

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
APPEAL PANEL**

**April 20, 2017
7:00 p.m.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
 - i. Appeal Hearing in cases:
 - a. T16-0033; Cantu v. Zhang, et al
 - b. T15-0465; Sharbaugh v. Cardenas
 - c. T16-0073; Ullman v. Tse
5. SCHEDULING AND REPORTS
6. ADJOURNMENT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2017 APR 12 AM 11:48

Accessibility. The meeting is held in a wheelchair accessible facility. Contact the office of the City Clerk, City Hall, One Frank Ogawa Plaza, or call (510) 238-3611 (voice) or (510) 839-6451 (TTY) to arrange for the following services: 1) Sign interpreters; 2) Phone ear hearing device for the hearing impaired; 3) Large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to this event.

Foreign language interpreters may be available from the Equal Access Office (510) 239-2368. Contact them for availability. Please refrain from wearing **strongly scented products** to this meeting.

Service Animals / Emotional Support Animals: The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use service animals or emotional support animals.

If your service animal lacks visual evidence that it is a service animal (presence of an apparel

item, apparatus, etc.), then please be prepared to reasonably establish that the animal does, in fact, perform a function or task that you cannot otherwise perform.

If you will be accompanied by an emotional support animal, then you must provide documentation on letterhead from a licensed mental health professional, not more than one year old, stating that you have a mental health-related disability, that having the animal accompany you is necessary to your mental health or treatment, and that you are under his or her professional care.

Service animals and emotional support animals must be trained to behave properly in public. An animal that behaves in an unreasonably disruptive or aggressive manner (barks, growls, bites, jumps, urinates or defecates, etc.) will be removed.

CHRONOLOGICAL CASE REPORT

Case No.: T16-0033
Case Name: Cantu v. Zhang, et al.
Property Address: 4455 Bancroft Avenue, Unit 2, Oakland, CA
Parties: Marisol Barreto Cantu (Tenant)
Fredie Omar Monzon Martinez (Tenant)
Nancy Zhou (Landlord)

OWNER APPEAL:

| <u>Activity</u> | <u>Date</u> |
|-------------------------|------------------|
| Tenant Petition filed | January 19, 2016 |
| Landlord Response filed | None |
| Hearing Decision issued | June 9, 2016 |
| Owner Appeal Filed | June 24, 2016 |

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T16-0033
RECEIVED

JUN 24 2016

| | | | |
|--|--|--|--|
| City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721 | | RENT ADJUSTMENT PROGRAM OAKLAND APPEAL | |
| Appellant's Name NANCY ZHOU | | Landlord <input checked="" type="checkbox"/> Tenant | |
| Property Address (Include Unit Number) 4555 Bomeroft Ave #2 Oakland CA 94601 | | | |
| Appellant's Mailing Address (For receipt of notices) 442 London St. San Francisco CA 94112 | | Case Number T15-0033 | |
| | | Date of Decision appealed June 3, 2016 | |
| Name of Representative (if any) | | Representative's Mailing Address (For notices) 442 London St San Francisco CA 94112 | |

I appeal the decision issued in the case and on the date written above on the following grounds:


(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
- The decision is inconsistent with decisions issued by other hearing officers. You must identify the prior inconsistent decision and explain how the decision is inconsistent.
- The decision raises a new policy issue that has not been decided by the Board. You must provide a detailed statement of the issue and why the issue should be decided in your favor.
- The decision is not supported by substantial evidence. You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
- I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. You must explain how you were denied a sufficient opportunity 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.
- The decision denies me a fair return on my investment. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached 4. Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on 6/21, 2006, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

| | |
|------------------------|------------------------------|
| Name | Mavisson Barreto Cantu |
| Address | 4555 Bancroft Ave #2 |
| City, State Zip | Oakland CA 94601 |
| Name | Freddie Omar Monzon Martinez |
| Address | 4555 Bancroft Ave #2 |
| City, State Zip | Oakland CA 94601 |

| | |
|---|---------|
|  | 6/21/06 |
| SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE | DATE |

IMPORTANT INFORMATION:

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

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

June 20, 2016

Nancy Zhou
442 London Street
San Francisco, CA 94112

City of Oakland

Department of Housing

Re: T15-00, Cantu v. Zhang, et al

Dear Officer,

We have received the Hearing decision on 6/15/16.

We disagree the decision. The reasons are following.

1. In your letter background and rent increase, you claim "the tenants moved into the property in November of 2009, at an initial monthly rent of \$950." It is not true. The tenants moved into the property in July 2007. Initial monthly rent was \$1000 with \$25 credit for cleaning job. The old owner did not increase the monthly rent and did not do any maintenance work for 9 years and there was a lot of delayed maintenance in the units. We purchased the building in November 2015. We toll the tenants we don't need them to do cleaning job, because they did not perform. And the rent was \$1000. So, if the city set the rent for \$950 per month, there is a decrease of the rent. Please see the copy of the initial rental agreement. We can't believe the rental board made decision based on the tenants lay.
2. Because the old owner did not increase rent for 9 years, and they did not up keeping the property, there were a lot of delay maintenance. After we purchased the building, we make a repair and up keeping, such as replace the garage doors, replace and repair heaters, change to hardwood floor for all the units, fixed all the kitchen appliance and pest control. We spend over \$20000 for all the works.

We think we should get some compensation from the rent.

The repair work from 11/15 to 12/15:

Heater \$1555

Garage door \$2415

Latral replacement \$6800 (required by city)

Hardwood floor material \$3030

Labor \$9965

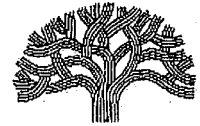
Total cost \$23765

Using the Board calculation $23765 \times 70\% = 16635$

$16635/6(\text{units}) = 2772.58$

$2772.58/60(\text{month}) = 46.20$

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T15-0033, Cantu v. Zhang, et al.
PROPERTY ADDRESS: 4455 Bancroft Ave., Unit #2, Oakland, CA 94601
DATE OF HEARING: May 10, 2016
DATE OF DECISION: June 3, 2016
APPEARANCES: Marison Barreto Cantu, Tenant
Fredie Omar Monzon Martinez, Tenant
Nancy Zhou, Owner

SUMMARY OF DECISION

The tenant petition is granted.

CONTENTIONS OF THE PARTIES

On January 19, 2016, the tenants filed a petition alleging (1) an unjustified rent increase in excess of CPI or greater than 10%; (2) no written notice of Rent Program was provided to the tenants with the notice of increase and at least six months before the effective date of the rent increase; and (3) decreased housing services.

The owner did not file a written response but appeared at the hearing.

THE ISSUE(S)

(1) Is the rent increase valid?

EVIDENCE

Background and Rent Increase

The tenants moved into the property in November of 2009, at an initial monthly rent of \$950.00. The subject unit is located in the residential building consisting of six

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0033, Cantu v. Zhang, et al.
PROPERTY ADDRESS: 4455 Bancroft Ave., Unit #2, Oakland, CA 94601
DATE OF HEARING: May 10, 2016
DATE OF DECISION: June 3, 2016
APPEARANCES: Marison Barreto Cantu, Tenant
Fredie Omar Monzon Martinez, Tenant
Nancy Zhou, Owner

SUMMARY OF DECISION

The tenant petition is granted.

CONTENTIONS OF THE PARTIES

On January 19, 2016, the tenants filed a petition alleging (1) an unjustified rent increase in excess of CPI or greater than 10%; (2) no written notice of Rent Program was provided to the tenants with the notice of increase and at least six months before the effective date of the rent increase; and (3) decreased housing services.

The owner did not file a written response but appeared at the hearing.

THE ISSUE(S)

(1) Is the rent increase valid?

EVIDENCE

Background and Rent Increase

The tenants moved into the property in November of 2009, at an initial monthly rent of \$950.00. The subject unit is located in the residential building consisting of six

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(6) residential units. The current owner, Ms. Zhou, acquired the property in November of 2015 and requested that the tenants sign new lease agreement with monthly rent amount of \$1,150.00, effective January 1, 2016. The tenants paid \$950.00 through December of 2015 and then paid \$1,150.00 in January, February, March, April and May of 2016. A copy of the Residential Rental Agreement, dated 11/15/15, showing the monthly rent amount of \$1,150.00, was admitted into evidence.¹ This evidence was not disputed.

RAP Notice

The tenants testified and stated on their petition, that they never received a Notice of the Rent Adjustment Program (RAP). They also testified that they did not receive the RAP Notice from the new owner and it was not attached to the new rental agreement. This evidence was not disputed.

Decreased Housing Services

The tenants submitted with their petition an Addendum A, which listed five (5) items as decreased services. The Addendum A was admitted into evidence.² However, at the hearing, the tenants testified that the new owner promptly addressed all items after the owner was notified of the items in December of 2015, and that the tenants no longer wished to allege any decreased services. Therefore, this decision will only address the rent increase and will not address the issue of decreased housing services.

No Owner Response

The owner stated that she did not file a written response because she did not know how to fill out the form. She said she received the notice of the tenant petition and the notice of hearing and thought she would just come to the hearing. The owner confirmed that she asked the tenants to sign new lease agreement, with new monthly rent of \$1,150.00, effective January 1, 2016.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Good Cause for Filing No Response

The Rent Adjustment Ordinance requires an owner to file a response to a tenant's petition within 35 days after service of a notice by the Rent Adjustment Program that a tenant petition was filed. "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ." ³ The owner's response was due on February 24, 2016. The owner filed no response and stated that she did not know how to fill out the form and that she thought she would just come to the hearing. The owner

¹ Exhibit A

² Exhibit B

³ O.M.C. §8.22.070(C)2

testified that she received the RAP letter notifying her of the tenant petition and instructing her to file a written response within 35 days. She ignored it and thought she would just show up at the hearing. Ignorance of the law is no excuse and does not satisfy the good cause requirement for not filing a response. Since no good cause existed for filing no response, the owner could not present any evidence and was limited to cross-examination and summation.

