 2,985.40 |
| 22 | Prior capital improvements recovery                             | \$ -        |
| 23 | Rent ceiling w/o other new increases                            | \$ 2,985.40 |

Notes:

1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases include all past annual CPI adjustments.
5. An Increased Housing Service Cost increase takes the place of the current year's CPI adjustment.
6. Past increases for unspecified reasons are presumed to be for banking.
7. Banked annual increases are compounded.
8. The current CPI is not included in "Banking", but it is added to this spreadsheet for your convenience.

## Allowable Annual Rent Increase

*The Oakland Rent Adjustment Ordinance (O.M.C. 8.22.070) and Rent Adjustment Program Regulations provide a framework for rent increases in covered rental units. The following is a summary only. For complete information, please consult the Ordinance and Regulations.*

Tenants can be given only one rent increase in any 12-month period and the increase cannot take effect earlier than the tenant's anniversary date (at least one year from the tenant's move-in date or from the last prior rent increase).

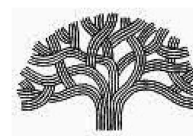
California law requires that tenants be provided with written advance notice of a rent increase of 30 days (for increases 10% or less) or 60 days (for increases greater than 10%) before the effective date of the increase. The Oakland Rent Adjustment Ordinance also has noticing requirements for giving a rent increase.

The Ordinance allows an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). The CPI rate takes effect on each July 1 at the start of the fiscal year, and remains in effect for rent increases given through June 30 of the following calendar year. Although standard annual increases are limited to the CPI rate, a landlord may be entitled to claim a higher amount based on certain "justifications" provided by the Ordinance and Regulations. One justification is "banking" prior years' allowable rates and imposing those increases at a later year, subject to limitations. If a landlord has "banked" prior year increases, a CPI-based increase in any single year cannot exceed 3X the current year's CPI.

**The annual CPI rate for rent increases effective July 1, 2018 through June 30, 2019, is 3.4%. The rate cannot be applied to rent increases that take effect earlier than July 1, 2018.**

- **July 1, 2018: 3.4%**
- July 1, 2017: 2.3%
- July 1, 2016: 2.0%
- July 1, 2015: 1.7%
- July 1, 2014: 1.9%
- July 1, 2013: 2.1%
- July 1, 2012: 3.0%
- July 1, 2011: 2.0%
- July 1, 2010: 2.7%
- July 1, 2009: 0.7%
- July 1, 2008: 3.2%
- July 1, 2007: 3.3%
- May 1, 2006: 3.3%
- May 1, 2005: 1.9%
- May 1, 2004: 0.7%
- May 1, 2003: 3.6%
- July 1, 2002: 0.6%
- March 1, 1995 – June 30, 2002: 3% per year

# 屋崙(奧克蘭) 市政府



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

房屋與社區發展部 (Department of Housing and Community Development)

租金調整計劃 (Rent Adjustment Program)

電話 (510) 238-3721

傳真 (510) 238-6181

TDD (510) 238-3254

## 住宅租金調整計劃的租客通知書

- 屋崙(奧克蘭)市的租金調整計劃(RAP)旨在限制租金調漲(屋崙(奧克蘭)市政法規8.22章),且主要是針對建於1983年以前大多數的出租住宅單位。若要了解哪些單位在本計劃限制範圍內,請聯絡RAP辦事處。
- 從2017年2月1日起,如果租金調漲幅度超出一般租金年漲幅(「CPI漲幅」)或允許的「調整存放」漲幅,業主就必須向RAP陳情。調漲原因可包括固定資產整修和營運支出增加。對於這些類型的租金調漲方案,業主必須在聽證官同意調漲後才能提高您的租金。任何租金年漲幅不得超過10%。如果不同意建議的租金調幅,您有權對業主的陳情提出抗辯,但您不需要自己提出陳情。
- 對租金調漲提出抗辯:**您可以租金調漲違法或者住房服務縮為由,向RAP陳情抗辯。如果您要對租金調漲提出抗辯,(1)且業主隨同這份「租客通知」一併提供租金調漲通知,則您必須在收到租金調漲通知後九十(90)天內提出陳情;(2)但業主未隨這份「租客通知」提供租金調漲通知,則您必須在收到租金調整通知後的120天內提出陳情。如果業主在租期一開始時沒有提供這份租客通知,您就必須在第一次收到這份租客通知後的九十(90)天內提出請願。如需相關資訊並索取請願書,請前往房屋協助中心(Housing Assistance Center)的租金調整計劃(RAP)中心親自索取:250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at:  
<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>。
- 如果您對租金調漲有異議,在提出陳情之前,您仍必須支付所要抗辯的調漲租金。若調漲金額獲准但您並未支付,您將積欠從調漲生效日期算起的調漲金額。
- 屋崙(奧克蘭)市的驅逐管制規則(屋崙(奧克蘭)市政法規8.22中的「驅逐正當理由」)對所管制單位的驅逐理由設有限制。若要瞭解更多資訊,請聯絡RAP辦公室。
- 屋崙(奧克蘭)市政府每年會向業主收取每個出租單位的「租金計劃服務費」(Rent Program Service Fee)。若業主準時支付這筆費用,就有權向您收取一半費用。受補助單位的租客無需支付該費用的租客部分。
- 屋崙(奧克蘭)市的租客保護法令(Tenant Protection Ordinance, TPO)旨在遏阻房東的騷擾行為,並且在租客受房東騷擾的情況下賦予租客法律追索權(屋崙(奧克蘭)市政法規8.22.600)。(市議會條例13265號C.M.S.)
- 業主 得以 不得對本單位設下毫無限制的起租租金(例如根據Costa-Hawkins法案規定)。如果業主不得設下毫無限制的起租租金,則前任房客遷出後生效的租金是\_\_\_\_\_。

### 針對租客的吸煙政策聲明

- 住房單位\_\_\_\_\_ (您有意承租的單位)「允許」或「不允許」吸煙(圈選一項)。
- 您所住建築物中的其他單位「允許」或「不允許」吸煙(圈選一項)。(若租客所住的建築物中同時包含可吸煙和不可吸煙的單位,應附上一張可吸煙單位列表。)
- 本建築物「有」或「沒有」指定的戶外吸煙區(圈選一項)。該吸煙區位於\_\_\_\_\_。

我於\_\_\_\_\_ 收到本通知書

(日期)

(租客簽名)

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

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

2/10/17 修訂

HCDrap201702b CH

000246





P.O. BOX 70243, OAKLAND, CA 94612-2043 Departamento  
de Desarrollo Comunitario y Vivienda

Programa de Ajustes en el Alquiler

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

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

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

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

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

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

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

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

**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 25<sup>th</sup> day of April (month), 2019 (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.)

Place of Mailing: Oakland, CA Date of Mailing: 4/25/19

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 25<sup>th</sup> day of April (month), 2019 (year), in Oakland (city), CA (state).

Jimmie  
Name of Declarant (Print)

[Signature]  
(Signature of Declarant)



**Unauthorized Reproduction  
of Blank Forms is Illegal.**



## 2. Business License Tax Certificate

**CITY OF OAKLAND**  
**BUSINESS TAX CERTIFICATE**

**ACCOUNT  
NUMBER**  
00187131

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. Per Section 5.04.190(A), of the O.M.C. you are allowed a renewal grace period until March 1st the following year.

**DBA** 2367 WASHINGTON LLC & LEE ST

PARTNERS LLC

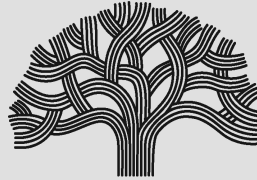
**BUSINESS LOCATION** 245 LEE ST

OAKLAND, CA 94610-4251

**BUSINESS TYPE** M Rental - Apartment

**EXPIRATION DATE**

12/31/2021



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.dca.ca.gov/publications>



2367 WASHINGTON LLC & LEE ST PARTNERS LLC  
2744 E 11TH ST  
OAKLAND, CA 94601-1429

A BUSINESS TAX CERTIFICATE IS REQUIRED FOR EACH BUSINESS LOCATION AND IS NOT VALID FOR ANY OTHER ADDRESS.

ALL OAKLAND BUSINESSES MUST OBTAIN A VALID ZONING CLEARANCE TO OPERATE YOUR BUSINESS LEGALLY. RENTAL OF REAL PROPERTY IS EXCLUDED FROM ZONING.

PUBLIC INFORMATION ABOVE THIS LINE TO BE CONSPICUOUSLY POSTED!

**000251**

### 3. Proof of Payment for Rent Program Service Fee

[News](#) [Services](#) [Departments](#) [Events](#) [Officials](#)



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Account # 00187131  
2367 WASHINGTON LLC & LEE ST PARTNERS LLC

**Business License Online Renewal** **Secure**

[PRINT THIS PAGE FOR YOUR RECORD](#)

The business tax license renewal has been submitted. Business tax certificates will be emailed 2 to 5 days after successfully renewing account. For questions, please contact the Business Tax office at (510) 238-3704 or [btwebsupport@oaklandca.gov](mailto:btwebsupport@oaklandca.gov). Thank you, City of Oakland - Business Tax

Submission Date 2/26/2021  
Confirmation # 249364

**Account Information**

Account # 00187131  
Expire Date 12/31/2021  
Name 2367 WASHINGTON LLC & LEE ST PARTNERS LLC  
Address 245 LEE ST  
City OAKLAND  
Phone (415) 619-8956

**Summary**

|  | <b>Input</b> | <b>Amount</b>      |
|--|--------------|--------------------|
| <b>Tax Calculation</b>   |              |                    |
| Enter 2020 Gross Receipts *(Enter estimated 2021 Gross Receipts if business started in Oakland in 2020)* | 1,229,190.26 | \$17,147.20        |
| BT SB1186 (AB1379)   | 1            | \$4.00             |
| BT Recordation and Tech  | 1            | \$3.00             |
| <b>Rent Adjustment Program (RAP) Calculation - only use whole numbers below</b>                          |              |                    |
| a. Total # of units per Alameda County Records:  | 45           | \$4,545.00         |
| <b>Total Due</b>   |              | <b>\$21,699.20</b> |
| <b>Payment Information</b>   |              |                    |
| Payment Amount   |              | \$21,699.20        |

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**For Assistance**  
Email: [btwebsupport@oaklandca.gov](mailto:btwebsupport@oaklandca.gov)  
Phone: (510) 238-3704

**City of Oakland**  
250 Frank H Ogawa Plaza, Suite 1320  
Oakland, CA 94612

**Hours:**  
8:00 AM-4:00 PM  
Monday, Tuesday, Thursday ,Friday

**000253**





4. RAP Notice Signed by Tenant and Dated 9/29/15

CITY OF OAKLAND



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases...
You have a right to file a petition with the RAP to contest a rent increase...
To contest a rent increase, you must file a petition with the RAP within sixty (60) days...
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition...
Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22)...
Oakland charges owners a Rent Program Service Fee per unit per year.

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit 404, the unit you intend to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building.
There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at 404 Patio only

I received a copy of this notice on

9/29/15 (Date)

(Tenant's signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510)238-3721索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
Baùn Thoàng Baùo quyềàn lôil của ngồđôil thueâ trong Oakland nàøy củng cồ baềng tieáng Việât. Nềả cồ moắt baùn sao, xin gồil (510) 238-3721.

000256

5. Unit 404 Tenant Ledger Through 7/1/21

# Resident Ledger

Date: 08/11/2021

|                |                    |                  |         |                   |                |
|----------------|--------------------|------------------|---------|-------------------|----------------|
| <b>Code</b>    | t0000779           | <b>Property</b>  | 245lee  | <b>Lease From</b> | 04/01/2014     |
| <b>Name</b>    | Karen Gordon-Brown | <b>Unit</b>      | 404     | <b>Lease To</b>   | 03/31/2015     |
| <b>Address</b> | 245 Lee St.        | <b>Status</b>    | Current | <b>Move In</b>    | 04/01/2014     |
|                | #404               | <b>Rent</b>      | 2985.40 | <b>Move Out</b>   |                |
| <b>City</b>    | Oakland, CA 94610  | <b>Phone (H)</b> |         | <b>Phone (W)</b>  | (510) 282-6147 |

| Date       | Chg Code | Description   | Charge   | Payment    | Balance  | Chg/Rec               |
|------------|----------|---|----------|------------|----------|-----------------------|
| 04/01/2014 | deposit  | :Posted by QuickTrans (deposit)   | 5,190.00 |            | 5,190.00 | <a href="#">649</a>   |
| 04/01/2014 |          | chk# :QuickTrans :Posted by QuickTrans  |          | 5,190.00   | 0.00     | <a href="#">638</a>   |
| 10/29/2015 | rent     | beginning balance   | 267.00   |            | 267.00   | <a href="#">843</a>   |
| 11/01/2015 | rent     | Rent (11/2015)  | 2,720.00 |            | 2,987.00 | <a href="#">1847</a>  |
| 11/10/2015 |          | chk# 1277 :CHECKscan Payment  |          | 2,720.00   | 267.00   | <a href="#">2051</a>  |
| 12/01/2015 | rent     | Rent (12/2015)  | 2,720.00 |            | 2,987.00 | <a href="#">4037</a>  |
| 12/11/2015 |          | chk# 1271 :CHECKscan Payment  |          | 2,720.00   | 267.00   | <a href="#">4544</a>  |
| 01/01/2016 | rent     | Rent (01/2016)  | 2,720.00 |            | 2,987.00 | <a href="#">6563</a>  |
| 01/04/2016 |          | chk# 1280 :CHECKscan Payment  |          | 2,720.00   | 267.00   | <a href="#">5566</a>  |
| 01/15/2016 | liquidat | Made a deal with tenant to waive half of her late fee, if she pays the other half | (133.50) |            | 133.50   | <a href="#">8414</a>  |
| 01/15/2016 |          | chk# 1284 :CHECKscan Payment  |          | 133.50     | 0.00     | <a href="#">6738</a>  |
| 02/01/2016 | rent     | Rent (02/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">11338</a> |
| 02/04/2016 |          | chk# 1287 :CHECKscan Payment  |          | 1,360.00   | 1,360.00 | <a href="#">7990</a>  |
| 02/04/2016 |          | chk# 0335792 :CHECKscan Payment   |          | 1,360.00   | 0.00     | <a href="#">8035</a>  |
| 03/01/2016 | rent     | Rent (03/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">13896</a> |
| 03/04/2016 |          | chk# 1273 :CHECKscan Payment  |          | 2,720.00   | 0.00     | <a href="#">10173</a> |
| 04/01/2016 | rent     | Rent (04/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">16495</a> |
| 04/01/2016 | rentoak  | Oakland Rent Adjustment Fee (04/2016)   | 15.00    |            | 2,735.00 | <a href="#">16500</a> |
| 04/06/2016 |          | chk# 1295 :CHECKscan Payment  |          | 2,720.00   | 15.00    | <a href="#">13157</a> |
| 05/01/2016 | rent     | Rent (05/2016)  | 2,720.00 |            | 2,735.00 | <a href="#">18565</a> |
| 05/05/2016 |          | chk# :ACH-WEB Online Payment - EFT Payment. NSFed by ctrl# 15397 NSF-5LKSL1WFLJ1  |          | 2,735.00   | 0.00     | <a href="#">14859</a> |
| 05/09/2016 | nsf      | Returned check charge   | 25.00    |            | 25.00    | <a href="#">19537</a> |
| 05/09/2016 |          | chk# :ACH-WEB NSF receipt Ctrl# 14859   |          | (2,735.00) | 2,760.00 | <a href="#">15397</a> |
| 05/24/2016 |          | chk# 1106421680 :CHECKscan Payment  |          | 2,400.00   | 360.00   | <a href="#">15608</a> |
| 05/26/2016 |          | chk# :ACH-WEB Online Payment - EFT Payment.                                       |          | 360.00     | 0.00     | <a href="#">15638</a> |
| 05/31/2016 | liquidat | 10% Late fee for May Rent   | (273.50) |            | (273.50) | <a href="#">19756</a> |
| 05/31/2016 | liquidat | Incorrect amount  | 273.50   |            | 0.00     | <a href="#">19757</a> |
| 05/31/2016 | liquidat | 10% Late fee for May Rent   | 275.50   |            | 275.50   | <a href="#">19758</a> |
| 06/01/2016 | rent     | Rent (06/2016)  | 2,720.00 |            | 2,995.50 | <a href="#">20630</a> |
| 06/03/2016 |          | chk# :ACH-1751 Pre-Authorized Payment   |          | 2,705.00   | 290.50   | <a href="#">16451</a> |
| 06/20/2016 | liquidat | Late fee of 10% of the rent is \$272.00. credit back the \$3.50                   | (3.50)   |            | 287.00   | <a href="#">21411</a> |
| 07/01/2016 | rent     | Rent (07/2016)  | 2,720.00 |            | 3,007.00 | <a href="#">22333</a> |
| 07/06/2016 |          | chk# 1306 :CHECKscan Payment  |          | 2,720.00   | 287.00   | <a href="#">19238</a> |
| 08/01/2016 | rent     | Rent (08/2016)  | 2,720.00 |            | 3,007.00 | <a href="#">24065</a> |
| 08/05/2016 |          | chk# :ACH-WEB Online Payment - EFT Payment.                                       |          | 3,007.00   | 0.00     | <a href="#">21276</a> |
| 09/01/2016 | rent     | Rent (09/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">26023</a> |
| 09/06/2016 |          | chk# 1329 :CHECKscan Payment  |          | 2,720.00   | 0.00     | <a href="#">22942</a> |
| 10/01/2016 | rent     | Rent (10/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">28109</a> |
| 10/07/2016 |          | chk# 1334   |          | 2,720.00   | 0.00     | <a href="#">25187</a> |
| 11/01/2016 | rent     | Rent (11/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">29970</a> |
| 11/04/2016 |          | chk# :ACH-WEB Online Payment - EFT Payment.                                       |          | 2,720.00   | 0.00     | <a href="#">26623</a> |
| 12/01/2016 | rent     | Rent (12/2016)  | 2,720.00 |            | 2,720.00 | <a href="#">31731</a> |
| 12/05/2016 |          | chk# 0340409 :CHECKscan Payment   |          | 2,720.00   | 0.00     | <a href="#">28246</a> |
| 01/01/2017 | rent     | Rent (01/2017)  | 2,720.00 |            | 2,720.00 | <a href="#">33809</a> |
| 01/05/2017 |          | chk# 1076553210 :CHECKscan Payment  |          | 2,720.00   | 0.00     | <a href="#">29976</a> |
| 01/12/2017 | maintten | Charge for 3 keys   | 225.00   |            | 225.00   | <a href="#">34590</a> |
| 01/12/2017 |          | chk# 1327 :CHECKscan Payment  |          | 225.00     | 0.00     | <a href="#">30440</a> |
| 01/20/2017 | maintten | Credit for the key she never received   | (75.00)  |            | (75.00)  | <a href="#">34682</a> |