RAP Notice Requirement

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

Because the owner never provided the RAP notice to the tenants, the rent increase is invalid and the rent will roll back to \$950.00, the amount the tenants paid when they first moved in and prior to the proposed rent increase (new lease term). In addition, the tenants will receive a credit in the amount of \$1,000.00 for rent overpayments from January through May of 2016, when they paid the increased rent of \$1,150.00 for five months ($\$200.00 \times 5 = \$1,000.00$).

Notice Requirement under the State Law (California Civil Code §827)

California Civil Code Section 827(b)(2) provides that any change in terms of tenancy, including a rent increase, must be delivered at least 60 days prior to the effective date of the increase if the proposed rent increase is more than 10 percent of the rental amount.

The proposed new lease agreement, which contains a rent increase, constitutes a change in terms of tenancy per California state law.⁶ The new lease proposed to increase the monthly rent by \$200.00 (from \$950.00 to \$1,150.00), which is more than 10%. The lease is dated November 15, 2015. The effective date was January 1, 2016. Because the owner failed to provide the required 60-day notice, the rent increase is also deficient under the state law and is void. This is further reason to deny the rent increase.

ORDER

1. The Tenant Petition T16-0033 is granted.
2. The monthly base rent is set to \$950.00.
3. The tenant's monthly rent of \$950.00 is further decreased by \$100.00, to \$850.00, from July 1, 2016, to April 30, 2017, due to rent overpayments. The total

⁴ O.M.C. Section 8.22.060(A)

⁵ O.M.C. Section 8.22.070(H)(1)(A)

⁶ Cal. Civ. Code §827

amount of credit is \$1,000.00, and it is adjusted over a period of the next ten (10) months.

4. If the owner wishes to pay the tenant restitution in a lump sum (\$1,000.00) instead of the monthly rent deductions, the owner may do so.

5. The owner may increase the monthly rent in accordance with the notice requirements of Section 827 of the California Civil Code and the Rent Adjustment Program Ordinance (O.M.C. §8.22 et seq.).

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

Dated: June 3, 2016



Linda M. Moroz
Hearing Officer
City of Oakland Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0033

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 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:

Marisol Barreto Cantu
4555 Bancroft Avenue #2
Oakland, CA 94601

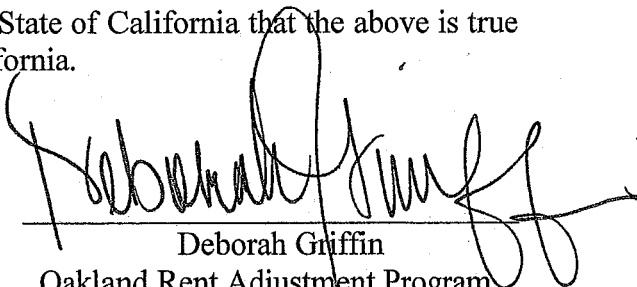
Jo Zhang
442 London Street
San Francisco, CA 94112

Nancy Zhou
442 London Street
San Francisco, CA 94112

Yiyao Zhang
442 London Street
San Francisco, CA 94112

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **June 9, 2016** in Oakland, California.


Deborah Griffin
Oakland Rent Adjustment Program

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Tile 0033 KM/LM

| | |
|--|--|
| CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721 | For date stamp. 2016 JAN 19 PM 1:04 |
|--|--|

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

TENANT PETITION

Please print legibly

| | | |
|---|---|---------------------------|
| Your Name Marisol Barreto Cantu | Rental Address (with zip code) 4555 Bancroft Avenue #2 Oakland, CA 94601 | Telephone 510-750-6769 |
| Your Representative's Name | Mailing Address (with zip code) | Telephone |
| Property Owner(s) name(s) Yiyao Zhang, Jo Zhang, and Nancy Zhou | Mailing Address (with zip code) 442 London Street San Francisco, CA 94612 | Telephone |

Number of units on the property: 6

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

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

| | |
|---|--|
| X | (a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%. |
| | (b) The owner did not give me a summary of the justification(s) for the increase despite my written request. |
| | (c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation). |
| 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) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting. |
| X | (f) The housing services I am being provided have decreased. (Complete Section III on following page) |
| | (g) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u> |
| | (h) The contested increase is the second rent increase in a 12-month period. |
| | (i) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment Program (effective August 1, 2014). |
| | (j) My rent has not been reduced after the expiration period of the rent increase based on capital improvements. |
| | (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). |

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

Date you moved into the Unit: November 2009 Initial Rent: \$ 950 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 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. You must check "Yes" next to each increase that you are challenging.

| Date Notice Served (mo/day/year) | Date Increase Effective (mo/day/year) | Amount Rent Increased | | Are you Contesting this Increase in this Petition?* | Did You Receive a Rent Program Notice With the Notice Of Increase? |
|----------------------------------|---------------------------------------|-----------------------|---------|---|---|
| | | From | To | | |
| 11/2015 | 1/2016 | \$ 950 | \$ 1150 | <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 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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

[Signature]
Tenant's Signature

11/14/16
Date

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

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

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

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

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

[Signature]
Tenant's Signature

11/14/16
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

RESIDENTIAL LEASE-RENTAL AGREEMENT AND DEPOSIT RECEIPT

88

RECEIVED FROM Fr & Omanzon & Marisa Cautie hereinafter referred to as Tenant
 the sum of \$ _____
 evidenced by _____
 hereinafter referred to as Owner, shall apply said deposit as follows:

| | TOTAL | | RECEIVED | BALANCE DUE PRIOR TO OCCUPANCY |
|--|-------------|----|------------|--------------------------------|
| Rent for the period from <u>2/1/16</u> to <u>1/31/16</u> | <u>1150</u> | \$ | | |
| Security deposit (not applicable toward last month's rent) | <u>500</u> | \$ | <u>500</u> | |
| Other _____ | | \$ | | |
| TOTAL | <u>1650</u> | \$ | | |

In the event that this agreement is not accepted by the Owner or his authorized agent, within _____ days, the total deposit received shall be returned.
 Tenant hereby offers to rent from the Owner the premises situated in the City of Walton County of Alameda
 State of CA, described as 4555 Bancroft St #2

and consisting of 2 bedrooms & 1 bath
 upon the following **TERMS AND CONDITIONS**:

1. **TERM:** The term hereof shall commence on _____ 19____ and continue (check one of the two following terms) until _____ 19____ for a total rent of \$ _____ and on a month-to-month basis thereafter, until either party shall terminate the same by giving the other party _____ days written notice delivered to the address of _____.
2. **RENT:** Rent shall be \$ 1150 per month payable in advance, upon the _____ day of each calendar month to Owner or his authorized agent at the following address: 442 London St ST or at such other place as may be designated by Owner from time to time. In the event rent is not paid within 15 days after due date, Tenant agrees to pay a charge of \$ 25 plus interest at _____ % per month on the delinquent amount. Tenant further agrees to pay \$ _____ for each dishonored bank check. Late charge period is not a grace period, and Owner is entitled to make written demand for any rent if not paid when due. Any unpaid balances remaining after termination of occupancy are subject to 17 % interest per month or the maximum rate allowed by law.
3. **MULTIPLE OCCUPANCY:** It is expressly understood that this agreement is between the Owner and each signatory jointly, and severally. Each signatory is responsible for timely payment of rent and performance of all other provisions of this agreement.
4. **UTILITIES:** Tenant shall be responsible for the payment of all utilities and services except Water, garbage which shall be paid by _____.
5. **USE:** The premises shall be used exclusively as a residence for no more than 6 persons. Guests staying more than a total of 6 stays in a calendar year without written consent of Owner shall constitute a violation of this agreement.
6. **ANIMALS:** No animals shall be brought on the premises without the prior consent of the Owner.
7. **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 and promulgated before or after the execution hereof, 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 a waterbed on the premises without prior written consent of the Owner.
8. **ORDINANCES AND STATUTES:** Tenant shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force which may hereafter be in force, pertaining to the use of the premises. If you are located in a rent control area, contact Rent and Arbitration Board for your legal rights.
9. **ASSIGNMENT AND SUBLETTING:** Tenant shall not assign this agreement or sublet any portion of the premises without prior written consent of the Owner.
10. **MAINTENANCE, REPAIRS, OR ALTERATIONS:** Tenant acknowledges that the premises are in good order and repair, unless otherwise indicated hereon. Tenant may at any time give Tenant a written inventory of furniture and furnishings on the premises and Tenant shall be deemed to have accepted the same. Tenant shall maintain furnishings in good condition and repair, unless he objects thereto in writing within five (5) days after receipt of such inventory. Tenant shall, at his own expense, at all times, maintain the premises in a clean and sanitary manner including, but not limited to, appliances, furniture and furnishings therein and shall surrender the premises at termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for damages caused by his negligence and the family or invitees and guests. Tenant shall not paint, paper or otherwise redecorate or make alterations to the premises without the prior written consent of the Owner. Tenant shall irrigate and maintain any surrounding grounds, including lawns and shrubbery, and keep the same clear of rubbish or weeds, if such grounds are on the premises and are exclusively for the use of the Tenant. Tenant shall not commit any waste upon said premises, or any nuisance or act which may substantially interfere with the enjoyment of any tenant in the building.
11. **INVENTORY:** Any furnishings and equipment to be furnished by Owner shall be set out in a special inventory. The inventory shall be signed by both parties and Owner concurrently with this Lease and shall be a part of this Lease.
12. **DAMAGES TO PREMISES:** If the premises are so damaged by fire or any other cause as to render them untenable, then either party shall have the right to terminate this Lease as of the date on which such damage occurs, through written notice to the other party, to be given within fifteen (15) days after occurrence of such damage, except that should such damage or destruction occur as the result of the abuse or negligence of Tenant, or his invitees, then Owner only shall have the right of termination. Should this right be exercised by either Owner or Tenant, then rent for the current month shall be prorated between the parties as of the date the damage occurred and any prepaid rent and unexpired security deposit shall be refunded to Tenant. If this Lease is not terminated, then Owner shall promptly repair the damage and there shall be a proportionate reduction of rent until the premises are repaired and ready for Tenant's occupancy. The proportionate reduction shall be based on the extent to which the making of repairs interferes with Tenant's reasonable use of the premises.
13. **ENTRY AND INSPECTION:** Owner shall have the right to enter the premises: (a) in case of emergency; (b) to make necessary or agreed repairs, decorations, alterations, improvements, supply necessary or agreed services, exhibit the premises to prospective or actual buyers, mortgagees, tenants, workmen or contractors; and (c) when tenant has abandoned or surrendered the premises. Except under (a) and (c), entry may be made only during normal business hours, and at least 24 hours notice to Tenant.
14. **INDEMNIFICATION:** Owner shall not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the premises or on the premises thereof, or in common areas thereof, unless such damage is the proximate result of the negligence or unlawful act of Owner, his agents, or his employees, or his agents or employees. Owner's insurance does not cover Tenant's personal property.
15. **PHYSICAL POSSESSION:** If Owner is unable to deliver possession of the premises at the commencement hereof, Owner shall not be liable for any damage to the premises, nor shall this agreement be void or voidable, but Tenant shall not be liable for any rent until possession is delivered. Tenant may terminate this agreement if possession is not delivered within _____ days of the commencement of the term hereof.
16. **DEFAULT:** If Tenant shall fail to pay rent when due, or perform any term hereof, after not less than three (3) days written notice of such default given in the manner required by law, the Owner, at his option, may terminate all rights of Tenant hereunder, unless Tenant, within said time, shall cure such default. If Tenant abandons or vacates the property, while in default of the payment of rent, Owner may consider any property left on the premises to be abandoned and may dispose of the same in any manner allowed by law. In the event the Owner reasonably believes that such abandoned property has no value, it may be discarded. All property on the premises shall be subject to a lien for the benefit of Owner securing the payment of all sums due hereunder, to the maximum extent allowed by law.
 In the event of a default by Tenant, Owner may elect to (a) continue the lease in effect and enforce all his rights and remedies hereunder including the right to recover the rent as it becomes due, or (b) at any time, terminate all of Tenant's rights hereunder and recover from Tenant all damages he may incur by reason of breach of the lease, including the cost of recovering the premises, and insuring the worth at the time of such termination, or at the time of an award if such damages, to enforce this provision, of the amount by which the unpaid rent for the balance of the term exceeds the amount of such rental loss which the Tenant proves to be reasonably avoided.
17. **SECURITY:** The security deposit set forth, if any, shall secure the performance of Tenant's obligations hereunder. Owner may, but shall not be obligated to, apply portions of said deposit on account of Tenant's obligations hereunder. Any balance remaining upon termination shall be returned to Tenant. Tenant shall have no right to apply the security deposit in payment of the last month's rent funds held at _____.
18. **DEPOSIT REFUNDS:** The balance of all deposits shall be refunded within two weeks from date possession is delivered to Owner or his Authorized Agent, together with a statement showing any charges made against such deposits.
19. **WAIVER:** No failure of Owner to enforce any term hereof shall be deemed a waiver. The acceptance of rent by Owner shall not waive his right to enforce any term hereof.
20. **NOTICES:** Any notice which either party may give or is required to give, may be given by mailing the same, postage prepaid, to Tenant at the premises or to the address shown herein or at such other places as may be designated by the parties from time to time.
21. **HOLDING OVER:** Any holding over after expiration hereof, with the consent of Owner, shall become a month-to-month tenancy at a monthly rent of _____ payable in advance and otherwise subject to the terms hereof, as applicable, until either party shall terminate the same by giving the other party thirty (30) days written notice.
22. **TIME:** Time is of the essence of this agreement.

ADDITIONAL TERMS AND CONDITIONS are set forth on page _____ of this agreement and may be modified only by a writing signed by both parties. The terms and conditions set forth in the Exhibits, if any, have been made a part of this agreement before the parties' execution hereof.

The undersigned Tenant hereby acknowledges receipt of a copy hereof.
 DATED: 11/15/15

 ACCEPTANCE: _____ Owner _____ Owner DATED _____

000016

Addendum A-Decrease in Services

| Description of Decreased Service | Approximate Date Service was Lost | Date Tenant Notified Landlord and how | Date fixed | Estimated Value to Loss of Service |
|--|-----------------------------------|---|------------|------------------------------------|
| 1. Kitchen fan is inoperable | Around 8 months ago | Verbally notified previous owner around 8 months ago. Verbally notified new owner, Nancy, around December 2015. | NA | 8% |
| 2. Refrigerator is leaking water | Around a year ago | Verbally notified previous owner around a year ago. Verbally notified new owner, Nancy, around December 2015. | NA | 10% |
| 3. One of the stove burners is broken and I cannot cook on it. | About a week ago. | Verbally notified the employee the owner has doing repairs in the building a week ago. | NA | 2% |
| 4. Carpet throughout the apartment is very old and used. I've cleaned it and the stains don't come out. It also has iron burn marks from previous tenants. | Since moving in. | New landlord told me around December she was going to change the carpet throughout. | NA | 10% |
| 5. There are cockroaches throughout the home. | Since moving in. | Verbally notified previous owner and verbally notified new owner around December 2015 when she came for the rent. | NA | 15% |

2016 JAN 19 PM 1:04
 MEDIATION PROGRAM

RENT ADJUSTMENT PROGRAM

2016 JAN 19 PM 1:04

Marisol Barreto Cantu
4555 Bancroft Avenue #2
Oakland, CA 94601
510-750-6769

City of Oakland
Rent Adjustment Program
P.O. Box 70243
Oakland, CA 94612-0243

Via Personal Delivery

RE: RAP Petition

To Whom It May Concern:

Someone who understands English and Spanish has helped me prepare this letter and accompanying RAP petition.

I do not speak English, and I respectfully request a Spanish translator at any subsequent mediation and/or hearing.

Thank you for your help

Respectfully,



Marisol Barreto Cantu

000018

CHRONOLOGICAL CASE REPORT

Case No.: T15-0465
Case Name: Sharbaugh v. Cardenas
Property Address: 196 Orange Street, Oakland, CA
Parties: Durell Sharbaugh (Tenant)
Adriana Cardenas (Landlord)

OWNER APPEAL:

| <u>Activity</u> | <u>Date</u> |
|-------------------------|--------------------|
| Tenant Petition filed | August 24, 2015 |
| Landlord Response filed | September 21, 2015 |
| Hearing Decision issued | January 25, 2016 |
| Owner Filed Appeal | February 16, 2016 |

000019

2015 FEB 16 PM 1:50

| | |
|--|--|
| City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721 | 2015 FEB 16 PM 1:50 APPEAL |
|--|--|

| | |
|--|--|
| Appellant's Name <i>Adriana Cárdenas</i> | Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/> |
|--|--|

| |
|---|
| Property Address (Include Unit Number) <i>196 ORANGE ST</i> <i>Oakland, CA 94610</i> |
|---|

| | |
|--|---|
| Appellant's Mailing Address (For receipt of notices) <i>5230 Leona ST.</i> <i>Oakland, CA 94619</i> | Case Number <i>T15-0465</i> Date of Decision appealed <i>1-21-16</i> |
|--|---|

| | |
|--|---|
| Name of Representative (if any) <i>n/a</i> | Representative's Mailing Address (For notices) <i>n/a</i> |
|--|---|

I appeal the decision issued in the case and on the date written above on the following grounds:

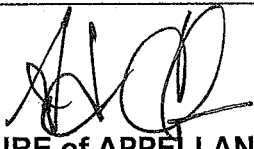
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.*
2. **The decision is inconsistent with decisions issued by other hearing officers.** *You must identify the prior inconsistent decision and explain how the decision is inconsistent.*
3. **The decision raises a new policy issue that has not been decided by the Board.** *You must provide a detailed statement of the issue and why the issue should be decided in your favor.*
4. **The decision is not supported by substantial evidence.** *You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.*
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** *You must explain how you were denied a sufficient opportunity 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.*
6. **The decision denies me a fair return on my investment.** *You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.*

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed. I declare under penalty of perjury under the laws of the State of California that on Feb 16, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

| | |
|------------------------|-------------------|
| Name | Durrell Sharbaugh |
| Address | 196 Orange St |
| City, State Zip | Oakland, CA 94610 |
| Name | |
| Address | |
| City, State Zip | |

| | |
|---|-------------|
|  | 2-11-16 |
| SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE | DATE |

IMPORTANT INFORMATION:

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

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

Case Number: T15-0465P

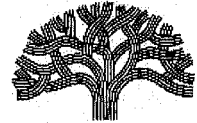
2016 FEB 16 PM 1:50

The Ordinance Section that is inconsistent with the decision issued in my case is:

“ Rent Adjustment Board Regulations Appendix A, Excerpts from Oakland City Council Resolution No. 71518 (superseded). Residential Rent Arbitration Board Rules and Regulations Sections 2.0 And 10.0 (all other section omitted, pages 1, 5-13,21 omitted).” 10.0 Justification for Additional Rent Increases 10.2.2

Section 10.2.2 Item 1, states in part, “Those improvements which primarily benefit the tenant rather than the landlord. (For example the remodeling of a lobby would be eligible as a capital improvement,...) However, the complete painting of the exterior of a building, and the complete interior painting of internal dwelling units are eligible improvement costs.”