|            |          |  |          |            |           |                       |
|------------|----------|--|----------|------------|-----------|-----------------------|
| 01/26/2017 | rentdisc | Per siddharth 10% discount for the elevator  | (272.00) |            | (347.00)  | <a href="#">34783</a> |
| 02/01/2017 | rent     | Rent (02/2017)   | 2,720.00 |            | 2,373.00  | <a href="#">35779</a> |
| 02/05/2017 |          | chk# :ACH-WEB Online Payment - EFT Payment.  |          | 2,373.00   | 0.00      | <a href="#">31999</a> |
| 03/01/2017 | rent     | Rent (03/2017)   | 2,720.00 |            | 2,720.00  | <a href="#">37609</a> |
| 03/02/2017 |          | chk# 1377 :CHECKscan Payment   |          | 2,720.00   | 0.00      | <a href="#">33698</a> |
| 04/01/2017 | rent     | Rent (04/2017)   | 2,720.00 |            | 2,720.00  | <a href="#">39478</a> |
| 04/05/2017 |          | chk# :ACH-WEB Online Payment - EFT Payment.  |          | 2,720.00   | 0.00      | <a href="#">36057</a> |
| 05/01/2017 | rent     | Rent (05/2017)   | 2,720.00 |            | 2,720.00  | <a href="#">41169</a> |
| 05/04/2017 | nsf      | Returned check charge  | 25.00    |            | 2,745.00  | <a href="#">42003</a> |
| 05/04/2017 |          | chk# :ACH-WEB Online Payment - EFT Payment. NSFed by ctrl# 38995 V9FGPZZGBJ1, reversed ACH |          | 2,720.00   | 25.00     | <a href="#">37832</a> |
| 05/04/2017 |          | chk# :ACH-WEB NSF receipt Ctrl# 37832  |          | (2,720.00) | 2,745.00  | <a href="#">38995</a> |
| 05/24/2017 |          | chk# :ACH-WEB Online Payment - EFT Payment.  |          | 2,745.00   | 0.00      | <a href="#">39138</a> |
| 06/01/2017 | rent     | Rent (06/2017)   | 2,720.00 |            | 2,720.00  | <a href="#">43793</a> |
| 06/05/2017 |          | chk# :ACH-WEB Online Payment - EFT Payment.  |          | 2,720.00   | 0.00      | <a href="#">40161</a> |
| 07/01/2017 | rent     | Rent (07/2017)   | 2,720.00 |            | 2,720.00  | <a href="#">46439</a> |
| 07/07/2017 |          | chk# 1386 :CHECKscan Payment NSFed by ctrl# 42916 Disputed                                 |          | 2,300.00   | 420.00    | <a href="#">42628</a> |
| 07/14/2017 | nsf      | Returned check charge  | 25.00    |            | 445.00    | <a href="#">47585</a> |
| 07/14/2017 | latefee  | 10% Late fee for July rent   | 272.00   |            | 717.00    | <a href="#">47586</a> |
| 07/14/2017 |          | chk# 1386 NSF receipt Ctrl# 42628  |          | (2,300.00) | 3,017.00  | <a href="#">42916</a> |
| 08/01/2017 | rent     | Rent (08/2017)   | 2,720.00 |            | 5,737.00  | <a href="#">49395</a> |
| 09/01/2017 | rent     | Rent (09/2017)   | 2,720.00 |            | 8,457.00  | <a href="#">51870</a> |
| 10/01/2017 | rent     | Rent (10/2017)   | 2,720.00 |            | 11,177.00 | <a href="#">54591</a> |
| 11/01/2017 | rent     | Rent (11/2017)   | 2,720.00 |            | 13,897.00 | <a href="#">56797</a> |
| 11/15/2017 |          | chk# 1106425336  |          | 13,600.00  | 297.00    | <a href="#">50865</a> |
| 12/01/2017 | rent     | Rent (12/2017)   | 2,720.00 |            | 3,017.00  | <a href="#">58931</a> |
| 12/20/2017 |          | chk# 1132019866 :CHECKscan Payment   |          | 2,720.00   | 297.00    | <a href="#">52669</a> |
| 01/01/2018 | rent     | Rent (01/2018)   | 2,720.00 |            | 3,017.00  | <a href="#">61015</a> |
| 01/07/2018 |          | chk# :ACH-WEB Online Payment - EFT Payment.  |          | 2,720.00   | 297.00    | <a href="#">53857</a> |
| 02/01/2018 | rent     | Rent (02/2018)   | 2,720.00 |            | 3,017.00  | <a href="#">63551</a> |
| 02/05/2018 | latefee  | 10% Late fee for February rent   | 272.00   |            | 3,289.00  | <a href="#">66336</a> |
| 03/01/2018 | rent     | Rent (03/2018)   | 2,720.00 |            | 6,009.00  | <a href="#">65614</a> |
| 03/06/2018 | latefee  | 10% Late fee for March rent  | 272.00   |            | 6,281.00  | <a href="#">66337</a> |
| 04/01/2018 | rent     | Rent (04/2018)   | 2,720.00 |            | 9,001.00  | <a href="#">67717</a> |
| 04/01/2018 | rentoak  | Oakland Rent Adjustment Fee (04/2018)  | 34.00    |            | 9,035.00  | <a href="#">67723</a> |
| 04/10/2018 | liquidat | Liquidated Damges 04/2018  | 50.00    |            | 9,085.00  | <a href="#">68540</a> |
| 04/10/2018 | rentdisc | Incorrect late fee amount  | (50.00)  |            | 9,035.00  | <a href="#">68563</a> |
| 04/10/2018 | latefee  | 10% Late fee for April rent  | 272.00   |            | 9,307.00  | <a href="#">68564</a> |
| 05/01/2018 | rent     | Rent (05/2018)   | 2,720.00 |            | 12,027.00 | <a href="#">69788</a> |
| 05/25/2018 |          | chk# 1078325208 :CHECKscan Payment   |          | 5,440.00   | 6,587.00  | <a href="#">61620</a> |
| 06/01/2018 | rent     | Rent (06/2018)   | 2,720.00 |            | 9,307.00  | <a href="#">71826</a> |
| 06/01/2018 | latefee  | 10% Late fee for June rent   | 272.00   |            | 9,579.00  | <a href="#">77277</a> |
| 07/01/2018 | rent     | Rent (07/2018)   | 2,720.00 |            | 12,299.00 | <a href="#">74116</a> |
| 07/05/2018 | latefee  | 10% Late fee for July rent   | 272.00   |            | 12,571.00 | <a href="#">77278</a> |
| 08/01/2018 | rent     | Rent (08/2018)   | 2,720.00 |            | 15,291.00 | <a href="#">76375</a> |
| 08/07/2018 | latefee  | 10% Late fee for August rent   | 272.00   |            | 15,563.00 | <a href="#">77279</a> |
| 09/01/2018 | rent     | Rent (09/2018)   | 2,720.00 |            | 18,283.00 | <a href="#">78988</a> |
| 10/01/2018 | rent     | Rent (10/2018)   | 2,720.00 |            | 21,003.00 | <a href="#">81239</a> |
| 11/01/2018 | rent     | Rent (11/2018)   | 2,720.00 |            | 23,723.00 | <a href="#">83612</a> |
| 11/07/2018 |          | chk# 0154027119 :CHECKscan Payment   |          | 2,720.00   | 21,003.00 | <a href="#">74015</a> |
| 12/01/2018 | rent     | Rent (12/2018)   | 2,720.00 |            | 23,723.00 | <a href="#">86068</a> |
| 12/05/2018 |          | chk# 1106427949 :CHECKscan Payment   |          | 7,000.00   | 16,723.00 | <a href="#">75565</a> |
| 12/07/2018 |          | chk# 0154950354 :CHECKscan Payment   |          | 2,720.00   | 14,003.00 | <a href="#">76267</a> |
| 01/01/2019 | rent     | Rent (01/2019)   | 2,720.00 |            | 16,723.00 | <a href="#">88495</a> |
| 01/07/2019 |          | chk# 1078326720 :CHECKscan Payment   |          | 2,720.00   | 14,003.00 | <a href="#">77876</a> |
| 02/01/2019 | rent     | Rent (02/2019)   | 2,720.00 |            | 16,723.00 | <a href="#">91216</a> |
| 02/05/2019 |          | chk# 697 08447776 :CHECKscan Payment   |          | 200.00     | 16,523.00 | <a href="#">80327</a> |
| 02/05/2019 |          | chk# 352445 :CHECKscan Payment   |          | 2,570.00   | 13,953.00 | <a href="#">80328</a> |
| 03/01/2019 | rent     | Rent (03/2019)   | 2,720.00 |            | 16,673.00 | <a href="#">93796</a> |
| 03/08/2019 |          | chk# 697 08456939 :CHECKscan Payment   |          | 1,000.00   | 15,673.00 | <a href="#">83125</a> |
| 03/08/2019 |          | chk# 697 08456940 :CHECKscan Payment   |          | 1,000.00   | 14,673.00 | <a href="#">83126</a> |
| 03/08/2019 |          | chk# 25707223438 :CHECKscan Payment  |          | 720.00     | 13,953.00 | <a href="#">83127</a> |