It would logically follow that if remodeling of a lobby or painting the entire internal unit are eligible improvements, then installing crown molding in the entire unit, would also be an eligible capital improvement. This is a long-term, permanent improvement that enhances the unit for the unit where the tenant resides. It meets the criteria for what is a capital improvement per the ordinance.



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T15-0465, Sharbaugh v. Cardenas
PROPERTY ADDRESS: 196 Orange St., Oakland, CA 94619
DATE OF HEARING: January 13, 2016
DATE OF DECISION: January 21, 2016
APPEARANCES: Durell Sharbaugh, Tenant
Adriana Cardenas, Owner

SUMMARY OF DECISION

The tenant petition is granted in part.

CONTENTIONS OF THE PARTIES

On August 24, 2015, the tenant filed a petition alleging an unjustified rent increase in excess of the CPI Adjustment.

On September 21, 2015, the owner filed a timely response alleging untimely filing of tenant petition and capital improvements justification for the rent increase.

THE ISSUES

- (1) Has the tenant petition been filed timely?
- (2) If yes, is the rent increase justified by capital improvements and have the capital improvements been calculated correctly?

EVIDENCE

The tenant moved into the property on August 29, 2013, at an initial monthly rent of \$2,000.00. The subject property consists of three (3) residential units. The tenant

000023

stated on his petition and confirmed at the hearing that he received the RAP notice on October 1, 2013, and also with the rent increase notice. On June 25, 2015, the tenant received a rent increase notice proposing to increase the monthly rent from \$2,029.00 to \$2,120.00, effective July 25, 2015. The rent increase notice, consisting of six (6) pages, was submitted and admitted into evidence as Exhibit A. The notice included a cover letter, dated June 24, 2015, 30-day Notice dated June 24, 2015, Enhanced Notice to Tenants of Capital Improvements (2 pages), listing the items considered in the calculation of capital improvements, the cost paid for each item, and amortization period, rent increase amount and new rent over 60-month period. The notice also included two RAP notices, one for the tenant Durell Sharbaugh and one for the roommate Whitney Brooks. The Enhanced Notice was also received by the Rent Adjustment Program office on July 1, 2015.

Capital Improvements

The owner listed two items as capital improvements: (1) replacement of new heating furnace in the tenant's unit, in April of 2014, for \$3,200.00; and (2) installation of crown molding in the tenant's unit in May of 2014 for \$2,260.00. The owner submitted copies of invoices from her contractor, Pung Tien Vo, showing the total cost for each project (\$3,200.00 for the furnace and \$2,260.00 for crown molding), including material and labor. Each invoice had a notation that the total amount was paid in cash in full and included the date of payment. The total cost for both projects is \$5,460.00. The owner testified that she knows the contractor personally and has been hiring him for the last five years to work on projects on her rental properties. The owner paid cash for the work done; it was noted on the invoice by the contractor. The owner also testified that she was present in the unit with the contractor while he did the work. Copies of two invoices were admitted into evidence as Exhibit B.

The tenant's testimony was contradictory. The tenant initially argued that the heater replacement was a repair and not a capital improvement because the heater broke down and had to be fixed. Then the tenant argued that the heater was working at the time it was replaced and that it did not need to be replaced because it was working fine. The tenant also stated that he did not like the workmanship of the crown molding installation because there were gaps between the sections. The tenant stated that he should not pay for these improvements because they were overpriced and not done by a legitimate company. The tenant submitted an eight-page document, admitted into evidence as Exhibit C, showing the cost of the crown molding products (2 pages), the cost of the heater (1 page), and photographs of the installed crown molding (5 pages). The tenant admitted he removed part of the crown molding by himself because he did not like it.

The owner testified that the heater broke down once in the past, in October of 2013, and was repaired right away by a heating service. The owner submitted an invoice from DP Heating dated October 18, 2013, admitted into evidence as Exhibit D, showing a replacement of defective pilot for \$150.00. She testified that the heater was working after the repair, but because it was an old heater, she decided to replace it with

the new one in April of 2014. The owner also submitted a letter from the Harry Clark Plumbing and Heating Inc. that inspected the heater when she was in the process of purchasing the property. The letter states that "the furnace is older and could have trouble at any time." (Exhibit D.) The owner testified that when she purchased the property, she knew that she would eventually have to replace the heater but wanted to wait for the time when her contractor was available. The cost of furnace replacement, including parts, labor installation of new furnace and disposal of the old furnace was \$3,200.00 (Exhibit B).

As to the crown molding, the owner received an estimate from Bay City Crown for the total price of \$2,795.00. The copy of the estimate, dated March 16, 2015, was admitted into evidence as Exhibit E. The owner testified that she selected her contractor to do the work because she knows him, she is comfortable working with him and has been for several years, and it cost \$2,260.00 (Exhibit B). The owner testified that she was present in the apartment during the project when the contractor installed the crown molding. It took two and half days and the owner made sure that the nail holes were covered and all gaps were properly caulked. The owner testified that the finished project did not look like the photos submitted by the tenant in Exhibit C. The owner suspected that the tenant took the photographs when he removed the molding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Timeliness of filing of Tenant Petition

For a petition contesting a rent increase, the petition must be filed within sixty (60) days after the date the owner serves the rent increase notice or the date the tenant first receives written notice of the RAP notice, whichever is later.¹

According to the tenant, the rent increase notice was served on June 25, 2015. To be considered timely, the tenant's petition must be filed within 60 days after June 25, 2015, which is August 24, 2015. Since the tenant's petition was filed on August 24, 2015, it was timely filed. Even if the rent increase notice was served on June 24, 2015, as alleged by the owner, the sixty days from June 24, 2015, fall on Sunday, August 23, 2015. If the deadline falls on the weekend or legal holiday, it becomes due the next business day. The tenant petition would still be due on Monday, August 24, 2015. Therefore, the tenant's petition was filed timely.

Capital Improvements

The capital improvements that are used as justification for the rent increase contested in this petition were completed and paid for prior to August 1, 2014, the effective date for the amendments to the regulation relating to capital improvements. Therefore, the new 2014 amendments to the regulation relating to capital improvements do not apply here with the exception of "enhanced notice" requirement addressed above.

¹ O.M.C. §8.22.090A(2)

A rent increase in excess of the CPI Rent Adjustment may be justified by capital improvement costs.² Capital improvement costs are those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to the new building codes. Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.³

The improvements must primarily benefit the tenant rather than the owner. Capital improvement costs are to be amortized over a period of five years, divided equally among the units which benefited from the improvement. The reimbursement of capital expense must be discontinued at the end of the 60-month amortization period.⁴

An expense must pass three tests to meet the threshold definition of a Capital Improvement cost:

- (1) It must materially add to the value of the property
AND
- (2) It must either
 - A. Appreciably prolong the useful life of the property or
 - B. Adapt it to new building codesAND
- (3) It must primarily benefit the tenant.

The owner submitted invoices from her contractor for both projects with notation that the invoices were paid in cash. The owner credibly testified that she hired her contractor, oversaw the project, and paid for the materials and labor. (Exhibit B.) While the furnace was repaired six months prior to the replacement (Exhibit D), the furnace was working at the time it was replaced. The replacement of the furnace benefitted exclusively the tenant's unit and improved its energy efficiency. It qualifies as a capital improvement, and the owner is entitled to a capital improvement pass-through for this item.

The crown molding in the tenant's unit does not primarily benefit the tenant because it is an aesthetic issue. Therefore, it does not qualify as a capital improvement, and the owner is not entitled to a capital improvement pass-through for this item.

The owner also satisfied the enhanced notice requirements. The allowed capital improvement calculation is set forth in the attached table. The cost of improvement (\$3,200.00) is amortized over sixty-month period and allows the increase of \$53.33 for the furnace.

² O.M.C. Section 8.22.070(C)

³ Regulations, Appendix, Section 10.2.2(5)

⁴ Regulations Appendix, Section 10.2

ORDER

1. Petition T14-0465 is granted in part.
2. The rent increase justified by capital improvements is valid only as to the furnace.
3. The monthly base rent of \$2,029.00 is increased by capital improvement pass-through by \$53.33 (to \$2,082.33). The capital improvement pass-through expires on July 24, 2020, five years from July 25, 2015, the effective date of the pass-through.
4. The tenant has underpaid his rent by \$53.33 since July 25, 2015.

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

Dated: January 21, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

CAPITAL IMPROVEMENTS

Effective Date of Increase 25-Jul-15

Number of Residential Units on Property 3

| Improvements and repairs benefitting all units | | | | | |
|--|----------------|--------------|----------------------------|-----------------------|-----------------|
| IMPROVEMENT OR REPAIR | DATE COMPLETED | COST ALLOWED | NUMBER OF UNITS BENEFITTED | MONTHLY COST PER UNIT | VALIDITY CHECKS |
| | | | Subtotal | \$0.00 | OK |
| Place X in box if property is mixed use. | | | | | |
| Residential square footage | | | | | |
| Other use square footage | | | | | |
| Percent residential use | | | | | |
| INCREASE ALLOCATED TO RESIDENTIAL USE | | | | \$0.00 | |

| Improvements and repairs benefitting particular units | | | | | | |
|---|----------------|--------------|----------------------------|-----------------------|--------------------|-----------------|
| IMPROVEMENT OR REPAIR | DATE COMPLETED | COST ALLOWED | NUMBER OF UNITS BENEFITTED | MONTHLY COST PER UNIT | ALLOCATED TO UNITS | VALIDITY CHECKS |
| replacement of new furnace | 25-Apr-14 | \$3,200.00 | 1 | \$53.33 | 1 | |

OK

PROOF OF SERVICE

Case Number T15-0465

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 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

Durell Sharbaugh
196 Orange St
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 25, 2016 in Oakland, CA.



Linda M. Moroz
Oakland Rent Adjustment Program

PROOF OF SERVICE
Case Number T15-0465

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 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:

Owner

Adriana Cardenas
5230 Leona St
Oakland, CA 94619

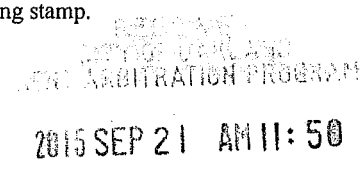
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 25, 2016 in Oakland, CA.



Linda M. Moroz
Oakland Rent Adjustment Program

B.

| | |
|---|---|
| CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721 | For filing stamp.  |
|---|---|

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 T15-0465 Km/LM

OWNER RESPONSE

Please print legibly.

| | | |
|---|--|--|
| Your Name <i>Adriana Cardenas</i> | Complete Address (with zip code) <i>5230 Leona St Oakland, CA 94619</i> | Phone: <i>510.381.8569</i> Email: <i>512adriana@gmail.com</i> |
| Your Representative's Name (if any) | Complete Address (with zip code) | Phone: _____ Fax: _____ Email: _____ |
| Tenant(s) name(s) <i>Durrell D. Sharbaugh Jr. Whitney Brooks</i> | Complete Address (with zip code) <i>196 ORANGE ST Oakland, CA 94619</i> | |

Have you paid for your Oakland Business License? Yes No Number _____
 (Provide proof of payment.)

Have you paid the Rent Adjustment Program Service Fee? (\$30 per unit) Yes No
 (Provide proof of payment.)

There are 3 residential units in the subject building. I acquired the building on 10/11/13

Is there more than one street address on the parcel? Yes No 196, 198, 200

I. RENTAL HISTORY

The tenant moved into the rental unit on ?

The tenant's initial rent including all services provided was \$ 2000 / 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? Oct 2013

Is the tenant current on the rent? Yes No

If you believe your unit is exempt from Rent Adjustment you may skip to **Section IV. EXEMPTION.**

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 6/24/15 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

Begin with the most recent rent increase and work backwards. Attach another sheet if needed.

| Date Notice Given (mo/day/year) | Date Increase Effective (mo/day/year) | Amount Rent Increased | | Did you provide NOTICE TO TENANTS with the notice of rent increase? |
|---------------------------------|---------------------------------------|-----------------------|---------|---|
| | | From | To | |
| 6/24/15 | 7/25/15 | \$ 2029 | \$ 2120 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 1/1/14 | 2/1/14 | \$ 2000 | \$ 2029 | <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 |

II. JUSTIFICATION FOR RENT INCREASE

You must prove that each contested rent increase greater than the Annual CPI Adjustment is justified and was correctly served. Use the following table and check the applicable justification(s) box for each increase contested by the tenant(s) petition. For a summary of these justifications, please refer to the "Justifications for Increases Greater than the Annual CPI Rate" section in the attached Owner's Guide to Rent Adjustment.

| <u>Date of Increase</u> | Banking (deferred annual increases) | Increased Housing Service Costs | Capital Improvements | Uninsured Repair Costs | Fair Return | Debt Service (if purchased before 4/1/14) |
|-------------------------|-------------------------------------|---------------------------------|-------------------------------------|--------------------------|--------------------------|---|
| 7-25-15 | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| _____ | <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"/> |
| _____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

For each justification checked, you must submit organized documents demonstrating your entitlement to the increase. Please see the "Justifications" section in the attached Owner's Guide for details on the type of documentation required. In the case of Capital Improvement increases, you must include a copy of the "Enhanced Notice to Tenants for Capital Improvements" that was given to tenants. Your supporting documents do not need to be attached here, but are due in the RAP office no later than seven (7) days before the first scheduled Hearing date.

III. 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 on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. 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** for 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.

V. IMPORTANT INFORMATION

Time to File. This form **must be received** by the Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612-0243, within 35 days of the date that a copy of the Tenant Petition was mailed to you. (The date of mailing is shown on the Proof of Service attached to the Tenant Petition and other response documents mailed to you.) A postmark does not suffice. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open. If you wish to deliver your completed Owner Response to the Rent Adjustment Program office in person, go to the City of Oakland Housing Assistance Center, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland, where you can date-stamp and drop your Response in the Rent Adjustment drop box. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m. **You cannot get an extension of time to file your Response by telephone.**

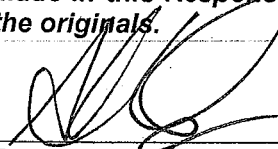
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

File Review. You should have received a copy of the petition (and claim of decreased services) filed by your tenant with this packet. Other documents provided by the tenant will not be mailed to you. You may review additional documents in the RAP office by appointment. For an appointment to review a file or to request a copy of documents in the file call (510) 238-3721.

VI. VERIFICATION

Owner must sign here:

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.



Owner's Signature

9-18-15
Date

VII. MEDIATION AVAILABLE

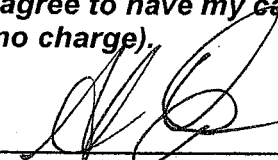
Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

If the parties reach an agreement during the mediation, a written Agreement will be prepared immediately by the mediator and signed by the parties at that time. If the parties fail to settle the dispute, the case will go to a formal Rent Adjustment Program Hearing, usually the same day. A Rent Adjustment Program staff Hearing Officer serves as mediator unless the parties choose to have the mediation conducted by an outside mediator. If you and the tenant(s) agree to use an outside mediator, please notify the RAP office at (510) 238-3721. 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. (There is no charge for a RAP Hearing Officer to mediate a RAP case.)

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner 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).



Owner's Signature

9-18-15
Date

T15-0465 km/LM

CITY OF SAN ANTONIO
RENT ARBITRATION PROGRAM

2015 SEP 21 AM 11:50

ATTACHMENT CONTENTS:

- A Statement of Late Filing by Tenant
- B Owner Response
- C 6/24/15 Cover Letter to Tenant re Rent Increase
- D 30 Day Notice of Change of Monthly Rent
- E Enhanced Notice to Tenants for Capital Improvements
- F RAP Notices
- G Harry Clark Plumbing and Heating Furnace Inspection Letter
- H DP Heating Service call 10/18/13
- I Invoice for Furnace Installation
- J Invoice for Crown Molding Installation
- K Bid for Installation of Crown Molding
- L Proof of Service
- M Business Tax Certificate
- N RAP Proof of Payment

000035

A.

Owner Statement

2015 SEP 21 AM 11:50

The rent increase notice was posted on Tenant's door on 6/24/15 and mailed on 6/25/15. Notice ALL documents reflect this 6/24/15 date which is why the increase was to be effective 7/25/15. Tenant has filed this petition one day late.

If the administrative hearing office will still let this case go forward, then I offer the following: When I bought this property I got an inspection of the property which included the furnace (Attachment G). It reflected that the furnace needed replacement. On 10/18/13 I had a repair done after I got a call from the tenant that the furnace was not working (Attachment H). On 4/25/14 I had the furnace replaced (Attachment I).

On 5/5/14 I had crown molding installed in the entire unit to enhance the look (Attachment J). In Feb/Mar 2015 I suspected that Mr. Sharbaugh had a new roommate that he had not informed me of. I asked him numerous times through email and he denied he had a new roommate. One day I was at the property and saw a woman coming out of his unit and I asked her if she lived there. She said yes and that she had moved in on October 2014.

In Mar 2015, I made an appointment with the new tenant to sign a lease and when I entered the unit I saw that Mr. Sharbaugh had ripped down the crown molding in the unit with the exception of one bedroom and the bathroom. Thus, I have attached a bid that I got to replace the crown molding (Attachment K). I have not replaced it yet. (He also damaged the unit in other ways that are not relevant to the issue in this case.)

Adriana Cardenas
Owner 196 Orange St
Oakland, CA

T15-0465 KM/LM

| | |
|---|---|
| <p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p> | <p>For date stamp: ARBITRATION PROGRAM 2015 AUG 24 AM 10:46</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.

TENANT PETITION

Please print legibly

| | | |
|---------------------------------------|---|----------------------------------|
| Your Name <i>Durrell Sharbaugh</i> | Rental Address (with zip code) <i>196 Orange St. Oakland, CA 94610</i> | Telephone <i>415-713-8752</i> |
| Your Representative's Name | Mailing Address (with zip code) | Telephone |
| Property Owner(s) name(s) | Mailing Address (with zip code) | Telephone |

Number of units on the property: 3

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

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

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

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

Date you moved into the Unit: 8/29/13 Initial Rent: \$ 2000.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 10/1/13. If never provided, enter "Never."