|            |          |  |          |            |           |                        |
|------------|----------|--|----------|------------|-----------|------------------------|
| 03/15/2019 |          | chk# 25707227207 :CHECKscan Payment  |          | 400.00     | 13,553.00 | <a href="#">83337</a>  |
| 03/15/2019 |          | chk# 25713874451 :CHECKscan Payment  |          | 400.00     | 13,153.00 | <a href="#">83338</a>  |
| 04/01/2019 | rent     | Rent (04/2019)   | 2,720.00 |            | 15,873.00 | <a href="#">96333</a>  |
| 04/24/2019 |          | chk# 25521938291 :CHECKscan Payment  |          | 1,000.00   | 14,873.00 | <a href="#">86076</a>  |
| 04/24/2019 |          | chk# 25521938302 :CHECKscan Payment  |          | 1,000.00   | 13,873.00 | <a href="#">86077</a>  |
| 04/24/2019 |          | chk# 25521938313 :CHECKscan Payment  |          | 400.00     | 13,473.00 | <a href="#">86078</a>  |
| 04/24/2019 |          | chk# 25707242351 :CHECKscan Payment  |          | 320.00     | 13,153.00 | <a href="#">86079</a>  |
| 05/01/2019 | rent     | Rent (05/2019)   | 2,720.00 |            | 15,873.00 | <a href="#">98959</a>  |
| 05/06/2019 |          | chk# 25517972823 :CHECKscan Payment  |          | 1,000.00   | 14,873.00 | <a href="#">87518</a>  |
| 05/06/2019 |          | chk# 25517972812 :CHECKscan Payment  |          | 1,000.00   | 13,873.00 | <a href="#">87519</a>  |
| 05/06/2019 |          | chk# 25874611334 :CHECKscan Payment  |          | 720.00     | 13,153.00 | <a href="#">87520</a>  |
| 06/01/2019 | rent     | Rent (06/2019)   | 2,720.00 |            | 15,873.00 | <a href="#">101270</a> |
| 06/01/2019 | rent     | rent increase 6/1/2019   | 265.40   |            | 16,138.40 | <a href="#">102877</a> |
| 06/05/2019 |          | chk# 0160757207 :CHECKscan Payment   |          | 1,600.00   | 14,538.40 | <a href="#">88938</a>  |
| 06/06/2019 |          | chk# 0160869168 :CHECKscan Payment   |          | 2,985.40   | 11,553.00 | <a href="#">89378</a>  |
| 07/01/2019 | rent     | Rent (07/2019)   | 2,985.40 |            | 14,538.40 | <a href="#">103697</a> |
| 07/05/2019 |          | chk# 0161893803 :CHECKscan Payment   |          | 2,985.40   | 11,553.00 | <a href="#">91459</a>  |
| 08/01/2019 | rent     | Rent (08/2019)   | 2,985.40 |            | 14,538.40 | <a href="#">106214</a> |
| 08/05/2019 |          | chk# 0162851713 :CHECKscan Payment   |          | 2,985.40   | 11,553.00 | <a href="#">93742</a>  |
| 09/01/2019 | rent     | Rent (09/2019)   | 2,985.40 |            | 14,538.40 | <a href="#">108608</a> |
| 09/05/2019 |          | chk# 0163816209 :CHECKscan Payment   |          | 1,800.00   | 12,738.40 | <a href="#">95492</a>  |
| 09/06/2019 |          | chk# 5001 :CHECKscan Payment   |          | 800.00     | 11,938.40 | <a href="#">95725</a>  |
| 09/10/2019 |          | chk# 0164001063 :CHECKscan Payment   |          | 298.54     | 11,639.86 | <a href="#">96232</a>  |
| 09/12/2019 |          | chk# 5000 NSFed by ctrl# 98036 NSF KAREN GORDON-BROWN 005000 Returned Deposited Item                     |          | 1,000.00   | 10,639.86 | <a href="#">96348</a>  |
| 09/25/2019 | nsf      | Returned check charge  | 25.00    |            | 10,664.86 | <a href="#">112234</a> |
| 09/25/2019 |          | chk# 5000 NSF receipt Ctrl# 96348  |          | (1,000.00) | 11,664.86 | <a href="#">98036</a>  |
| 10/01/2019 | rent     | Rent (10/2019)   | 2,985.40 |            | 14,650.26 | <a href="#">111149</a> |
| 11/01/2019 | rent     | Rent (11/2019) 23 days   | 2,288.81 |            | 16,939.07 | <a href="#">113596</a> |
| 11/01/2019 | rent     | Rent Adjustment (11/2019)  | 696.59   |            | 17,635.66 | <a href="#">116958</a> |
| 12/01/2019 | rent     | Rent (12/2019)   | 2,985.40 |            | 20,621.06 | <a href="#">116957</a> |
| 12/09/2019 | liquidat | Liquidated Damage (12/2019)  | 298.54   |            | 20,919.60 | <a href="#">117242</a> |
| 12/09/2019 |          | chk# 356756-356758-356757  |          | 11,412.00  | 9,507.60  | <a href="#">102333</a> |
| 01/01/2020 | rent     | Rent (01/2020)   | 2,985.40 |            | 12,493.00 | <a href="#">118349</a> |
| 01/07/2020 | liquidat | Liquidated Damage (01/2020)  | 298.54   |            | 12,791.54 | <a href="#">119521</a> |
| 02/01/2020 | rent     | Rent (02/2020)   | 2,985.40 |            | 15,776.94 | <a href="#">120808</a> |
| 02/04/2020 |          | chk# 26156859840 :CHECKscan Payment  |          | 1,000.00   | 14,776.94 | <a href="#">105454</a> |
| 02/04/2020 |          | chk# 26156859851 :CHECKscan Payment  |          | 1,000.00   | 13,776.94 | <a href="#">105455</a> |
| 02/04/2020 |          | chk# 26156859862 :CHECKscan Payment  |          | 232.66     | 13,544.28 | <a href="#">105456</a> |
| 02/07/2020 | liquidat | Liquidated Damage (02/2020)  | 298.54   |            | 13,842.82 | <a href="#">122008</a> |
| 02/14/2020 |          | chk# 26309020893 :CHECKscan Payment  |          | 974.00     | 12,868.82 | <a href="#">106572</a> |
| 03/01/2020 | rent     | Rent (03/2020)   | 2,985.40 |            | 15,854.22 | <a href="#">123302</a> |
| 03/10/2020 | liquidat | Liquidated Damage (03/2020)  | 298.54   |            | 16,152.76 | <a href="#">124587</a> |
| 04/01/2020 | rent     | Rent (04/2020)   | 2,985.40 |            | 19,138.16 | <a href="#">126024</a> |
| 05/01/2020 | rent     | Rent (05/2020)   | 2,985.40 |            | 22,123.56 | <a href="#">128648</a> |
| 05/14/2020 |          | chk# 26331474385 :CHECKscan Payment  |          | 818.00     | 21,305.56 | <a href="#">112906</a> |
| 05/14/2020 |          | chk# 26331474363 :CHECKscan Payment  |          | 1,000.00   | 20,305.56 | <a href="#">112907</a> |
| 05/14/2020 |          | chk# 26331474374 :CHECKscan Payment  |          | 1,000.00   | 19,305.56 | <a href="#">112908</a> |
| 05/14/2020 |          | chk# 26331474868 :CHECKscan Payment  |          | 1,000.00   | 18,305.56 | <a href="#">112909</a> |
| 05/14/2020 |          | chk# 26331474857 :CHECKscan Payment  |          | 1,000.00   | 17,305.56 | <a href="#">112910</a> |
| 05/27/2020 |          | chk# 023815  |          | 2,992.00   | 14,313.56 | <a href="#">141606</a> |
| 06/01/2020 | rent     | Rent (06/2020)   | 2,985.40 |            | 17,298.96 | <a href="#">131444</a> |
| 06/08/2020 |          | chk# 26309065768 :CHECKscan Payment  |          | 1,000.00   | 16,298.96 | <a href="#">114844</a> |
| 06/08/2020 |          | chk# 26309065770 :CHECKscan Payment  |          | 1,000.00   | 15,298.96 | <a href="#">114845</a> |
| 06/08/2020 |          | chk# 26309065781 :CHECKscan Payment  |          | 295.00     | 15,003.96 | <a href="#">114846</a> |
| 07/01/2020 | rent     | Rent (07/2020)   | 2,985.40 |            | 17,989.36 | <a href="#">134265</a> |
| 07/01/2020 | liquidat | check booked to wrong to clear receipt 118995- to correct \$150 check applied to this ledger incorrectly | 125.00   |            | 18,114.36 | <a href="#">138644</a> |
| 07/01/2020 | nsf      | check booked to wrong to clear receipt 118995- to correct \$150 check applied to this ledger incorrectly | 25.00    |            | 18,139.36 | <a href="#">138645</a> |
| 07/01/2020 |          | chk# 005205  |          | 150.00     | 17,989.36 | <a href="#">118995</a> |
| 07/06/2020 |          | chk# 359554 :CHECKscan Payment   |          | 2,911.00   | 15,078.36 | <a href="#">117161</a> |

|            |      |                                |          |          |           |                        |
|------------|------|--------------------------------|----------|----------|-----------|------------------------|
| 07/20/2020 |      | chk# 359895 :CHECKscan Payment |          | 4,700.00 | 10,378.36 | <a href="#">117834</a> |
| 08/01/2020 | rent | Rent (08/2020)                 | 2,985.40 |          | 13,363.76 | <a href="#">137145</a> |
| 09/01/2020 | rent | Rent (09/2020)                 | 2,985.40 |          | 16,349.16 | <a href="#">139940</a> |
| 09/22/2020 |      | chk# 360321 :CHECKscan Payment |          | 2,000.00 | 14,349.16 | <a href="#">122277</a> |
| 09/22/2020 |      | chk# 360745 :CHECKscan Payment |          | 1,000.00 | 13,349.16 | <a href="#">122278</a> |
| 10/01/2020 | rent | Rent (10/2020)                 | 2,985.40 |          | 16,334.56 | <a href="#">143058</a> |
| 10/27/2020 |      | chk# 361099 :CHECKscan Payment |          | 2,000.00 | 14,334.56 | <a href="#">124841</a> |
| 11/01/2020 | rent | Rent (11/2020)                 | 2,985.40 |          | 17,319.96 | <a href="#">146023</a> |
| 12/01/2020 | rent | Rent (12/2020)                 | 2,985.40 |          | 20,305.36 | <a href="#">148965</a> |
| 01/01/2021 | rent | Rent (01/2021)                 | 2,985.40 |          | 23,290.76 | <a href="#">151905</a> |
| 02/01/2021 | rent | Rent (02/2021)                 | 2,985.40 |          | 26,276.16 | <a href="#">154920</a> |
| 03/01/2021 | rent | Rent (03/2021)                 | 2,985.40 |          | 29,261.56 | <a href="#">157914</a> |
| 04/01/2021 | rent | Rent (04/2021)                 | 2,985.40 |          | 32,246.96 | <a href="#">161281</a> |
| 05/01/2021 | rent | Rent (05/2021)                 | 2,985.40 |          | 35,232.36 | <a href="#">164384</a> |
| 06/01/2021 | rent | Rent (06/2021)                 | 2,985.40 |          | 38,217.76 | <a href="#">166904</a> |
| 07/01/2021 | rent | Rent (07/2021)                 | 2,985.40 |          | 41,203.16 | <a href="#">169419</a> |

6. Unit 404 Current Tenant Ledger



## Tenant Ledger

**Tenants:** Karen Gordon-Brown

**Office:** (510) 282-6147

**Unit:** 404

**Property:** 245 Lee Street - 245 Lee Street Oakland, CA 94610

**Status:** Current

**Move in date:** 04/01/2014

**Move out date:** --

**Lease Expiration:** 03/31/2015

**Rent:** 2,985.40

**Deposit Paid:** 5,190.00

| Date             | Payer              | Description   | Charges   | Payments | Balance          |
|------------------|--------------------|---|-----------|----------|------------------|
| Starting Balance |                    |   |           |          | 0.00             |
| 04/01/2014       |                    | Management Held Security Deposits   | 5,190.00  |          | 5,190.00         |
| 04/01/2014       | Karen Gordon-Brown | Payment   |           | 5,190.00 | 0.00             |
| 07/20/2021       |                    | Uncollectible Debt - Best Bay Migration Charges and Credits Balance Forward | 1,194.16  |          | 1,194.16         |
| 07/20/2021       |                    | NSF Fees Collected - Best Bay Migration Charges and Credits Balance Forward | 25.00     |          | 1,219.16         |
| 07/20/2021       |                    | Rental Income - Best Bay Migration Charges and Credits Balance Forward      | 39,984.00 |          | 41,203.16        |
| 08/01/2021       |                    | Rental Income - August 2021   | 2,985.40  |          | 44,188.56        |
| <b>Total</b>     |                    |   |           |          | <b>44,188.56</b> |

7. 10/19/20 Email "New Rent Board case – 245 Lee #404 – Case No. T20-0182"  
Containing Four (4) Screenshots of Text Messages Sent by Tenant on 3/28/20  
Beginning at 11:01 PM



Joshua Baker &lt;jdb@jbakerlaw.com&gt;

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**New Rent Board case - 245 Lee St #404 - Case No. T20-0182**

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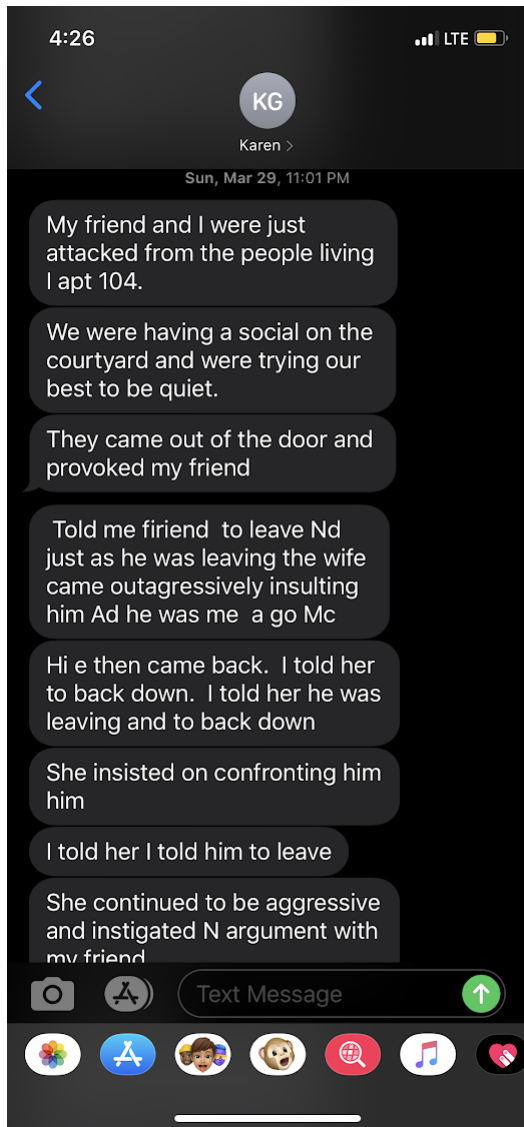
**Michael Tien** <mtien@bestbayapts.com>

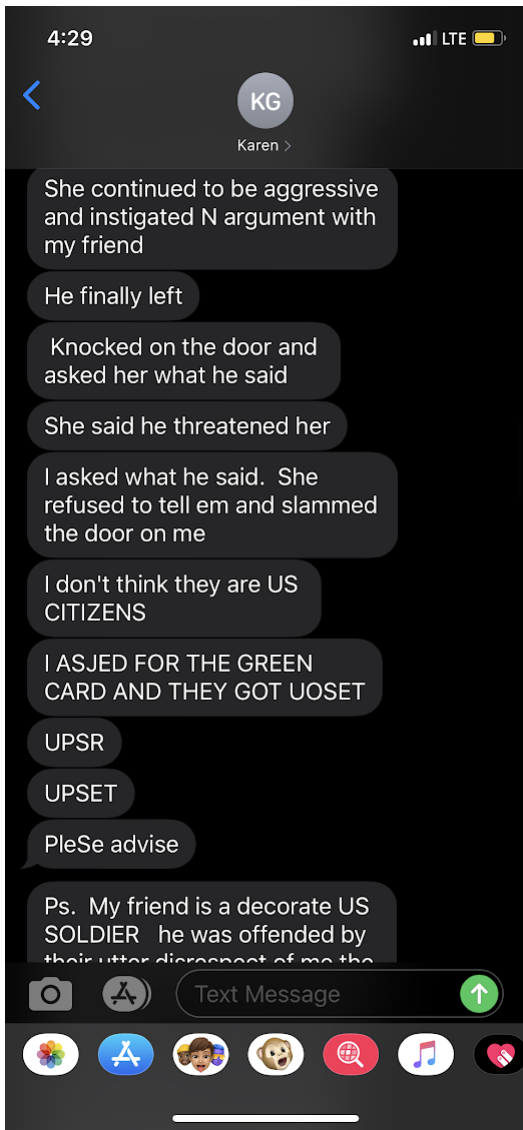
Mon, Oct 19, 2020 at 4:41 PM

To: Joshua Baker &lt;jdb@jbakerlaw.com&gt;

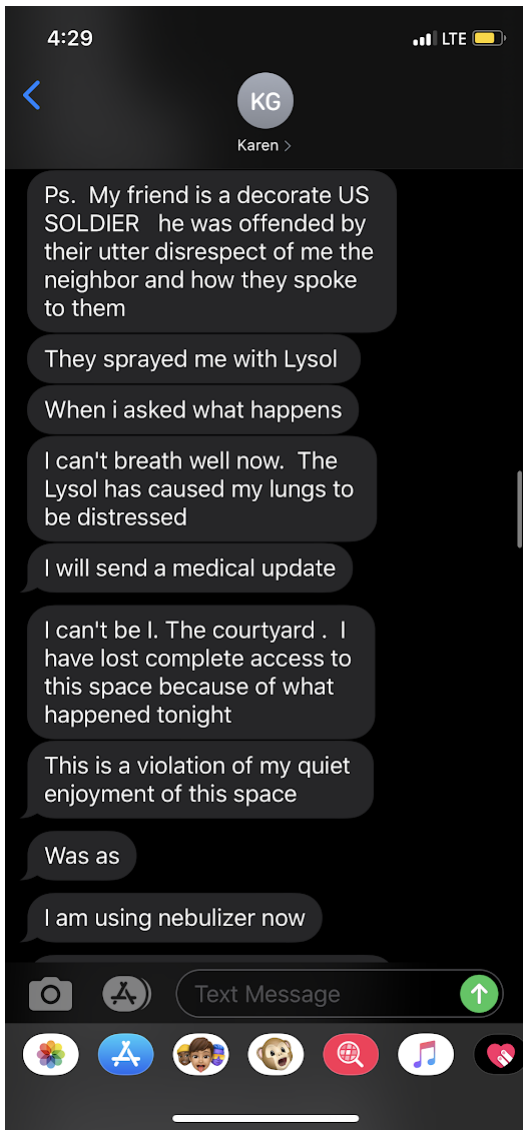
Cc: Jun Lu &lt;jlu@riazinc.com&gt;, Maxim Reshulsky &lt;mreshulsky@riazinc.com&gt;

Here's the screenshots of the text messages Karen sent me regarding the initial incident with her and unit #104.