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

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

| Date Notice Served (mo/day/year) | Date Increase Effective (mo/day/year) | Amount Rent Increased | | Are you Contesting this Increase in this Petition?* | Did You Receive a Rent Program Notice With the Notice Of Increase? |
|----------------------------------|---------------------------------------|-----------------------|---------|---|---|
| | | From | To | | |
| 6/25/15 | 7/25/15 | \$ 2029 | \$ 2120 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| | | \$ | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | \$ | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | \$ | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | \$ | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | \$ | \$ | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No |

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

T15-0154 (1 won BOTH)
T14-0273

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

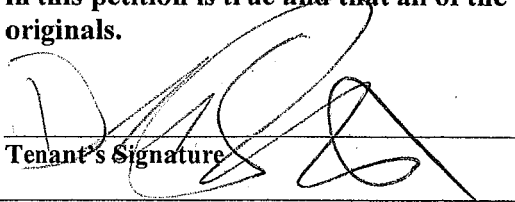
- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

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

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

8-24-15

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): owner charges me \$15.00 a year

CHRONOLOGICAL CASE REPORT

Case No.: T16-0073
Case Name: Ullman v. Tse
Property Address: 4410 Edgewood Ave., B, Oakland, CA
Parties: Bree Ullman (Tenant)
Christopher Tse (Landlord)

TENANT APPEAL:

| <u>Activity</u> | <u>Date</u> |
|-------------------------|------------------|
| Tenant Petitions filed | February 3, 2016 |
| Landlord Response filed | March 3, 2016 |
| Hearing Decision Issued | July 1, 2016 |
| Tenant Appeal filed | July 14, 2016 |

| | | | |
|--|--|--|--|
| City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721 | | 2016 JUL 14 PM 1:33 APPEAL | |
| Appellant's Name Brianne Ullman | | Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/> | |
| Property Address (Include Unit Number) 4410 Edgewood Ave., Apt. B | | | |
| Appellant's Mailing Address (For receipt of notices) 4410 Edgewood Ave, Apt. B Oakland, CA 94602 | | Case Number T160073 Date of Decision appealed June 24, 2016 | |
| Name of Representative (if any) <hr/> | | Representative's Mailing Address (For notices) <hr/> | |


I appeal the decision issued in the case and on the date written above on the following grounds:
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.*
2. **The decision is inconsistent with decisions issued by other hearing officers.** *You must identify the prior inconsistent decision and explain how the decision is inconsistent.*
3. **The decision raises a new policy issue that has not been decided by the Board.** *You must provide a detailed statement of the issue and why the issue should be decided in your favor.*
4. **The decision is not supported by substantial evidence.** *You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.*
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** *You must explain how you were denied a sufficient opportunity 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.*
6. **The decision denies me a fair return on my investment.** *You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.*

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached 4 Please number attached pages consecutively.

8. You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed. I declare under penalty of perjury under the laws of the State of California that on July 14, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

| | |
|-------------------------------|--------------------------|
| <u>Name</u> | Christopher Tse |
| <u>Address</u> | 296 Parkview Terrace |
| <u>City, State Zip</u> | Oakland, CA 94610 |
| <u>Name</u> | James Coleman |
| <u>Address</u> | 490 Lakepark Ave. #16091 |
| <u>City, State Zip</u> | Oakland, CA 94610 |

| | |
|--|-------------|
|  | 7/14/16 |
| SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE | DATE |

IMPORTANT INFORMATION:

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

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

BREE A. ULLMAN
4410 Edgewood Avenue
Oakland, CA 94602
bre.esq@gmail.com

BEFORE THE RENT ADJUSTMENT PROGRAM
CITY OF OAKLAND, CA

Factual Background and Explanation of Grounds for Appeal: Case #T160073

Background:

Mr. Tse put the Edgewood Property on the Market in May of 2015. He then abruptly took the property off the market and filed a petition attempting to exempt himself from rent control, based on a 2007 condo conversion that he never completed.

Last summer, I filed a brief in response to Mr. Tse's petition, arguing that the original condo converter may not benefit from his own conversion. The law is painstakingly clear on this point. Perhaps realizing that he did not have a legal leg to stand on, Mr. Tse withdrew his petition before a hearing could ever be held. He also attempted to "buy out" Ms. Hellman by paying her to move out of her unit. She refused. So Mr. Tse tried another strategy: he raised the rent on each apartment to \$2,800 and even threatened legal action against Ms. Hellman if she did not pay him \$4,000 as an increased "security deposit."

Unit B: Transfer to James Coleman and Simultaneous Rent Raise

On December 1, at the conclusion of a Rent Board hearing concerning his attempted capital improvements increases, Mr. Tse asked hearing officer Stephen Kastin whether he could raise the rent to anything he wanted if the units were sold separately. Mr. Kastin replied that he could not give legal advice. The very next day, December 2, 2015, Mr. Tse transferred my unit to his long-term friend and former-roommate, James Coleman. He sent me a nearly 70 percent rent increase (to \$2,800) the same day. Mr. Coleman had entered my unit one month prior, for approximately 60 seconds, before making this purchase. He did not even look at the bedrooms. He has not once responded to any of my phone calls regarding the property and has not been seen on the property even once since he purportedly became my landlord. The rent increase notices and other notices that he has sent me appear to have been actually authored and delivered by Mr. Tse. Mr. Coleman's phone number is a google voice subscription with no answering machine. The emails sent from James4410@gmail.com appear to be from Mr. Tse. When my shower faucet broke, it was Mr. Tse who entered my unit in a failed attempt to make

000043

a repair. When I suggested that I hire a handyman and deduct the cost from my rent, Mr. Tse agreed. I offered to let my "new landlord" know, but Mr. Tse said that he would just "tell James" himself. Mr. Coleman did not even show up at the June 17 rent board hearing. He allowed Mr. Tse to act as his representative.

Unit A and C: Transfer of Unit A to Sousan Yaganhi and Rent Raise in Unit C.

On January 28, 2015 Mr. Tse then transferred Unit A to his long-term girlfriend. Property records indicate that he sold the unit for the exact same \$454,000 price that he sold my unit for. And, again, on the very same day, he raised Ms. Hellman's rent (whose unit he still owns) to the same \$2,800. Mr. Tse was evidently attempting to take advantage of the loophole that allows a landlord who has lived in a unit for more than a year (he did several years ago), and who sells off the "remaining units" to exempt his residence from rent control. He misread the law, (which requires residency *after* sale of the other units), and the Rent Board properly ruled against him. These facts are important to this appeal, however, because they indicate the strategy Mr. Tse was employing when he executed private sales to his best friend and his girlfriend and kept one remaining unit in his own name. The issue, as it pertains to Unit B, is whether the sale to Mr. Coleman was executed *in good faith*. It was not.

Until I have access to the full discovery tools available in the civil system, I cannot tell you whether actual money changed hands between Mr. Tse and Mr. Coleman or Mr. Tse and Ms. Yahaghi. I suspect that it did not. The record, however, already contains more than enough information to cast serious doubt on these transactions.

These transactions were designed by Mr. Tse (note the identical purchase prices and rent increases) with the specific purpose of exempting himself from rent control and pricing his tenants out of their homes. The sales to his closest friends were executed to justify the \$2,800 rent increases he is attempting to levy, not the other way around. The law does not tolerate this behavior, or at least, it should not reward such sham transactions with exemptions from rent control.

GROUNDS FOR APPEAL:

3. The decision raises a new policy issue that has not been decided by the Board.

At issue here is what constitutes a "bona fide" sale for the purposes of exempting a condominium from Oakland's rent control ordinance. Can a landlord sell individual units in his building to his friends and/or relatives in a quick private sale, impose a rent increase (through these agents) large enough to price the tenants out of their previously rent-controlled apartments and then turn a quick profit on the entire empty building? The Board's decision in case T160073 would appear to condone this behavior, though the language of the decision is perilously vague. If a condominium subdivider's best friend and partner may each serve as bona fide purchasers to exempt the property from rent control, then why not his children or

his brother? Can a landlord sell units to her minor children or her husband in order to escape the reach of Oakland's RAP? At what point should the City cry foul?

The City of Oakland is in a housing affordability crisis that threatens the health and welfare of the community. The interpretation of laws designed to close loopholes for landlords is thus an extremely important policy issue with potentially far-reaching implications.

In 2002, in order to curb the abuse of section 1954.52 through false condominium conversions, the legislature carefully excluded condominium units which have not been sold to a bona fide purchaser. In practical terms, this means that the original condominium converter may not exempt his own property from rent control simply by changing the designation of the property. It should also mean that the original converter cannot exempt his property from rent control by conveying parts of it to himself or his friends, with the intention of pricing the tenants out of their home and turning a quick profit. Presumably, this is why the legislature, in its 2002 amendments to the Costa Hawkins Act, added the requirement of sale to a "bona fide purchaser" rather than simply *any* purchaser for value. §1954.52(b)(2)

Unfortunately, this new "Bona fide purchaser" language does little to remedy the situation if this board refuses to assign it any meaning.

4. The decision is not supported by substantial evidence

In determining that Mr. Coleman was, in fact, a bona fide purchaser, the hearing officer ignored significant, glaring facts indicating otherwise, relying almost entirely on the existence of a grant deed evidencing that a sale to Mr. Coleman occurred.

Tenant alleged that Mr. Tse sold her unit to Mr. Coleman for the sole purpose of evading Oakland's rent control laws and that Mr. Tse continued to make all decisions related to the entire property. At no time during the entire six months following his purchase did Mr. Coleman ever speak with tenant, respond to her phone calls, or visit the property despite tenant's multiple attempts to engage him. Whether Mr. Coleman is acting as an agent of Mr. Tse is entirely relevant in this case. The law prohibits a subdivider from benefiting from his own condo conversion. Selling to friends and family who will act as ~~your~~ ^{one's} agent or further ~~his~~ ^{one's} interests is an end-run around the law.