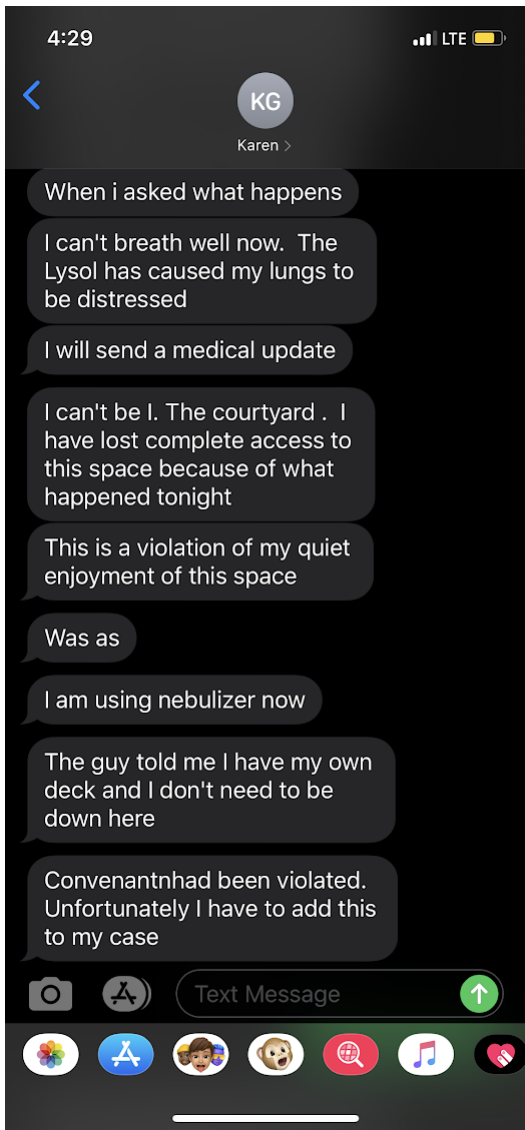
**000265**



000266



000267



**Michael Tien**  
**Property Manager, Riaz Capital**  
 e: mtien@riazinc.com | t: (510) 296-0325

Riaz Capital  
 2744 E 11th St, Oakland, CA 94601  
 www.riazcapital.com

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Although the sender has taken measures to ensure that this email including any attachments is error and virus-free, full security of this email message cannot be guaranteed. Therefore, the recipient should check the email and any attachments for security threats using appropriate security software.

[Quoted text hidden]  
 [Quoted text hidden]

**000268**

8. 9/2/20 Email "Fwd: Karen Cease and Desist" with Attachments:
  - a. Three (3) Photographs in the Body of the Email
  - b. Three (3) Videos Taken on 8/26/20 (use links in document)
  - c. Oakland Police Department Report Number 20-915921
  - d. "Karen Cease and Desist" Dated 8/27/20



Joshua Baker &lt;jdb@jbakerlaw.com&gt;

---

**Fwd: Karen Cease and Desist**

---

**Michael Tien** <mtien@bestbayapts.com>

Wed, Sep 2, 2020 at 5:10 PM

To: Jun Lu &lt;jlu@riazinc.com&gt;, Maxim Reshulsky &lt;mreshulsky@riazinc.com&gt;, Joshua Baker &lt;jdb@jbakerlaw.com&gt;

Hi guys,

Please see email below from the resident at 245 Lee St #104. I've also included 3 videos taken of an incident recently where the resident from unit #404 was banging drums around 10:30 pm which is past quiet enjoyment hours. This is a retaliation from Karen Gordon-Brown as the resident went upstairs to ask her to cease with the noise on August 26th.

Police report filed by unit #104 is included along with a copy of the "cease and desist" letter given to the resident from unit #404 (Karen Gordon-Brown).

Also, I included pictures of the late March incident which started this whole issue between #104 and #404. It shows Karen entering unit #104's unit without permission during the minor altercation. This incident led to Karen's latest rent board case claiming hate crime and violation of her covenant.

Let me know if you have any questions.

Thank you.









----- Forwarded message -----

From: **Jon duffield** <[duffieldjon@gmail.com](mailto:duffieldjon@gmail.com)>  
 Date: Wed, Sep 2, 2020 at 12:54 PM  
 Subject: Karen Cease and Desist  
 To: Michael Tien <[mtien@bestbayapts.com](mailto:mtien@bestbayapts.com)>  
 Cc: Sara Shields <[saraanduffield@gmail.com](mailto:saraanduffield@gmail.com)>

Hi Michael,

As discussed yesterday, Karen Gordon-Brown from apartment 404 sent us this cease and desist letter, attached, dated the day after I made the noise complaint against her about banging drums at 10:30pm. The letter states we have continued to harass/stalk her and also notes the events from her attack on us on March 30th was a hate crime against her.

We have outlined the details of that event in the Police Report also attached. Along with the police report, we have photo evidence of her trespassing into our apartment (which we shared with you) as well as two witnesses from the building who are willing to make a statement about that evening.

Per our legal council, we will not be replying to this letter (she has not stated our names in the letter only our apartment number) as our legal advisor said her claims are baseless and would not hold up based on what we have shared.

We are considering this letter a further act of her harassment and a direct threat to our family.

Along with the instances noted above, the one other in-person experience I had with her was walking by her in the garage around the 4th of August, she stuck her middle index finger up at me and my 20 month old daughter. (you can

**000273**

check the garage video camera for evidence as it would be clearly shown.)

If you have any questions or want to discuss any further please feel to give me a call. Thank you for your time.

Kind Regards,

Jon Duffield  
M: (415) 622 8228  
E: [duffieldjon@gmail.com](mailto:duffieldjon@gmail.com)

--

**MICHAEL TIEN**

Riaz Capital / Best Bay Apts Inc. | Property Manager

Check out our newest project: [www.Artthausstudios.com](http://www.Artthausstudios.com)

Check out our newest project: [www.theroseonbond.com](http://www.theroseonbond.com)

*BBA Office/ Artthaus Studios*

*2744 E 11th St,  
Oakland, CA 94601*

Office: 510-982-0634

Cell: 415-531.3872

Fax: 415.520.5480

[www.riazinc.com](http://www.riazinc.com) / [www.bestbayapts.com](http://www.bestbayapts.com) / [www.artthaus.com](http://www.artthaus.com) / [www.theroseonbond.com](http://www.theroseonbond.com)

**Please send all invoices to [invoices@riazinc.com](mailto:invoices@riazinc.com) and ALL mail to 2744 E 11th St, Oakland, CA 94601**

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**000274**

**5 attachments**

 **Video\_2.mov**  
495K

 **Video\_1.mov**  
997K

 **Video (3).mov**  
841K

 **report-20-915921-0.pdf**  
10K

 **Karen Cease and Desist .pdf**  
1053K

**000275**



OAKLAND POLICE DEPARTMENT SUMMARY INCIDENT REPORT



REPORT NUMBER: 20-915921

| INCIDENT INFORMATION          |   |   |                                     |   |   |  |
|-------------------------------|---|---|-------------------------------------|---|---|--|
| INCIDENT CODE<br><b>PC240</b> | INCIDENT TYPE<br><b>Assault (Threat of Assault)</b> | INITIAL<br>SUPP   | <input checked="" type="checkbox"/> | DATE/TIME STARTED<br><b>03/30/2020 10:30 PM</b> | DATE/TIME ENDED<br><b>03/30/2020 11:00 PM</b> | DATE/TIME REPORTED<br><b>08/31/2020 08:43 PM</b> |
| REPORT FILED FROM<br>***      | TRACKING NUMBER<br><b>T20017375</b>                 | LOCATION OF OCCURRENCE<br><b>245 Lee Street, 104, Oakland, CA 94610</b> |                                     |   | APPROVED BY:<br><b>4580/Misha ervin</b>       |  |
| LOCATION TYPE                 | THEFT TYPE  | METHOD OF ENTRY   | PREMISE TYPE                        | PT OF ENTRY                                     | PT OF EXIT                                    | ENTRY LOC  |

PERSON LISTINGS

| 1 | TYPE   | LAST NAME | FIRST NAME               | MIDDLE NAME | DOB        | RACE | SEX               | DRIVER LIC NO | LIC ST     |     |
|---|--|-----------|--------------------------|-------------|------------|------|-------------------|---------------|------------|-----|
|   | V  | Duffield  | Sara                     |             |            | ***  | ***               | *             | ***        | *** |
|   | SSN  | ETHNICITY | RESIDENT                 | EYE COLOR   | HAIR COLOR | AGE  | HEIGHT            | WEIGHT        | CELL PHONE |     |
|   |  |           |                          |             |            |      |                   |               |            |     |
|   | EMAIL<br><b>saraannshields@gmail.com</b>           |           | RESIDENCE ADDRESS<br>*** |             |            |      | HOME PHONE<br>*** |               |            |     |
|   | EMPLOYER NAME<br><b>Venables Bell and Partners</b> |           | BUSINESS ADDRESS<br>***  |             |            |      | WORK PHONE        |               |            |     |
| 2 | TYPE   | LAST NAME | FIRST NAME               | MIDDLE NAME | DOB        | RACE | SEX               | DRIVER LIC NO | LIC ST     |     |
|   | V  | Duffield  | Jonathan                 |             |            | ***  | ***               | *             | ***        | *** |
|   | SSN  | ETHNICITY | RESIDENT                 | EYE COLOR   | HAIR COLOR | AGE  | HEIGHT            | WEIGHT        | CELL PHONE |     |
|   |  |           |                          | ***         | ***        | 34   | 600               | 200           |            |     |
|   | EMAIL<br><b>duffieldjon@gmail.com</b>              |           | RESIDENCE ADDRESS<br>*** |             |            |      | HOME PHONE<br>*** |               |            |     |
|   | EMPLOYER NAME<br><b>duffieldjon@gmail.com</b>      |           | BUSINESS ADDRESS<br>***  |             |            |      | WORK PHONE        |               |            |     |
| 3 | TYPE   | LAST NAME | FIRST NAME               | MIDDLE NAME | DOB        | RACE | SEX               | DRIVER LIC NO | LIC ST     |     |
|   | S  | Brown     | Karen                    |             |            | ***  | *                 |               |            |     |
|   | SSN  | ETHNICITY | RESIDENT                 | EYE COLOR   | HAIR COLOR | AGE  | HEIGHT            | WEIGHT        | CELL PHONE |     |
|   |  |           |                          | ***         | ***        |      | 506               | 170           |            |     |
|   | EMAIL  |           | RESIDENCE ADDRESS<br>*** |             |            |      | HOME PHONE        |               |            |     |
|   | EMPLOYER NAME                                      |           | BUSINESS ADDRESS<br>***  |             |            |      | WORK PHONE        |               |            |     |

NARRATIVE

In the shared courtyard of 245 Lee Street, at 10:30 in the evening of March 30th. Karen (suspect) and a guest (suspect 2) were drinking on some chairs and speaking very loudly late in the evening, directly in front of our apartment. My husband opened the door and politely asked Karen and her guest to be quiet or return to her own balcony where they could continue on without causing a disturbance. They said they could do whatever they wanted and continued to be loud and carry on outside.

At about 10:40 my husband opened the door and again politely asked them to please be quiet. This time met with threats, the guest began to threaten my husband telling him to come out or he'll beat his ass, they both told my husband he had no right to tell them what to do as he wasn't from this country and they would find a way to pull his green card to get him kicked out of the country. The proceeded to hurl racist remarks telling him to speak english (he is Australian) and stop speaking "Chinese" and get the fuck out of their country.

We told them repeatedly that we had every right to be here, and that we were in fact from here (I am from

**REPORT NUMBER: 20-915921**

the Bay) and that they needed to leave the property. The guest finally left, shouting insults as he went. We closed our door and hoped that it was over.

Karen then knocked on our door, upon opening, continued yelling at us saying we had no right to tell her guest to leave. We asked her to back away from our door as she had no mask, she proceed to push her way into our home and hold her foot at the base of our door so that we could not shut it and continued to threaten us and yell at us. We asked her repeatedly to leave and finally had to use force to push the door closed. We immediately called the police, but did not receive a call back until 3am when we were no longer up. We reported the incident along with photographs to our Apartment Board, who advised us to stay away from her. Several neighbors were witness to the scene.

August, 27, 2020

Ms. Brown, 245 Lee St. #404

**RE: Cease and desist from stalking/harassing/policing common areas**

This CEASE AND DESIST ORDER is to inform you and your wife (housemate) that your persistent actions including but not limited to Stalking, Yelling my name, Yelling my Apt number, Banging Deck Walls, Entry Way Doors, Harassment, Calls, Texts, Letters to Landlord, Policing of common areas, Vigilante Behavior, and other crimes of moral turpitude have reached the point where I feel threatened. A police complaint has already been lodged against you with eye witnesses for your assault and hate crimes against me and my guests. You are **ORDERED TO STOP** such activities immediately as they are being done in violation of the law.

I have the right to remain free from these activities as they constitute [harassment/stalking/policing common areas], and I will pursue any legal remedies available to me against you if these activities continue. These remedies include but are not limited to: contacting law enforcement to obtain criminal sanctions against you, and suing you civilly for damages I have incurred as a result of your actions.

Again, you must IMMEDIATELY STOP unwanted activities and send me written confirmation that you will stop such activities. Plus, I demand that you stay 25 feet away from my deck wall and my entry ways. You risk incurring some very severe legal consequences if you fail to comply with this demand.

This letter acts as your final warning to discontinue this unwanted conduct before I pursue legal actions against you. At this time, I have not yet filed a civil harassment restraining order against you, as I hope we can resolve this matter without the civil court involvement. I am not under any circumstances, however, waiving any legal rights I have presently, or future legal remedies against you by sending you this letter. This order acts as ONE FINAL CHANCE for you to cease your illegal activities before I exercise my rights.

To ensure compliance with this letter, and to halt civil restraining order proceedings I will take against you, I require you to fill in and sign the attached form and mail it back to me within 10 days of your receipt of this letter. I have included a self-addressed stamped envelope. Do not drop it under my door as I am demanding you stay 25 feet away from my deck wall and door. Do not drop it in my mailbox, as I am demanding you do not use my private mailbox. I am demanding that I receive your compliance document via US Post Office only. Failure to do so will act as evidence of your infringement upon my legal rights, and I will immediately seek legal avenues to remedy the situation.

Sincerely,

  
Ms. Brown

245 Lee Street #404

Oakland, CA 94610

i Attachment

cc: Best Bay Apartments

000278



**CEASE AND DESIST COMPLIANCE AGREEMENT**

I, \_\_\_\_\_ (perpetrator 1) and my wife /housemate (perpetrator 2), \_\_\_\_\_ both residing at 245 Lee Street, #104, Oakland, CA 94610 do hereby agree to stop Harassing/Stalking/Policing in Common Areas which are in violation of the rights of Ms. Brown residing at 245 Lee Street, #404, Oakland, CA 94610. I understand that this is my final chance to cease these activities. I understand that Ms. Brown potentially has the right to pursue a civil harassment restraining order against me relating to my engagement in these activities, but she will not pursue those rights in contemplation of my compliance with this written demand. I further understand that Ms. Brown has not waived her rights and may pursue legal remedies against me if I fail to abide by this agreement. I understand that this agreement is not specifically limited to the activities named herein. I will not engage in any activity now or in the future done for the purpose of [stalking/harassing /policing in common areas] Ms. Brown, her family, friends, and guests. I furthermore agree not to engage in any activity, regardless of its official title, that is done in violation of Ms. Brown's legal rights including compliance with her demand that we stay 25 feet away from her deck wall and entryways. If I fail to cease performing these activities, Ms. Brown may pursue legal action against me in accordance Ms. Brown's legal rights. This agreement acts as a contract between me, \_\_\_\_\_, my wife/housemate, \_\_\_\_\_, and Ms. Brown. Forbearing enforcement of legally enforceable remedies is sufficient consideration to support this agreement. This agreement represents the entire agreement between the parties. Any statements made orally, written, or otherwise which are not contained herein shall have no impact on either parties' rights or obligations elaborated in this agreement.