And so it is rather extraordinary that the hearing officer refused to draw any inferences from the fact that Mr. Coleman did not show up to defend his bona fide purchaser status and that he instead had Mr. Tse defend the rent increase that Coleman claimed to have imposed without input from Mr. Tse. Mr. Tse had, of course, imposed the exact same increase on his own tenants after selling another

unit in the building to his girlfriend. The very issue at the heart of this case is whether there was an arms-length transaction between Mr. Tse and Mr. Coleman or whether Mr. Coleman is simply acting in Mr. Tse's interest (for financial, collegial or other incentive). The fact that Mr. Coleman did not attend the hearing and instead asked Mr. Tse to represent his interests is instructive on this point. Moreover, the hearing officer supports her decision by stating that Mr. Tse has a "right to sell in a private sale to someone he knows" (Hearing Decision, p. 6) and that tenant's contentions that Mr. Tse sold to his girlfriend and his best friend to evade rent control laws are pure "speculation." Surely, Mr. Tse has "a right" to sell the property to anyone he likes, but he does not have a right to an automatic exemption from rent control unless that transaction is in good faith. In fact, the record is replete with evidence that cast serious doubt on whether arms-length transactions occurred. See "Background" *supra*.

The hearing officer simply wasn't willing to consider any of the evidence that indicated a lack of good faith in the transaction between Mr. Tse and Mr. Coleman (and Mr. Tse and Ms. Yahaghi). It should also be noted, that because discovery is not a tool available to Tenants in this administrative hearing, tenants simply do not yet have access to documents which would constitute irrefutable proof of landlord's fraudulent motives. Tenants have filed or will file a civil suit in Alameda County which will open up the appropriate records necessary to deciding this case. To issue a Certificate of Exemption to Mr. Tse at this point, without any discovery, would be irresponsible and against the interests of justice.

5. I was denied a sufficient opportunity to present my case.

The hearing officer severely limited Tenant's questioning of her absentee landlord, James Coleman, who appeared briefly by phone, as well as her questioning of the real party in interest, her former landlord, Christopher Tse. Mr. Tse was extremely uncomfortable with Tenant's questions about the sale of his property to his close friends and answered most questions with "How is that relevant?" The hearing officer, for the most part let him get away with this, and did not allow questioning on a large variety of topics which would have elucidated Mr. Tse's motives for selling the property.

For example, Mr. Tse has been threatening legal action against Ms. Hellman, the tenant in unit C, if she does not pay him an additional more than \$4,000 in security deposit funds that he unilaterally imposed when she refused to be bought out of the building. The tenants at the Edgewood property have been subject to a deliberate campaign of retaliatory harassment designed to get them to abandon their rights to their rent-controlled apartments. The hearing officer severely limited testimony on these matters, stating that Mr. Tse's motivation for the sale had little bearing on whether the sale was *bona fide*. In fact, determining whether a sale was done in good faith is a holistic analysis that should not have been so conscripted.

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

HEARING DECISION

CASE NUMBERS: T16-0073, Ullman v. Tse
T16-0074, Hellman v. Tse

PROPERTY ADDRESS: 4410 Edgewood Ave, B & C, Oakland, CA

DATE OF HEARING: June 17, 2016

DATE OF DECISION: June 23, 2016

APPEARANCES: Bree Ullman, Tenant Unit C and Tenant Representative
Sarah Hellman, Tenant Unit B
James Coleman, Owner Unit C (by phone)
Christopher Tse, Owner Unit B and Owner Representative

SUMMARY OF DECISION

The tenant petition in case T16-0073 is denied. That unit is exempt from the Rent Adjustment Ordinance. The tenant petition in case T16-0074 is granted. That unit is not exempt from the Rent Adjustment Ordinance.

CONTENTIONS OF THE PARTIES

Tenant Bree Ullman filed a petition in case T16-0072, which alleges that a rent increase exceeds the CPI Adjustment and is unjustified or is greater than 10%; that the contested increase is the second rent increase in a 12-month period; and that the proposed increase would exceed an overall increase of 30% in 5 years.

James Coleman, the owner of the condominium unit in which Ms. Ullman resides, filed a response to the petition in which he alleged that the unit is exempt from the Rent

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Adjustment Ordinance (Ordinance) because it is a single family residence or condominium exempted by the Costa-Hawkins Rental Housing Act.

Tenant Sarah Hellman filed a petition in case T16-0073, which alleges that a rent increase from \$1,660.30 to \$2,800 a month, effective April 2, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that the contested increase is the second rent increase in a 12-month period; and that the proposed increase would exceed an overall increase of 30% in 5 years.

Christopher Tse, the owner of the condominium unit in which Ms. Hellman resides, filed a response to the petition in which he alleged that the unit is exempt from the Rent Adjustment Ordinance (Ordinance) because it is a single family residence or condominium exempted by the Costa-Hawkins Rental Housing Act.

THE ISSUES

1. Does the Rent Adjustment Program have jurisdiction over whether or not the subject units were converted into condominiums legally?
2. Was Unit B sold by Christopher Tse to a "bona fide purchaser for value"?
3. If Unit B was sold to a bona fide purchaser for value, is the unit exempt from the Ordinance?
4. Is Unit C exempt from the Ordinance?
5. If Unit C is not exempt, is the rent increase allowed?

EVIDENCE

The History of the Building: Christopher Tse testified that he purchased a 3 unit apartment building at 4410 Edgewood Avenue in roughly 2005. He began a condominium conversion project in 2007 before either of the tenants in the instant case moved into the building.¹ Each unit is approximately the same size and configuration; they are each 2 bedroom units that are approximately 810 square feet. In 2008, Mr. Tse was given separate Assessor Parcel Numbers (APN) for each unit and he started paying property taxes for three separate parcels, rather than for one parcel as before the condominium conversion was complete.

From sometime in 2009-January 1, 2012, Mr. Tse lived in unit C in the subject building. He produced PG&E bills showing that he lived in that unit.² He moved out on January 1, 2012, the same day that Ms. Hellman moved into the unit. Ms. Hellman testified that she moved into a unit in which Mr. Tse had previously lived.

Mr. Tse further testified that in May of 2015 he listed the whole building for sale, or in the alternative, the individual condominiums. After it was listed he heard from his realtor that Ms. Ullman had left some kind of threatening letter on her kitchen table

¹ See Exhibit 5, which is only one page of the letter he received from the *City of Oakland*. This Exhibit, and all other Exhibits referred to in this Hearing Decision, was admitted into evidence without objection.

² Exhibit 8

relating to the potential sale and so the realtors chose to withdraw from the contract they had with Mr. Tse. Ms. Ullman denied ever leaving any kind of threatening letter. Mr. Tse did not have any proof of this alleged letter. Tse testified that there had not been any offers made on the units before they were withdrawn from the market.

Tse further testified that after withdrawing the units from the market, he sold Unit B in a private sale in December of 2015 to an old friend of his, James Coleman. He sold it for \$454,000.³ Because Coleman knew that Tse wanted to sell the units, Coleman approached Tse about purchasing one of the units. They had an appraisal done, they looked at comparable sales and agreed on a price based on the appraisal. The unit was sold to Coleman on December 2, 2015.

Ullman testified that she moved into Unit B at 4410 Edgewood Avenue in April of 2010 at an initial rent of \$1,500 a month. When she moved in she was informed that the apartment was rent controlled. She was repeatedly served with *RAP Notices*. She was never served with any documents related to the condominium conversion.

Ullman further testified that on December 2, 2015, she was served with a rent increase notice purporting to increase her rent from \$1,601.11 to \$2,800 a month, effective February 8, 2016.⁴ She received this by email. She did not ever receive it through the mail. According to the *Tenant's Petition*, this document was also served with a *RAP Notice*.

Mr. Tse testified that he sold unit A in the subject building to his girlfriend, Sousan Yahaghi, in January of 2016.⁵ They based the purchase price as the same amount for which Tse had sold Unit B to Coleman. Tse further testified that he did not pay any money to Ms. Yahaghi to assist her in the purchase of the property from him.

Coleman testified that he purchased Unit B from Mr. Tse for \$454,000. He made a down payment of \$20,000 and took out a mortgage for the rest of the purchase price. There was an escrow opened when he purchased the property. Coleman further testified that he has known Christopher Tse for 8-10 years or longer and that he used to live in the unit that he purchased from Tse.

On cross-examination Coleman was asked for how long he had visited the apartment before agreeing to purchase it. He responded that he had lived in the unit in the past and had actually been in all three of the apartments in the subject property. Coleman denied knowing of any prior plans by anyone to purchase the entire property from Tse.

Coleman further testified that he was the one who suggested that he purchase the property from Tse. On cross-examination he testified that he gets the tenant's rent checks and deposits them and that he has written her eviction notices and posted them on her door. Additionally, he has an email address that he uses that is

³ Exhibit 4, the Grant Deed, shows the purchase price as \$454,000

⁴ Exhibit 3

⁵ Exhibit 9

james4410@gmail.com that only he has access to. Mr. Tse does not have access to that email account.

Tenant Ullman testified that since he purchased the property she has not met with Mr. Coleman and that her cross-examination of him was the first conversation she had had with him since he became the owner of her unit; that she has no way of contacting him other than via email; that he does not answer the phone; she has never seen him at the property; and that she believes she is communicating with Mr. Tse when she writes to the james4410@gmail.com email account. She further testified that she believes that Tse sold the property to friends for less money than he might have gotten on the open market and that this was a sign that the sales were not in good faith.

Ullman testified that Coleman came into her unit to see it before he purchased it but was in the unit for less than 60 seconds. After Coleman purchased the property, when he shower head broke, it was Mr. Tse, not Coleman, who came to her unit to attempt to repair it.

Coleman testified that no one but him has access to that email account. Tse testified that he does not have access to that email account.

Coleman testified that he did not receive any money from Mr. Tse prior to purchasing the unit.

Hellman testified that she moved into unit C at 4410 Edgewood Avenue, in January of 2012 at an initial rent of \$1,550 a month.⁶ On January 28, 2016, she received a rent increase notice purporting to increase her rent from \$1,660.30 to \$2,760.67, effective April 2, 2016.⁷ She received the rent increase notice because it was posted on her door. She possibly also got it in the mail but she does not remember.