Date \_\_\_\_\_

\_\_\_\_\_  
Signature, Perpetrator 1

\_\_\_\_\_  
Print Name

Date \_\_\_\_\_

\_\_\_\_\_  
Signature, Perpetrator 2

\_\_\_\_\_  
Print Name

9. 10/2/20 Email (forwarding 10/1/20 email) "Fwd: Incident Update I 245 Lee St #104" with Attachment:
  - a. "Cease and Desist Order" Dated 9/20/20



Joshua Baker &lt;jdb@jbakerlaw.com&gt;

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**Fwd: Incident Update | 245 Lee St #104**

1 message

**Michael Tien** <mtien@bestbayapts.com>

Fri, Oct 2, 2020 at 5:57 PM

To: Jun Lu &lt;jlu@riazinc.com&gt;, Max Reshulsky &lt;mreshulsky@riazinc.com&gt;, Joshua Baker &lt;jdb@jbakerlaw.com&gt;

Hi guys,

FYI. Please see the email below.

The residents had enough of the harassment from Karen Gordon-Brown at unit #404 so they are in the process of looking to move. I've provided them the 30 day notice of intent to vacate already. The residents are potentially looking to move out before the 30 days as they're actively looking for a new home.

Thank you.



**Michael Tien**  
Property Manager, Riaz Capital  
e: mtien@riazinc.com | t: (510) 296-0325

Riaz Capital  
*2744 E 11th St, Oakland, CA 94601*  
[www.riazcapital.com](http://www.riazcapital.com)

Check out our latest projects: [Artthaus Studios](#) / [Hannah Park](#) / [The Rose on Bond](#) / [The Linden](#)

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----- Forwarded message -----

From: **Sara Shields** <saraannshields@gmail.com>  
Date: Thu, Oct 1, 2020 at 2:53 PM  
Subject: Incident Update | 245 Lee St #104  
To: Michael Tien <mtien@bestbayapts.com>  
Cc: Jon duffield <duffieldjon@gmail.com>

Hi Michael,

Hope you are well.

Thanks for taking our call yesterday, and staying across the situation with 404.

We had officer J. Bianchi come out yesterday to discuss what can be done with the on-going harassment/threats by Ms Brown. (Incident Report #375)

Because both police reports filed are essentially hearsay at this point, there is not much the police department can do unless Ms Brown either physically attacks us or threatens us with harm, etc. He pointed that this is truly a civil issue and there really isn't much the law can do at this point in time.

He has directed us to look into a restraining order, but again, given her proximity to us in the building there really isn't much that can be done other than lawsuits etc. which won't amount to much as there really isn't any concrete evidence or incidence.

As it doesn't look like she will be vacating the building any time soon, we will begin to look in earnest at moving out. We request because of this unprecedented situation that we not be held to a 1-month notice period and be able to exit our lease as soon as we find a new place of residence.

We'd love to stay here as we have great relationships with almost all of the other tenants and have found you, the maintenance team and general staff all to be helpful and friendly, but unfortunately the continued harassment and unease of the situation is more than we are willing to continue to endure.

**000281**

We have attached her latest Cease and Desist with her false claims against us for your records - again we are happy to try to help in any way possible but unfortunately we need to protect our own health and safety.

Thanks so much,  
Sara & Jon

--

**MICHAEL TIEN**

Riaz Capital / Best Bay Apts Inc. | Property Manager

Check out our newest project: [www.Artthausstudios.com](http://www.Artthausstudios.com)

Check out our newest project: [www.theroseonbond.com](http://www.theroseonbond.com)

*BBA Office/ Artthaus Studios*  
*2744 E 11th St,*  
*Oakland, CA 94601*

Office: 510-982-0634

Cell: 415-531.3872

Fax: 415.520.5480

[www.riazinc.com](http://www.riazinc.com) / [www.bestbayapts.com](http://www.bestbayapts.com) / [www.artthaus.com](http://www.artthaus.com) / [www.theroseonbond.com](http://www.theroseonbond.com)

**Please send all invoices to [invoices@riazinc.com](mailto:invoices@riazinc.com) and ALL mail to 2744 E 11th St, Oakland, CA 94601**

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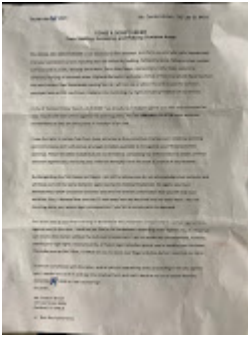
**3 attachments**



**Page 3.jpg**  
2273K

**Page 1.jpg**  
2521K

**000282**



Page 2.jpg  
2619K

000283



September 26, 2020

Ms. Gordon-Brown, 245 Lee St. #404

**CEASE & DESIST ORDER**  
**From Stalking, Harassing, and Policing Common Areas**

This CEASE AND DESIST ORDER is our second and final attempt to inform you and your wife (housemate) that your persistent actions including but not limited to Stalking, Yelling my name, Yelling my Apt number out-loud and in public, Banging Deck Walls, Entry Way Doors, Harassment, Calls, Texts, Letters to Landlord, Policing of common areas, Vigilante Behavior, and other crimes of moral turpitude have reached the point where I feel threatened causing fear as I will not use or allow my sons to use the common courtyard area at 245 Lee Street, Oakland, CA, restricting my rights including freedom of movement.

A city of Oakland Police Report, 20-018189 has already been lodged against you with eye witnesses for your assault and hate crimes against me and my guests. You are **ORDERED TO STOP** such activities immediately as they are being done in violation of the law.

I have the right to remain free from these activities as they constitute [harassment /stalking /policing common areas], and I will pursue any legal remedies available to me against you if these activities continue. These remedies include but are not limited to: contacting law enforcement to obtain criminal sanctions against you, and suing you civilly for damages I have incurred as a result of your actions.

By disregarding the first Cease and Desist, I am left to believe you do not acknowledge your behavior and will likely commit the same behavior again leaving me feeling threatened. So, again, you must **IMMEDIATELY STOP** unwanted activities and send me written confirmation that you will stop such activities. Plus, I demand that you stay 25 feet away from my deck wall and my entry ways. You risk incurring some very severe legal consequences if you fail to comply with this demand.

This letter acts as your final warning to discontinue this unwanted conduct before I pursue legal actions against you. At this time, I have not yet filed a civil harassment restraining order against you, as I hope we can resolve this matter without the civil court involvement. I am not under any circumstances, however, waiving any legal rights I have presently, or future legal remedies against you by sending you this letter. This order acts as **ONE FINAL CHANCE** for you to cease your illegal activities before I exercise my rights.

To ensure compliance with this letter, and to halt civil restraining order proceedings I will take against you, I require you to fill in and sign the attached form and mail it back to me on or before Monday, September 27, 2020 So I can countersign.

Sincerely,

Ms. Gordon-Brown  
245 Lee Street #404  
Oakland, CA 94610

cc: Best Bay Apartments

000284



**CEASE AND DESIST  
COMPLIANCE AGREEMENT**

I, Jonathan Duffield, DOB: 04/26/1986 (suspect 1-OPD # 20-018189 ) and my wife /housemate  
(suspect 2 – OPD # 20-018189, \_\_\_\_\_

each residing at 245 Lee Street, #104, Oakland, CA 94610 do hereby agree to stop  
Harassing/Stalking/Policing in Common Areas which are in violation of the rights of the victim  
Ms. Brown residing at 245 Lee Street, #404, Oakland, CA 94610. I understand that this is my  
final chance to cease these activities. I understand that the victim Ms. Gordon-Brown potentially  
has the right to pursue a civil harassment restraining order against me relating to my  
engagement in these activities, but she will not pursue those rights in contemplation of my  
compliance with this written demand. I further understand that the victim Ms. Gordon-Brown has  
not waived her rights and may pursue legal remedies against me if I fail to abide by this  
agreement. I understand that this agreement is not specifically limited to the activities named  
herein. I will not engage in any activity now or in the future done for the purpose of  
[stalking/harassing /policing in common areas] Ms. Gordon-Brown and all other lessees, her  
family, friends, and guests. I furthermore agree not to engage in any activity, regardless of its  
official title, that is done in violation of the victim Ms. Gordon-Brown's legal rights including  
compliance with her demand that we stay 10 feet away from her deck wall and entryways. If I  
fail to cease performing these activities, Ms. Gordon-Brown may pursue legal action against me  
in accordance Ms. Gordon-Brown's legal rights. This agreement acts as a contract between me,  
Jonathan Duffield, DOB: 04/26/1986, my wife/housemate,

\_\_\_\_\_, and Ms. Gordon-Brown. Forbearing  
enforcement of legally enforceable remedies is sufficient consideration to support this  
agreement. This agreement represents the entire agreement between the parties. Any  
statements made orally, written, or otherwise which are not contained herein shall have no  
impact on either parties' rights or obligations elaborated in this agreement.

[Signatures on Page 2]



SIGNATURE PAGE  
CEASE AND DESIST COMPLIANCE AGREEMENT

Date \_\_\_\_\_

\_\_\_\_\_  
Signature, Suspect 1

Jonathan Duffield, DOB:04/26/1986

Print Name

Date \_\_\_\_\_

\_\_\_\_\_  
Signature, Suspect 2

\_\_\_\_\_  
Print Name Housemate/Wife

Date \_\_\_\_\_

\_\_\_\_\_  
Countersign, Victim

Karen Gordon-Brown

Print Name Victim



10.BBA COVID-19 Notice to Residents Distributed 3/10/20



## NOTICE TO RESIDENTS

### **Re: Coronavirus**

Dear Residents,

As many of you are aware, there have been cases of the Coronavirus (officially known as COVID-19) reported in the U.S. Though our locality has not been flagged as a red alert area by the Center for Disease Control, we would like to inform you of preventive measures to protect yourself and others.

If you or one of your cohabitants find yourselves exhibiting symptoms of COVID-19, please stay home, avoid contact with other residents, and contact a medical professional immediately.

### **Information from the Center of Disease Control**

#### **How It Spreads**

1. Person-to-person spread: The virus is thought to spread mainly from person-to-person.
  - Between people who are in close contact with one another (within about 6 feet).
  - Through respiratory droplets produced when an infected person coughs or sneezes.

These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.

2. Spread from contact with infected surfaces or objects

It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.

#### **Prevention**

The best way to prevent illness is to avoid being exposed to this virus. However, as a reminder, CDC always recommends everyday preventive actions to help prevent the spread of respiratory diseases, including:

- Avoid close contact with people who are sick.
- Avoid touching your eyes, nose, and mouth.
- Stay home when you are sick.

**000288**

- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Clean and disinfect frequently touched objects and surfaces using a regular household cleaning spray or wipe.
- Follow CDC's recommendations for using a facemask.
  - CDC does not recommend that people who are well wear a facemask to protect themselves from respiratory diseases, including COVID-19.
  - Facemasks should be used by people who show symptoms of COVID-19 to help prevent the spread of the disease to others. The use of facemasks is also crucial for health workers and people who are taking care of someone in close settings (at home or in a health care facility).
- Wash your hands often with soap and water for at least 20 seconds, especially after going to the bathroom; before eating; and after blowing your nose, coughing, or sneezing.
  - If soap and water are not readily available, use an alcohol-based hand sanitizer with at least 60% alcohol. Always wash hands with soap and water if hands are visibly dirty.

**For additional information and updates regarding the virus, please visit [cdc.gov](https://www.cdc.gov)**

Thank you,

Best Bay Apartments Inc.

**000289**

11.BBA COVID-19 Letter Distributed 7/24/20 – “Keeping our Community Safe”



Dear Residents,

With Covid -19 cases on the rise in our area and with your safety in mind, we wanted to provide you with some important information from Best Bay Apartments. We should all be operating with extra precaution and assume that there may be cases of Covid - 19 in our building communities. As a result, we want to highlight and remind everyone to follow the local orders of government and public health officials

### **Resources**

Here are some helpful links with resources and guidelines to help our building communities stay informed:

- CDC - Coronavirus <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- Alameda County Public health dept Covid 19 <http://www.acphd.org/2019-ncov.aspx>
- June 5th (revised June 18th and July 19th) Alameda County Health <http://www.acphd.org/media/593395/alameda-county-health-officer-order-20-14-b-english.pdf>

In addition, please also follow these specific policies and guidelines:

## **BBA POLICIES AND GUIDELINES**

### **Face Coverings**

Face Coverings must be worn unless you are in your own unit. If you have contact with our building staff - resident managers, property managers, maintenance technicians or other staff - for your safety and the safety of our team members, please wear a face covering - they have all been instructed to do the same.

Alameda County requires face coverings as of June 5th and the link for the order is here - <http://www.acphd.org/2019-ncov/face-covering.aspx>

**000291**

## Hand washing

Please wash your hands frequently throughout the day for 20 seconds or more with soap and water, or when not available use hand sanitizer.

## Social/Physical Distancing

When interacting with your building staff or other residents, please practice social and physical distancing. Please stand 6 feet or farther apart and wear a face covering when interacting with others.

## Work Orders

When our technicians have to enter the unit to perform work, please wear a face covering and keep 6 feet or more distance from our team members. Maintenance technicians will likely also ask some brief screening questions of any residents prior to entering for their safety and the safety of our residents. If the required 6 feet of distance or more is not given, this can delay a work order or potentially prevent the work from being performed for your safety and the safety of our team members.

## Rent Payment Protocol

### **PAPERLESS RENT PAYMENT PROTOCOL – BE SURE TO PAY NO LATER THAN THE 5TH OF THE MONTH**

As we've mentioned previously, we strongly encourage all residents to **enroll in our online payment program and paperless work order request system through RentCafe** - please submit requests to [residents@bestbayapts.com](mailto:residents@bestbayapts.com). If you prefer to pay by check, please make sure to note your building address and unit # on the check memo (see example below) and mail your rent checks to 2744 E 11th St, Oakland, CA 94601 or deposit them in your building drop box (if applicable) or our drop box located at 2744 E 11th St, Oakland (open 9am to 5pm).

**Please note that to avoid physical interactions, resident managers will not be accepting your rent checks, nor will we have receptionists at 2744 E 11th St to assist in dropping off your checks. If you drop off a paper check, please allow us 5 business days to mail you a rent receipt.**



## COVID CASES OR EXPOSURE

### Positive Covid - 19 cases

If you or a member of your household has tested positive for Covid - 19 or you are feeling symptoms of Covid - 19 please follow your health care providers instructions and we ask that you please also notify your resident manager or property manager. **If you believe you had close contact with a member of our building staff and within the prior 7-10 days, please contact our internal Human Resources team at [HR@riazinc.com](mailto:HR@riazinc.com) immediately** so that we can ensure our team members are able take any necessary precautions.

### Positive Covid - 19 cases and work orders

If you or a member of your household has become infected with Covid - 19, for the safety of our building community, your safety and the safety of our team members, all work orders, to the extent reasonably possible, will be put on hold until all residents are medically clear. Please let us know when the required 14 days of self-isolating or quarantine time has passed since becoming ill. When it is safe to do so, we will take extra precautions and allow our team members to enter to perform any required work orders.

### Precautionary Measures - Extra Cleaning

As we continue to monitor this situation, there appears to be a rise in Coronavirus cases in our area, therefore beginning next week, we will have a third-party cleaning vendor cleaning all building common areas routinely.

We appreciate your cooperation and understanding during these unique times. We hope you all stay healthy and safe.

Thank you,  
**Best Bay Apartments**  
[residents@bestbayapts.com](mailto:residents@bestbayapts.com)

12.Screenshot of Property Manager-Resident Manager Text Message from 8/11/21





Darlene >

Today 11:02 AM

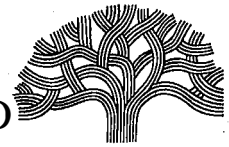
Hey Darlene. I'm working on the rent board case now. Has Karen Gordon Brown complained about people not masking or social distancing since the start of the pandemic?

Delivered



Hey Mike, Karen has absolutely not complained to me about residents not complying with Covid masking or distancing.  
  
The handful of times I've seen Karen since last year, she's been unmasked.





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

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION**

**CASE NUMBERS:** T20-0182, Gordon-Brown v. Best Bay Apartments, Inc.

**PROPERTY ADDRESS:** 245 Lee Street, Unit 404, Oakland, CA

**DATE OF HEARING:** August 18, 2021

**DATE OF DECISION:** October 1, 2021

**APPEARANCES:** Karen Gordon-Brown, Tenant  
Michael Tien, Property Manager, Best Bay Apartments  
Jun Lu, Property Administrator, Best Bay Apartments  
Joshua Baker, Owner Representative

### **SUMMARY OF DECISION**

Tenant Gordon-Brown's petition is denied.

### **PROCEDURAL HISTORY**

This case was originally consolidated with a *Property Owner Petition For Approval of Rent Increase* filed by the Owner (L19-0146), along with two additional cases (T19-0284 and T19-0404) filed by Ms. Gordon-Brown against Best Bay Apartments, Inc., and a third case (T19-0356), filed by a different tenant against Best Bay Apartments, Inc., to be heard jointly on May 3, 2021.<sup>1</sup>

Subsequently, case L19-0146 was separated from the other cases, and was heard on April 27 and 28, 2021.

On May 3, 2021, during the hearing on the consolidated tenant cases, the Hearing Officer separated this case (T20-0182) from the other tenant petitions (T19-0284, T19-0356, and T19-0404), for a hearing on a future date. The hearing for case T20-0182 was held on August 18, 2021.

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<sup>1</sup> This was stated in the *Order to Consolidate and Notice of Remote Settlement Conference and Hearing* dated December 2, 2020.

## CONTENTIONS OF THE PARTIES

Tenant Gordon-Brown filed this petition on July 28, 2020, contesting a rent increase from \$2,720 to \$2,985.40, effective June 1, 2019. Her petition asserts that the increase “exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.” This issue will not be addressed in this Hearing Decision.<sup>2</sup>

Additionally, Tenant Gordon-Brown alleged that the owner is providing her with fewer housing services than she received previously or is charging her for services originally paid by the owner. Her list of items included three claims: Loss of Quiet Enjoyment Covenant Violation; Courtyard Access – 100% Loss of Use; and Failure to Inforce (sic) COVID-19 Health Rules. At the outset of the hearing, the tenant withdrew the third item regarding the enforcement of COVID-19 Health Rules from her petition.

The owner filed a response on August 11, 2021, denying that the owner substantially interfered with the tenant’s quiet enjoyment of the premises and characterizing the situation as a dispute between two tenants that was not caused nor escalated by the owner’s actions. In terms of the tenant’s claim to having lost use of the courtyard, the owner set forth the same response, in addition to noting that the tenant did not raise this issue with the owner except by filing the petition in this case.

### THE ISSUES

1. When, if ever, was the tenant served with the *RAP Notice*?
2. Have the tenant’s housing services decreased and, if yes, in what amount?
3. What, if any, restitution is owed between the parties and how does it affect the rent?

### EVIDENCE

Rental History: Tenant Karen Gordon-Brown moved into Unit 404 on April 1, 2014, at an initial rent of \$2,670 per month. The owner provided a copy of the Notice of Rent Adjustment Program (*RAP Notice*) served on the tenant, dated September 29, 2015. (Owner Exhibit 1, p. 20.)

Decreased Housing Services Claims:

#### Loss of Quiet Enjoyment Covenant Violation

##### **TENANT TESTIMONY**

##### March 2020 Incident

Tenant Gordon-Brown testified about an incident on March 28, 2020, when she and her date were sitting in the outside courtyard of the building, a little after 10:00 pm, and the occupant of Unit 104 came out and asked them to leave. After the tenant’s date

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<sup>2</sup> The tenant challenged this same rent increase in two prior petitions, T19-0284 and T19-0404, and it was found to be valid in the Hearing Decision regarding those cases, T19-0284 et al Gordon-Brown et al v. Best Bay Apartments, Inc., issued on September 20, 2021, therefore it is not at issue in this case.

left, the tenant knocked on the door of Unit 104. When the residents opened the door, the tenant stepped into the doorway of the unit. The occupants of the unit yelled at her and sprayed her with Lysol. The tenant subsequently filed a police report about the incident. She also texted Property Manager Michael Tien about the incident at 11:01 pm that evening. (Tenant Exhibit 6, pp. 1-6.)

#### August 2020 Incident

Tenant Gordon-Brown also testified about an incident on August 26, 2020, after the filing of her petition, when she was drumming in her unit at approximately 10:30 pm. The tenant in Unit 104 climbed up the stairs to the area outside her unit, yelling her unit number ("404"), and telling her to stop drumming. The tenant felt threatened by this behavior, and texted Property Manager Tien about the incident that evening.

### **OWNER AGENT TESTIMONY**

#### March 2020 Incident

Property Manager Tien testified that he responded to the tenant's text on Monday morning, March 30, 2020. (Tenant Exhibit 6, p. 6.) He was also contacted by the tenants in Unit 104 that morning to tell him about the incident. Those tenants filed a police report alleging that the tenant had entered their unit (Owner Exhibit 1, pp. 40-41), and provided him with a photograph documenting this (Owner Exhibit 1, p. 37).

According to Property Manager Tien, he was waiting for an update from the tenant about the incident because she told him she was going to file a police report. When the tenant texted him on June 19, 2020, asking him if he had done a further investigation of the incident, he asked her for the name of a witness she referred to, but she declined to provide the name. (Tenant Exhibit 6, pp. 7-14.)

#### August 2020 Incident

Regarding the incident in late August 2020, Property Manager Tien testified that he responded to the tenant's text the day after he received it, on August 27, 2020. He passed the information on to his supervisors, as he had been instructed to do regarding any incidents between the tenants in Unit 104 and Unit 404, after the incident in late March 2020.

According to Property Manager Tien, the tenants in Unit 104 received a Cease and Desist letter from Tenant Gordon-Brown dated August 27, 2021. (Owner Exhibit 1, pp. 42-43.) They decided to move out of the building in October 2020 because they felt that the tenant was harassing them. (Owner Exhibit 1, pp. 45-46.)

### **Courtyard Access – 100% Loss of Use**

The tenant's claim regarding loss of courtyard access is related to the same issues with her neighbors described above, based on what she wrote on her petition. The tenant complained at the hearing that Property Manager Tien should have treated her the same way he treated the resident in Unit 104, in that he should have asked to meet with her and ask her side of what happened.

The tenant introduced some photographs and videos into evidence regarding the condition of the furniture in the courtyard. However, since the condition of the courtyard was not stated as a claim in the current petition, this evidence cannot be considered at this time.

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

#### **When, if ever, was the tenant served with the *RAP Notice*?**

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>3</sup> and together with any notice of rent increase or change in the terms of a tenancy.<sup>4</sup> The evidence was undisputed that the owner served the tenant with the *RAP Notice* in September 2015.

#### **Have the tenant's housing services decreased and, if yes, in what amount?**

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>5</sup> and may be corrected by a rent adjustment.<sup>6</sup> However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided due to the parties contractual obligation at the beginning of the tenancy and is no longer being provided.

In a decreased housing services case, a tenant must establish that she has given the owner notice of the problems and the opportunity to fix the problems before she is entitled to relief.

There is a time limit for claiming decreased housing services. If the decreased housing 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*.

However, if the decreased service is "ongoing (e.g., a leaking roof)," the tenant can file at any time, but is only entitled to restitution beginning 90 days before the petition is filed and to the period of time the owner knew or should have known about the condition.<sup>7</sup> This "leaking roof" exception to the 90 days requirement generally covers conditions affecting the habitability of the unit.

The tenant filed her petition on July 28, 2020, which is more than 90 days after the incident on March 28, 2020, but arguably within 90 days after the property manager's alleged failure to act that is the basis of the tenant's decreased services claims, given that

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<sup>3</sup> O.M.C. § 8.22.060(A)

<sup>4</sup> O.M.C. § 8.22.070(H)(1)

<sup>5</sup> O.M.C. § 8.22.070(F)

<sup>6</sup> O.M.C. § 8.22.110(E)

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

the tenant followed up with Property Manager Tien about his response on June 19, 2020. Therefore, this claim is not time-barred.

### Loss of Quiet Enjoyment Covenant Violation

The tenant testified in great detail about her altercation with the neighbor in Unit 104 on March 28, 2020, and the apartment manager's alleged failure to "enforce lease covenants." The tenant did not establish, however, that the apartment manager failed to act appropriately. Property Manager Tien acknowledged the receipt of the tenant's complaint in March 2020 on the next business day after receiving it, yet he was waiting for the police to investigate the incident because of what the tenant reported to him. In addition, when he asked the tenant for the name of her witness, she failed to provide it.

Regarding the incident on August 26, 2020, Property Manager Tien followed the instructions from his supervisors to pass the information on to them. The tenant did not establish that either Property Manager Tien or his supervisors had a responsibility to act on her complaint about the resident in Unit 104, given the ongoing dispute between them.

More importantly, the Rent Adjustment Program (RAP) has no jurisdiction over claims regarding the loss of quiet enjoyment. The RAP is an administrative agency whose power is limited to enforcing the provisions of the Rent Control Ordinance. In the case of Larson v. City and County of San Francisco (2011) 192 Cal.App.4th 1263, the court examined the authority of San Francisco's Rent Board. The court held that the jurisdiction of administrative agencies is limited to those claims that are quantifiable in nature. The Court specifically held that the loss of quiet enjoyment is not such a claim.<sup>8</sup> Therefore, the tenant's claim of loss of quiet enjoyment is denied.

### Courtyard Access – 100% Loss of Use

The tenant's petition regarding this decreased services claim states as follows:

Since the assault, I have been afraid to use the courtyard. Until the building management informs the neighbor they are in violation of not only my rights but of the lease covenants, I am afraid to use the courtyard.

Again, the tenant failed to establish that any action or inaction of the building management led to her losing access to the courtyard. The evidence introduced at the hearing established that both sides in the dispute viewed the other as the aggressor, and did not establish that Property Manager Tien or his supervisors had any responsibility to inform the Unit 104 residents that they were violating the tenant's rights. In fact, the Unit 104 residents moved out of the building due to the poor relationship between them and the tenant.

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<sup>8</sup> Larson v. City and County of San Francisco (2011) 192 Cal.App.4th 1263, 1281.

**What, if any, restitution is owed between the parties and how does it affect the rent?**

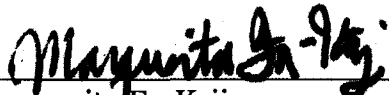
No restitution is owed to the tenant by the owner. As found in the Hearing Decision in T19-0284 et al Gordon Brown et al v. Best Bay Apartments, Inc., the tenant's rent base rent is \$2,985.40 per month.

**ORDER**

Petition T20-0182 is denied.

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

Dated: October 1, 2021

  
\_\_\_\_\_  
Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T20-0182**

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

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

**Documents Included**

Hearing Decision

**Manager**

Jun Lu, Best Bay Apartments, Inc.  
2744 East 11th Street  
Oakland, CA 94601

**Owner Representative**

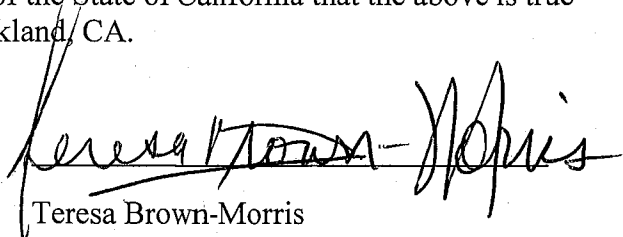
Joseph Baker, Baker Law  
4224 California Street Suite 106  
San Francisco, CA 946118

**Tenant**

Karen Gordon-Brown  
245 Lee Street Unit 404  
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **October 04, 2021** in Oakland, CA.



Teresa Brown-Morris

Oakland Rent Adjustment Program

**000302**





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

**RECEIVED**  
 NOV 15 2021  
 RENT ADJUSTMENT PROGRAM  
**OAKLAND APPEAL**

|  |  |   |  |
|--|--|---|--|
| <b>Appellant's Name</b><br>Karen Gordon-Brown  |  | <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant |  |
| <b>Property Address (Include Unit Number)</b><br>245 Lee Street, #404<br>Oakland, CA 94612                   |  |   |  |
| <b>Appellant's Mailing Address (For receipt of notices)</b><br>344 Thomas L. Berkley Way , Oakland, CA 94612 |  | <b>Case Number Consolidated</b><br>T20-0182, T19-0284, T19-0404           |  |
|  |  | <b>Date of Decision appealed</b><br>October 1, 2021 & September 20, 2021  |  |
| <b>Name of Representative (if any)</b>   |  | <b>Representative's Mailing Address (For notices)</b>                     |  |
|  |  |   |  |

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

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

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

- a)  The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)* ✓
- b)  The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
- c)  The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
- d)  The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
- e)  The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

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

Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 2.

**• 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 10-18-2021, 2021, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

|                        |                                 |
|------------------------|---------------------------------|
| <b>Name</b>            |                                 |
| <b>Address</b>         |                                 |
| <b>City, State Zip</b> |                                 |
| <b>Name</b>            | Oscar Aldama Soria c/o 2BLiving |
| <b>Address</b>         | 626 El Camino Real              |
| <b>City, State Zip</b> | San Carlos, CA 94070            |

|  |             |
|--|-------------|
| Karen Gordon-Brown.  | 10-18-2021  |
| <b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b> | <b>DATE</b> |

For more information phone (510) 238-3721.

**IMPORTANT INFORMATION:**

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

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

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

**1. Other.****CONSOLIDATION ORDER – Not Superseded**

On January 7, 2020, the hearing officer ordered that all cases against 2367 Washington LLC & Lee St. Partners LLC v tenants would be consolidated. As a result, all the evidence was submitted to a group folder. We had access to the folder with a link.

The consolidation order allowed me to plan to use all the evidence I submitted across all three petitions. I needed to review all my evidence for all hearings because we were able to submit evidence to the consolidated folder 24 hours before the hearing date, often this was impromptu, and it is difficult to recall all that was submitted to the folder.

Although no other order was made that would supersede the consolidation order, and I received no notification via mail or email that the consolidation order would end before all of the petitions were heard, I was told there is no more consolidation just days before T20—0182 could be heard.

**TIMELINESS OF THIS APPEAL**

This appeal is submitted on this day because the last order issued on the consolidated file was the hearing decision on October 1, 2021. Because there was no order to supersede the consolidation order, nor was there any advanced notice, I should still have the time needed to submit this appeal under the rules of the consolidation.

**VIRTUAL HEARINGS PROCEDURES – Submission of Evidence Problems**

The hearing officer submitted no further orders to supersede the order to consolidate. However, when the T20-0182 petition was continued, the hearing officer blocked access to the evidence file without notification. After multiple requests for access to the folder, I was told just days before the hearing to resubmit all my evidence. As I said, I was unsure at this point what I would be leaving out due to the nature of how the virtual hearing was conducted and allowing evidence to be submitted the night before.

**OTHER EVIDENCE**

Additionally, in the capital improvements passthrough, (partially in person hearing) I asked that the tenants have the right to ask for discovery regarding the electricity explosion issue, but it was denied. I assumed all civil rules applied in the RAP hearing.

**2. The decision is not supported by substantial evidence.****HEARING DECISION MISSING EVIDENCE – Evidence Submitted to Consolidated Folder Missing**

As I review the hearing officer's decision for T20-0182, I can tell how she characterized the night me and my friend were assaulted, she did not have access to the Criminal Police Report that I sent to my landlord and submitted as evidence, which proves emotional distress for me and my children resulting in housing service losses. She did not have access to the the Cease-and-Desist letter I copied to the landlord and submitted as evidence because she noted that I did not notify the landlord. Although the landlord was notified the night the assault happened. I believe much of my evidence was lost by stopping the consolidation without notice.

**3. The decision is inconsistent with decisions issued by other Hearing Officers:****TIMELINESS OF PETITION – 90-Days for Pool Loss Waived**

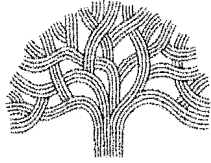
On August 23, 2018, I was a witness at the Rent Board Hearing for Rennella v Best Bay Apartments, Inc. T16-0726. In the hearing officer's decision, Rennella was awarded a 10% rent reduction for loss of housing services when the pool amenity was destroyed by the new landlord. I was asked to support her because we became friends while swimming that very pool. We both agreed and have testified that the pool is the reason for taking on the lease.

Rennella's petition was submitted late, after the 90-day timeframe, however she was granted the deduction for the loss of amenity. See page 4 of the hearing decision.

My petitions T19-0284/T19-0404, & T20-0182 I testified for the loss of pool and loss of courtyard; however, all petitions were denied due to timeliness. Therefore, I should be given the same 10% rent reduction.

I testified to this in the hearing and asked for the same benefit as Rennella, but it was still denied.

Prior to this, I had no idea about rent board procedures and this is the first rental I have lived in since 1994. So my learning process was long...it's a lot to read and learn. I didn't fully understand the 90-day deadline detail until now.



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

File Rent Adjustment Program (date stamp)

**RECEIVED**

**NOV 15 2021**

**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:

Rent Board Appeal  
(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             | Oscar Alcama Soria % 20 living |
| Address          | 626 El Camino Real             |
| City, State, Zip | San Carlos, CA 94570           |

|                  |  |
|------------------|--|
| Name             |  |
| Address          |  |
| City, State, Zip |  |

|                  |  |
|------------------|--|
| Name             |  |
| Address          |  |
| City, State, Zip |  |

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| Name             |  |
| Address          |  |
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| City, State, Zip |  |

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| Name             |  |
| Address          |  |
| City, State, Zip |  |

|                  |  |
|------------------|--|
| Name             |  |
| Address          |  |
| City, State, Zip |  |

To serve more than 8 people, copy this page as many times as necessary and insert in your proof of service document. If you are only serving one person, you can use just the first and last page.

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 11/12/21 (insert date served).

Adam N. Brown  
PRINT YOUR NAME

  
SIGNATURE

11/12/21  
DATE





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 APPEAL DECISION**

**CASE NUMBERS:** T19-0284, Gordon-Brown v. Best Bay Apartments, Inc.  
T19-0404, Gordon-Brown v. Best Bay Apartments, Inc.  
T20-0182, Gordon-Brown v. Best Bay Apartments, Inc.

**PROPERTY ADDRESS:** 245 Lee Street, Unit 404, Oakland, CA

### **PROCEDURAL BACKGROUND**

These cases were originally consolidated with a petition filed by another tenant, T19-0356 Carpenter v. Best Bay Apartments, Inc., as well as a *Property Owner Petition For Approval of Rent Increase* filed by the Owner, to be heard jointly on May 3, 2021.<sup>1</sup>

Subsequently, case L19-0146 was separated from the other cases, and was heard on April 27 and 28, 2021. The Hearing Decision in that case was issued on September 27, 2021, and mailed to the parties on September 28, 2021.

On May 3, 2021, during the hearing on the combined tenant petitions, the Hearing Officer separated case T20-0182 from the other tenant petitions (T19-0284, T19-0356, and T19-0404), for a hearing on a future date. The Hearing Decision for the combined cases of T19-0284, T19-0356 and T19-0404 was issued on September 20, 2021, and mailed to the parties on September 23, 2021.

The hearing for case T20-0182 was ultimately held on August 18, 2021. The Hearing Decision for T20-0182 was issued on October 1, 2021, and mailed to the parties on October 4, 2021.

On October 18, 2021, tenant Karen Gordon-Brown uploaded an Appeal Form to the database that listed case numbers T19-0284, T19-0404, and T20-0182, with the notation "Consolidated" added under the "Case Number" section of the form. The Proof of Service included with the Appeal Form indicated that it had only been served via email to Michael Tien, "Property Manager, Best Bay dba 2B Living."

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<sup>1</sup> This was stated in the *Order to Consolidate and Notice of Remote Settlement Conference and Hearing* dated December 2, 2020.

On October 21, 2021,<sup>2</sup> a Notice of Incomplete Appeal Form was mailed to Ms. Gordon-Brown informing her that she must submit a proper Proof of Service on the opposing party within 30 days of the mailing of the letter, because email service is not acceptable.

On November 15, 2021, the Rent Adjustment Program received a copy of the Appeal Form and a Proof of Service from Ms. Gordon-Brown indicating that she had mailed it to Oscar Aldama Soria c/o 2B Living on October 18, 2021.

### **GROUND FOR DISMISSAL**

The Hearing Decision in the combined cases of T19-0284, T19-0356 and T19-0404 states in part:

**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) calendar days after service of the decision. The date of service is shown on the attached Proof of Service.

The attached Proof of Service shows that the decision was mailed to the parties on September 23, 2021. Twenty (20) days after that date was October 13, 2021. Therefore, any appeal in these cases must have been filed by October 13, 2021. The appeal filed by the tenant on October 18, 2021, five (5) days after October 13, 2021, was not timely as to cases T19-0284 and T19-0404.<sup>3</sup>

Because the appeal is not timely as to cases T19-0284 and T19-404, it is being dismissed with prejudice with regards to those cases. The Hearing Decision issued on September 20, 2021, T19-0284 et al Gordon-Brown et al v. Best Bay Living, Inc., is the final decision of the City of Oakland for cases T19-0284 and T19-0404.

The appeal of the Hearing Decision in T20-0182 Gordon-Brown v. Best Bay Living, Inc. will be set for an appeal hearing at a future date.

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<sup>2</sup> The POS had a typographical error stating that the form was mailed on October 21, 2020. A Notice of Error correcting this date to October 21, 2021, was mailed to Ms. Gordon-Brown on November 5, 2021.

<sup>3</sup> Because the Hearing Decision in T20-0182 was mailed to the parties on October 4, 2021, the tenant had until Monday October 25, 2021, to file an appeal in that case.

## NOTICE TO PARTIES

Pursuant to Ordinance No(s). 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Civil Procedure, Section 1094.6.

**YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.**

*Chanée Franklin Minor*  
Chanée Franklin-Minor  
Board Designee  
Residential Rent and Relocation Board

November 23, 2021  
Date

**PROOF OF SERVICE**

**Case Numbers T19-0284, T19-0404, & T20-0182**

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 Appeal Decision

**Manager**

Jun Lu  
Best Bay Apartments, Inc.  
2744 East 11th Street  
Oakland, CA 94601

**Owner Representative**

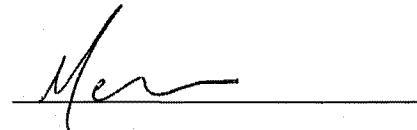
Joshua Baker  
1000 Brannan Street Suite #402  
San Francisco, CA 94103

**Tenant**

Karen Gordon-Brown  
344 Thomas L. Berkley Way  
Oakland, CA 94612

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 2, 2021** in Oakland, CA.



Merna Attalla

Oakland Rent Adjustment Program

**000314**



**MEMORANDUM**

**Date:** February 17, 2022  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Oliver Luby, Deputy City Attorney  
**Re:** Appeal Summary in T18-0372, Amory v. Green Sage, LLC  
**Appeal Hearing Date:** February 24, 2022

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**Property Address:** 5707 San Leandro St., Units A, B, D, G, & H, Oakland, CA  
**Appellants/Tenants:** Brett Amory, Abigail Baird, Matthew Laws, Brad Long, Dustin Schulz  
**Respondent/Owner:** Green Sage, LLC

**BACKGROUND**

Between May through October in 2018 and in the spring of 2019, multiple tenants filed multiple petitions contesting rent increases and alleging decreased housing services regarding 5707 and 5733 San Leandro St. The owner filed various responses.

The cases were consolidated. After a hearing was held but not completed in 2019, the consolidated cases were assigned to a new hearing officer, who conducted a hearing in 2020. Afterwards, the cases were again assigned to a new hearing officer, who conducted a final hearing in April of 2021. A majority of the petitioners requested to dismiss most of the petitions, resulting in only ten (10) petitions pending:

**5707 Building**

- Brett Amory, T18-0372
- Brad Long, T19-0032
- Katherine Cavenee, T19-0035
- Matthew Laws, T19-0218
- Dustin Schultz, T19-0220

- Abigail Baird/Jaron Hollander, T19-0251

#### 5733 Building

- Alistair Monroe, T18-0281
- Douglas Stewart, T18-0399 and T19-0027
- Jeff Szklanecki, T19-0029

### **RULING ON THE CASE**

The hearing officer issued a consolidated Hearing Decision on July 1, 2021 for the remaining ten (10) petitions that were pending. The Decision found that the 5733 San Leandro St. building had residential use prior to January 1, 1983, and, as a result, was not exempt from the Rent Ordinance as new construction. Regarding the 5707 San Leandro St. building, the Decision found that there was a 2003 permit to “legalize” existing joint living and working quarters, nine units of housing were created on a new 2<sup>nd</sup> floor added within the warehouse building, a Certificate of Occupancy was issued for the building in May 2011, and there was no evidence of residential use in the building prior to January 1, 1983, concluding that the units in the building were exempt from the Rent Ordinance as new construction.

Regarding the new construction exemption in the Rent Ordinance, the Decision stated:

“The Oakland Rent ordinance exempts all units built after January 1, 1983, that are entirely newly constructed from the ground up or units that were converted or created from a non-residential space. If the unit is not build (sic) entirely from the ground up, the property must be created or converted from a non-residential space after January 1, 1983.<sup>11</sup> If the property was converted and received a certificate of occupancy after January 1, 1983, but the unit was used for a residential purpose prior to 1983, it is not exempt.” (Foot Note 11 in the quoted text stated: “HRRRB Appeal Decision in L15-0061, 4CH Inc. v. Tenants.”)

Regarding the petitioners’ assertion of the applicability of the California Court of Appeals decision in *Da Vinci Group v. S.F. Residential Rent Stabilization & Arbitration Board*, 5 Cal. App. 4th 24 (1992), the Hearing Decision stated that the petitioners’ reliance on the case was misplaced because San Francisco law contains a provision that limits their new construction exemption for live/work units, requiring that there be no residential use prior to the issuance of the Certificate of Occupancy, while Oakland law has no such provision.

The Decision denied all ten of the tenant petitions and granted a certificate of exemption for the 5707 building. The Decision found the 5707 building to be exempt as new construction. While the Decision found the 5733 building to be covered by the Rent Ordinance, the Decision denied the petitions pertaining to that building because

they did not allege any claims of illegal rent increases and the tenants withdrew all claims of decreased housing services.

### **GROUND FOR APPEAL**

On July 16, 2021, six tenants who filed petitions regarding the 5707 building timely appealed the hearing officer's decision on the grounds that (1) the decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board, (2) the decision raises a new policy issue that has not been decided by the Board, (3) the decision violates federal, state or local law, (4) the decision is not supported by substantial evidence, (5) denial of sufficient opportunity to respond to present claim, and (6) Other. The tenants specifically contend various arguments, including that (1) the decision cannot issue an order denying the withdrawn petitions, (2) the decision is inconsistent with OMC Sections 8.22.010.C and 8.22030.A.5, RAP Regulation Section 8.22.030.B, two prior appeal decisions of the HRRRB, and one prior RAP Hearing Decision that was not appealed, (3) tenancies do not lose rent control upon a change of the legal status of the unit, (4) the Hearing Officer's determination regarding prior residential use in the 5707 building was based only on testimony and is therefore not supported by substantial evidence, and (5) the decision violates the court decisions in the cases of *Da Vinci Group v. S.F. Residential Rent Stabilization & Arbitration Board*, 5 Cal. App. 4th 24 (1992) and *Burien LLC v. Wiley*, 230 Cal. App. 4th 1039 (2014), stating that the decision is mistaken about San Francisco law regarding *Da Vinci* and failed to mention *Burien*.

### **ISSUES**

1. If a unit receives a Certificate of Occupancy on or after January 1, 1983, as a result of being created from conversion from existing building space, does the unit qualify for the new construction exemption so long as the former space was not used residentially (a) prior to January 1, 1983, or (b) prior to conversion?
2. Since RAP Regulation 8.22.030.B.2.a states that newly constructed units include conversions of uninhabited spaces not used by tenants such as garages, attics, basements, and spaces that were formerly entirely commercial, were the new housing units within the 5707 building created from uninhabited space not used by tenants?
3. Since RAP Regulation 8.22.030.B.2.c.i states that conversion of the work portion of live/work space into a dwelling unit does not qualify as new construction, was the creation of new housing units on a new 2<sup>nd</sup> floor within the 5707 building a conversion of work space into dwelling units?

## **APPLICABLE LAW AND PAST BOARD DECISIONS**

### **Applicable Law**

#### **a. New Construction Exemption**

O.M.C. § 8.22.030.A:

“Types of Dwelling Units Exempt. The following dwelling units are not covered units for purposes of this Chapter, Article I only (the Just Cause for Eviction Ordinance (Chapter 8.22, Article II) and the Ellis Act Ordinance (Chapter 8.22, Article II)) have different exemptions):”

Subsection (5):

“Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. This exemption does not apply to any newly constructed dwelling units that replace covered units withdrawn from the rental market in accordance with O.M.C. 8.22.400, et seq. (Ellis Act Ordinance). To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential.”

#### **b. New Construction Exemption Regulation**

Regulation Section 8.22.030.B. (“Types of Dwelling Units Exempt”), subsection 2 (“Newly constructed dwelling units (receiving a certificate of occupancy after January 1, 1983).”):

“a. Newly constructed units include legal conversions of uninhabited spaces not used by Tenants, such as:

- i. Garages
- ii. Attics;
- iii. Basements;
- iv. Spaces that were formerly entirely commercial.”

b. Any dwelling unit that is exempt as newly constructed under applicable interpretations of the new construction exemption pursuant to Costa-Hawkins (California Civil Code Section 1954.52).

c. Dwelling units not eligible for the new construction exemption include:

- i. Live/workspace where the work portion of the space was converted into a separate dwelling unit;
- ii. Common area converted to a separate dwelling unit.”



c. California Court of Appeals decisions

*Da Vinci Group v. S.F. Residential Rent Stabilization & Arbitration Board*, 5 Cal. App. 4th 24 (1992).

The *Da Vinci* court found renovated units to be within the coverage of the San Francisco rent ordinance because the renovation was a conversion of existing residential space. In the case, a warehouse was used residentially as live/work units without a certificate of occupancy and in an unpermitted manner since 1980. After the owner was cited for the illegal conversion of the warehouse to apartments in 1981 and then applied to legally convert the units to bring them into code compliance, the owner received a certificate of occupancy in 1986. The San Francisco Rent Board passed a regulation that provided that converted warehouses satisfy the new construction exemption only if there has been no residential use since the enactment of the rent ordinance in 1979. The court opined, quoting the SF Rent Board, that “[c]onversion through the permit process of illegal units to legal units by landlords who allowed the illegal residential use in the first place” cannot be used as a tool to defeat the purpose of the SF Rent Ordinance. *Id.* at 30.

While *Da Vinci* is primarily about whether or not an agency’s interpretive regulations of an ordinance exceeded their permissible scope, the Court’s reasoning that the Board’s efforts furthered those of the legislature addressed the purpose in general of a rent stabilization exemption for new construction. In interpreting San Francisco’s ordinance, which centers on the date of issuance of a certificate of occupancy, the Court reasoned, “The Board’s original and consistent determination that this exemption includes only “newly constructed” rental units is worthy of judicial deference because it comports with the Ordinance’s major goal of easing the housing shortage by encouraging creation of new residential rental units where there were none before. The 1986 certificate of occupancy in this case created legal residential units where there were illegal ones before. Legalizing de facto residential use does not enlarge San Francisco’s housing stock.” *Id.* The Court further reasoned, “While restructuring a nonresidential warehouse for live-work use creates new residential units, i.e., additional housing, remodeling a warehouse already inhabited, albeit illegally, by residential tenants does not.” *Id.*

*Burien LLC v. Wiley*, 230 Cal. App. 4th 1039 (2014).

The *Burien* court construed the Costa-Hawkins Rental Housing Act to mean that a newly constructed unit refers to a unit with no prior residential use prior to the certificate of occupancy. In the case, the landlord converted a rent-controlled

apartment building with a 1972 certificate of occupancy into condominiums and obtained a new certificate of occupancy in 2009 based on the change of the use. Costa-Hawkins exempts units with certificates of occupancy issued after February 1, 1995, from local rent control. The Court of Appeal held that the Costa-Hawkins exemption did not apply because it only refers to certificates of occupancy issued prior to residential use of the unit. The Court reasoned, “A certificate of occupancy based solely on a change in use from one type of residential housing to another does not enlarge the supply of housing” and would therefore not further the purpose of the exemption of “encouraging construction and conversion of buildings which add to the residential housing supply.”” Id at 1047.

### Past Board Decisions

#### a. New construction exemption

L15-0061, 4CH Inc. v. Tenants

Board affirmed hearing decision which granted owner petition for exemption because the 3<sup>rd</sup> and 4<sup>th</sup> floors received a certificate of occupancy in 2008 and there was no evidence of prior residential use.

#3148687v1



## MEMORANDUM

**Date:** February 17, 2022

**To:** Members of the Housing, Residential & Relocation Board (HRRRB)

**From:** Oliver Luby, Deputy City Attorney

**Re:** Appeal Summary for T19-0272, T19-0325  
Jeffers v. BD Opportunity 1 LP

**Appeal Hearing Date:** February 24, 2022

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Property Address: 7123 Holly Street, Unit 1

Appellant/Owner: BD Opportunity 1 LP

Respondent/Tenant: Jesse Carrillo

### PROCEDURAL BACKGROUND

The tenant filed two petitions, claiming she never received the notice of the existence of the Rent Adjustment Program, and contesting the following monthly rent increases:

a. Petition filed April 29, 2019

- Rent increase served 9/2019<sup>1</sup> from \$930.00 to \$951.39;
- Rent increase served 3/9/19 from \$951.39 to \$1,046.00.

b. Petition filed June 24, 2019

- Rent increase served 9/2017 from \$930.00 to \$951.39;
- Rent increase served 3/9/19 effective 4/1/19, from \$951.39 to \$1,046.00;
- Rent increase served 5/15/19 effective 7/1/19, from \$951.39 to \$1,018.16.

The tenant also claimed several decreased housing services, including the following:

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<sup>1</sup> The later petition clarified that this date was a typo and should have been 9/20/17 instead of 9/20/19.

- Plumbing leak in bathroom;
- Extended gas shutoff;
- Kitchen cabinets, walls, and baseboard damaged;
- Front facing windows not properly sealed.

The owner representative filed a Property Owner Response on September 9, 2019, stating that the rent increase effective July 1, 2019 was rescinded, the decreased services are not services but are conditions, which had all been corrected or were in the process of being corrected, and there were no services that currently needed attention. On August 28, 2019, the owner also filed documentation showing that the July 1, 2019 rent increase had been rescinded, and that the tenant had been served with a new rent increase notice on or around August 26, 2019 that included an attached RAP Notice.

A hearing on the petitions was held on November 7, 2019. The hearing officer issued a decision in January 2020 finding that the tenant had never been served with a RAP Notice, setting the tenant's monthly base rent at \$950.00, and granting \$25,110.00 in restitution for decreased housing services as follows:

- 25% rent reduction for water leaks starting in October 2016 through the present (ongoing until abated);
- 50% rent reduction for gas shutoff in March 2019;
- 25% rent reduction for damaged kitchen cabinets and walls starting in October 2016 through the present (ongoing until abated);
- 5% rent reduction for inadequately sealed front windows starting in January 2017 through the present (ongoing until abated);
- 10% rent reduction for roach and rodent infestation starting in October 2016 through the present (ongoing until abated).

The hearing officer also found that the tenant was entitled to restitution for overpaid rent in the amount of \$954.31.

The owner filed an appeal on February 10, 2020, on various grounds. On September 10, 2020, the appeal was heard the HRRRB. The Board remanded the case to the hearing officer to recalculate the restitution. Specifically, the Board directed that (1) the restitution for March 2019 not exceed 100% of the rent, (2) the end date of the restitution period is limited to the hearing date, and (3) the hearing officer consider prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions.

### **RULING ON THE CASE AFTER REMAND**

The Hearing Officer issued a Remand Decision on August 9, 2021, which (1) revised the restitution award for the period of March 2019, reducing the rent decrease for the gas shutoff from \$465 to \$300, for a total rent decrease amount for that month of \$904.50 (approximately 97% of the \$930 monthly rent) and a total restitution award of \$24,945 and (2) considered prior decisions of the Board regarding on the policy of limiting restitution to three years. The Decision did not consider prior Board decisions

regarding rent reductions for similar decreased housing services. Despite mentioning the Board direction limiting the end of the restitution period to the hearing date, the Decision retained the end dates of the various restitution awards that occurred after the date of November 2019 hearing, including February 28, 2020 (water leaks) and February 29, 2020 (kitchen cabinets and walls, windows, and infestation).

### **GROUNDINGS FOR APPEAL**

The owner timely appealed the Remand Decision on the grounds that (1) the decision is inconsistent with prior decisions of the Board, (2) the decision is inconsistent with decisions issued by other Hearing Officers, (3) the decision raises a new policy issue that has not been decided by the Board, (4) the decision violates federal, state or local law, (5) the decision is not supported by substantial evidence, and (4) denial of sufficient opportunity to respond to petitioner's claim. The owner contends (1) the Remand Decision did not consider the Hearing Decision in T16-0526, *Jeffers v. Pama Management*, which, while ruling on similar decreased housing services, was not appealed to the Board, (2) the original January 2020 Hearing Decision in this case is inconsistent with T16-0526, (3) the tenant already received a rent waiver in 2016 pursuant to a stipulation related to a court filing and should not receive further rent abatement for periods of 2016, (4) the January 2020 Hearing Decision is not supported by substantial evidence, (5) due process is violated by not allowing the owner to introduce new evidence on appeal, (6) the owner's representative at the 2019 hearing knew nothing about the tenancy, (7) the tenant did receive a RAP notice, and (8) the beginning date of the rent reduction period should be March 26, 2019, from the Notice of violation from the City.

### **ISSUES**

1. Did the Remand Decision consider prior decisions of the Board regarding rent reductions for similar housing service reductions so that the decision is consistent with prior decisions, as directed by the Board's Appeal Decision?
2. Did the Remand Decision revise the end date of the restitution award to be no later than the date of the hearing decision, as directed by the Board's Appeal Decision?

### **APPLICABLE LAW AND PAST BOARD DECISIONS**

#### **1. Applicable Law**

- a. O.M.C. 8.22.110, RAP Regulations, HEARING PROCEDURE

## F. Decisions of the Hearing Officer

“3. If a decrease in Rent is granted, the Hearing Officer shall state when the decrease commenced, the nature of the service decrease, the value of the decrease in services, and the amount to which the rent may be increased when the service is restored. When the service is restored, any Rent increase based on the restoration of service may only be taken following a valid change of terms of tenancy notice pursuant to California Civil Code Section 827. A Rent increase for restoration of decreased Housing Services is not considered a Rent Increase for purposes of the limitation on one Rent increase in twelve (12) months pursuant to OMC 8.22.070 a. (One Rent increase Each Twelve Months).”

## 2. Past Board Decisions

### a. Restitution Calculation for Decreased Housing Service

T18-0438, Martinez v. Carino

Board remanded case to recalculate restitution period to end as of the date of the Hearing, rather than the date of the Hearing Decision.

T18-0153, Bush v. Dang

Board reduced restitution for broken window from 10% to 5%.

T13-0093, Mackey v. Ahmetspahic

Board affirmed hearing decision which granted restitution of 4% for rodents and 0.5% for a broken electrical outlet

T13-0001, Baragano v. Discovery Inv.

Board affirmed hearing decision which granted 3% rent reduction for condition of the carpet.

T12-0348, Smith v. Lapham Company

Board affirmed hearing decision which granted 5% rent reduction for a broken kitchen faucet and broken shower door.

T13-0014, Lao v. Leung

Board affirmed hearing decision which granted tenant \$75.00/month for 4 months for loss of use of kitchen because owner removed kitchen to comply with city code enforcement program.

T14-0243, Katz v. Urosevic

Board remanded hearing decision for clarification of standards for decreased housing services that do not include code violations.

#3148689v1



**MEMORANDUM**

**Date:** February 18, 2022  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Oliver Luby, Deputy City Attorney  
**Re:** Appeal Summary in T20-0182, Gordon-Brown v. Best Bay Apartments, Inc.  
**Appeal Hearing Date:** February 24, 2022

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**Property Address:** 245 Lee St., #404  
**Appellants/Tenants:** Karen Gordon-Brown  
**Respondent/Owner:** 2367 Washington, LLC, and 245 Lee. St. Partners, LLC  
(Former Property Manager: Best Bay Apartments, Inc.)

**BACKGROUND**

On July 28, 2020, the tenant filed a petition contesting a monthly rent increase from \$2,720 to \$2,985.40, noticed on April 25, 2019, and effective June 1, 2019, and alleging decreased housing services due to loss of quiet enjoyment, complete loss of courtyard access, and failure to enforce COVID-19 health rules. The owner filed a response on August 11, 2021, asserting that the tenant said the rent increase was correct and denying the decreased housing service claims.

The case was consolidated with two additional petitions filed by the tenant against Best Bay Apartments (T19-0284 and T19-0404, both of which challenged the same rent increase effective June 1, 2019), one petition filed by a different tenant against Best Bay Apartments (T19-0356), and one petition for approval of rent increase filed by the owner (L19-0146). Subsequently, L19-0146 was separated from the other cases and separately scheduled for hearing. A hearing on the consolidated tenant cases was held on May 3, 2021, during which T20-0182 was separated from the other tenant petitions. The hearing for T20-0182 was originally scheduled for June 29, 2021.



By order of the hearing officer, the hearing date was subsequently changed to August 18, 2021, and the hearing was heard on that date.

### **RULING ON THE CASE**

The hearing officer issued a Hearing Decision on October 1, 2021, which was mailed to the parties on October 4, 2021. The Decision indicated that it would not address the rent increase claim, noting a decision issued in September 2021 regarding T19-0284 and T19-0404 found the increase to be valid. The Decision further indicated that the tenant withdrew their decreased housing service claim related to COVID-19 health rules at the hearing. With regard to the remaining decreased housing service claims, the Decision detailed testimony of the tenant and owner representative regarding two incidents, one in March 2020 and one in August 2020, between the tenant and another tenant in the building. The Decision found that the tenant did not establish that the property manager failed to act appropriately or perform a responsibility regarding the incidents and that RAP lacks jurisdiction over claims of loss of quiet enjoyment, citing to the Court of Appeals ruling in Larson v. City and County of San Francisco (2011) 192 Cal.App.4<sup>th</sup> 1263. The Decision further found that the tenant did not establish that the property manager committed action or inaction leading to the tenant's loss of access to the courtyard. The Decision denied the petition.

### **ADMINISTRATIVE APPEAL DECISION REGARDING SEPARATE PETITIONS**

On October 18, 2021, the tenant filed an appeal regarding two hearing decisions, (1) T20-0182 and (2) T19-0284 and T19-0404 (the hearing for which included T19-0356). On December 2, 2021, an Administrative Appeal Decision was mailed to the parties. The Decision dismissed the appeal with regard to T19-0284 and T19-0404 only, due the appeal not being timely for the corresponding hearing decision.

### **GROUND FOR APPEAL**

The tenant's appeal filed on October 18, 2021, was timely with regard to T20-0182. The grounds of the appeal included (1) the decision is inconsistent with decisions issued by other hearing officers, (2) the decision is not supported by substantial evidence, and (3) Other. The tenant's specific arguments regarding (1) concern the Administrative Appeal Decision based on lack of timeliness, which does not apply to the appeal for T20-0182. For (2) and (3), the tenant claims that they were not able to access the evidence file for the consolidated case after T20-0182 was separated, was told to resubmit evidence for T20-0182, and had difficulty recalling what evidence they had previously submitted, resulting in the hearing officer not having access to various records such as a police report.

## ISSUES

1. Does the tenant's claim that they lost access to the evidence file of the prior case and could not remember everything they filed indicate that their ability to present their claims was impacted?
2. .Were the Hearing Decision's determinations that the tenant did not establish a failure on the part of the owner that resulted in decreased housing services supported by substantial evidence?

## APPLICABLE LAW AND PAST BOARD DECISIONS

### 1. Applicable Law

#### a. Decreased housing services

Prior to July 21, 2020<sup>1</sup>, O.M.C. § 8.22.020, "Housing Services," stated: "'Housing Services' means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, and employee services."

O.M.C. § 8.22.070.F: "Decreased housing services. A decrease in housing services is considered an increase in rent. A tenant may petition for an adjustment in rent based on a decrease in housing services under standards in the regulations. The tenant's petition must specify the housing services decreased. Where a rent or a rent increase has been reduced for decreased housing services, the rent or rent increase may be restored in accordance with procedures set out in the regulations when the housing services are reinstated."

### 2. Past Board Decisions

#### a. Substantial Evidence

T00-0340, -0367, & -0368, Knox v. Progeny Properties

Board will not overturn factual findings made by Hearing Officer if there is substantial evidence to support the hearing decision.

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<sup>1</sup> Effective July 21, 2020, the definition of "Housing Services" was amended to further include "any other benefits or privileges permitted the tenant by agreement, whether express or implied, including the right to have a specific number of occupants and the right to one-for-one replacement of roommates, regardless of any prohibition against subletting and/or assignment."

## b. Claims based on Loss of Quiet Enjoyment of the Rental Unit

### T03-0377, Aswad v. Fields

Affirmed part of Hearing Decision that rejected a claim for decrease in housing services for excessive street noise because Rent Adjustment Ordinance does not have jurisdiction over a claim for breach of implied covenant of quiet enjoyment when complaint about conditions beyond owner control & prior denial

### T19-0148, Holman v. Eastshore Properties

Board affirmed hearing decision denying the tenant petition on the grounds that the claim of loss of quiet enjoyment of the unit due to noise, upon opening and closing of garage doors, was not within the jurisdiction of administrative agencies; and that the jurisdiction of the RAP was limited to those claims that are quantifiable in nature.

## 3. Court Decisions

### Ocean Park Associates v. Santa Monica Rent Control Bd., 114 Cal.App 4<sup>th</sup> 1050 (2004).

A court upheld a tenant petition granting decreased housing services due to noise from prolonged construction at a rent controlled building. 114 Cal.App 4<sup>th</sup> at 1058. Regulations adopted pursuant to the Santa Monica Rent Control Charter Amendment explicitly permitted decreased housing services for noise at the property.

### Larson v. City and County of San Francisco, 192 Cal. App.4<sup>th</sup> 1263 (2011).

In response to a facial challenge, a court invalidated a provision of an ordinance which permitted tenants to obtain rent decreases for decreased housing services for harassment by the landlord in the form of interferences with peace and quiet enjoyment. 192 Cal. App.4<sup>th</sup> at 1273; 1280. The court held that provisions of the Ordinance which defined harassment with the quiet enjoyment were non-quantifiable and non-restitutive tortious conduct and interfered with the judiciary's power to adjudicate such claims. *Id* at. 1275. The court distinguished *Ocean Park*, by noting that the ordinance provided criteria for quantification of the loss. However, the court upheld the portions of the Ordinance which permitted rent adjustments for a landlord's harassment based on failing to provide housing services required by contract. *Id.* at 1273.