Tse testified that his intent in selling the units was to be able to pay off his mortgage, which was an adjustable mortgage with rates that were increasing. After he sold the two units to Coleman and Yahaghi, he was able to pay off his mortgage. He provided proof that he paid off his mortgage.⁸

Tse further testified that he and Mr. Coleman did not decide together regarding a rent increase on the units they owned. After Coleman raised the rent on Unit B, Tse decided to raise the rent on Unit C to the same amount. Tse does not direct Coleman in the management of the property. Tse did not serve Coleman's rent increase notices or other documents. In one instance when Ullman's faucet was leaking, Tse tried to take care of the problem for Coleman because he was there doing work on the property.

Tse testified on cross examination that he had never spoken with Coleman and Yahaghi about selling the entire building together and that he has not decided whether or not he

⁶ Exhibit 6

⁷ Exhibit 7

⁸ Exhibit 10

will sell the one unit he continues to own. Tse did not pay off the tenants in Unit A to leave the property. Tse testified that the reason he sold the units to Coleman and Yahaghi rather than on the open market is because he wanted to sell to them. Tse further testified on cross examination that he had informed Coleman and Yahagi that there had been claims before the RAP regarding the owner's right to increase the rent.

Ullman contended that because Tse sold the property to two of his close friends and not on the open market, there was evidence of some ulterior motive between the three now current owners to later sell the property after the tenants are priced out of the units (and the units are then vacant) all together for more money. She additionally contended that since the owners are all friends, that Tse retains some control over what happens in the building.

Ullman had offered into evidence a *Redfin* estimate regarding the value of the property. It was not admitted into evidence.⁹

Ullman additionally tried to argue that the units in question were not originally converted into condominiums through legal process. Her questions to Mr. Tse about this were limited by the Hearing Officer. (See below.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Does the Rent Adjustment Program have jurisdiction over whether the condominiums were legally subdivided?

The tenants sought to argue that the units in question were not ever legally subdivided. The RAP does not have jurisdiction over whether or not the units in question were legally subdivided. At the time the tenants' petitions were filed, each of the units in question had individual Assessor Parcel Numbers (APN). Therefore, they were de facto condominiums (units that could be sold separately.) Whether or not the condominium status was improperly granted is not a determination that can be made by the RAP.

Therefore, the tenant's questions to the owner about the original condominium conversion process was limited in scope.

Was Unit B Sold To a Bona Fide Purchaser for Value?

The evidence in this case established that Christopher Tse purchased the entire 3 unit apartment building located at 4410 Edgewood Avenue in 2004. In 2007, he began a process to subdivide the units into condominiums. At some point in 2007 or 2008, that process was approved and Tse was given three Assessor Parcel Numbers for the three separate units, when in the past there was only one APN.

⁹ This document was not admitted into evidence because there was no substantiation as to how *Redfin* determined the purported value of the unit in question. Additionally, the document (which was 9 pages) contained numerous comments regarding other properties in a section entitled "*WhatIt Takes To Win An Offer Near 94602*")

In December of 2015, Tse sold Unit B to James Coleman. Coleman was a longtime friend of Tse's. He purchased the property for \$454,000. Twenty thousand dollars was paid by down payment, and Coleman financed the rest of the purchase price. There is no evidence that Tse paid any money to Coleman to purchase the property, or that Tse continues to control the unit in any substantive way. Since Coleman and Tse remain friends, the fact that Tse acted on Coleman's behalf to attempt a repair of a broken faucet does not change the basic facts.

Additionally, Ullman's contentions that there is something wrong with the purchase because Tse sold both of the units he sold to longtime friends is pure speculation. There is no evidence of a conspiracy. Tse has the right to sell in a private sale, or to sell the units on the open market. He chose to sell in a private sale to someone he knows. There is no evidence that had he sold on the open market he would have gotten more money for the units, and as such, the private sale is somehow suspect.

The case cited by Ullman, *Melendrez v. D and I Investments, Inc.*, 127 Cal.App.4th 1238, does not require a different result. In that case the court upheld a sale where a borrower claimed that a trustee sale of property to a new buyer was invalid because the buyer should have known of the borrower's continued assertion of a right to the property under a repayment agreement. The court held that in order to be a "bona fide purchaser" the buyer had to "purchase the property in good faith *for value*, and (2) have no knowledge or notice of the asserted rights of another." Id at 1251. With respect to the question of the rights asserted by another, the court discussed that the buyer should not have "knowledge or notice of a competing claim."

However, in this case, the mere fact that the tenants had previously filed claims against the owner in this forum, does not mean that the tenants had any potential rights or claims as owners of the property. The *Melendrez* case involved a prior owner of the property, not a tenant. The mere fact that Coleman knew that the tenants had brought previous claims against the owner in this forum does not mean that he was not a bona fide purchaser.

There is simply no evidence that the prior owner did anything out of the ordinary. Ullman's claims are conjecture. Coleman sought to sell his property. He sold two of the three units to people he knew. There is no law against this. Coleman was a bona fide purchaser for value.

Is Unit B Exempt From the Rent Adjustment Program?

The Oakland Rent Adjustment Ordinance (Ordinance) exempts single family residences and condominiums if they are exempt pursuant to the Costa-Hawkins Rental Housing Act, California Civil Code §1954.52.¹⁰ California Civil Code Section 1954.52(a)(3) [Costa-Hawkins] provides that a dwelling or unit which is separately alienable from any other dwelling or unit is exempt from local rent control after the units are subdivided and then "sold separately by the subdivider to a bona fide purchaser for value."¹¹

¹⁰ O.M.C. § 8.22.030(A)(7)

¹¹ Civil Code Section 1954.52(a)(3)(B)(ii)

In this case, the units were subdivided by Christopher Tse. After the subdivision, Tse sold Unit B to a bona fide purchaser for value. Therefore, Unit B is exempt from the Rent Adjustment Program.

Is Unit C Exempt From the Rent Adjustment Program?

The Costa-Hawkins Rental Housing Act holds that the original subdivider of a property is not exempt from rent control unless:

“all the dwellings or units except one have been sold separately by the subdivider to bona fide purchasers for value, and the subdivider has occupied **that remaining** unsold condominium dwelling or unit as his or her principal residence for at least one year after the subdivision occurred.” (Emphasis added.) Civil Code § 1954.52(a)(3)(B)(ii).

The evidence established that Christopher Tse lived in Unit B on the subject property from 2009-2012. However, he did not live there after the other two units were sold to Coleman and Yahagi.

Tse argued that it did not matter when he lived in the unit, as long as he lived there for at least one year after the subdivision occurred. Ullman argued that Tse had to live in the unit after the subdivision occurred for Tse to have the right to be exempt from rent control.

Ullman is correct. It is a maxim of statutory construction that “Courts should give meaning to every word of a statute if possible, and should avoid a construction making any word surplusage.” (*Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 22) Under general rules of statutory interpretation, an interpretation which has the effect of making statutory language null and void is to be avoided. (*People v. Woodhead* (1987) 43 Cal.3d 1002, 1010; *Prager v. Isreal* (1940) 15 Cal.2d 89, 93).

The key phrase to be analyzed in this subsection of the statute is the words “**that remaining**”. Tse’s unit does not become “that remaining” unit until after the other two units are sold. In order for Tse’s unit to be exempt from rent control he must have lived in the unit after he sold the other two units. He did not. Therefore, Unit C is not exempt from rent control.

As to Unit C, is there any justification for the rent increase?

Tenant Hellman contested a rent increase she received purporting to increase her rent from \$1,660.30 to \$2,800, effective April 2, 2016. In the Owner’s Response, his only justification for the rent increase was his argument that the unit is exempt from the RAP.

As noted above, the unit is not exempt from the RAP. Without any other justification, the rent increase is invalid.

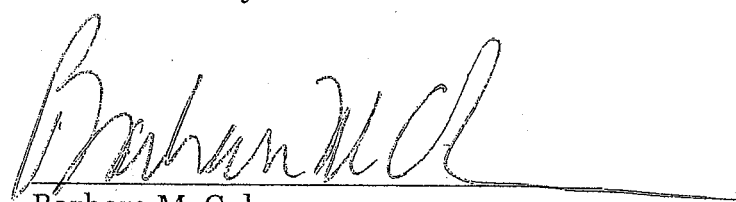
Additionally, the RAP allows only one rent increase in any 12 month period. O.M.C. § 8.22.070(A). Official Notice is taken of case T15-0390. In that case the Hearing Officer upheld a rent increase to Ms. Hellman's unit effective August 1, 2015. No rent increase can be given to this tenant at any time before August 1, 2016. This is another reason why the rent increase is invalid.

For these reasons, tenant Hellman's rent remains \$1,660.36.

ORDER

1. The petition of Tenant Ullman (T16-0073) is denied. The petition of Tenant Hellman (T16-0074) is granted.
2. Unit B is exempt from the Rent Adjustment Program. A Certificate of Exemption for the subject unit will be issued upon this Decision becoming final.
3. Unit C is not exempt from the Rent Adjustment Program.
4. The rent for Unit C remains \$1,660.36 a month.
5. The owner is not entitled to a rent increase on Unit C until August 1, 2016.
6. **Right to Appeal:** This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: June 23, 2016



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0073

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

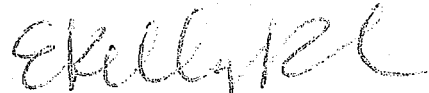
Today, I served the attached **Hearing Decision** by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Owner

James Coleman
490 Lakepark Ave #16091
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 **July 1, 2016** in Oakland, California.



Esther K. Rush
Oakland Rent Adjustment Program

000055

PROOF OF SERVICE

Case Number T16-0073 and T16-0074

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 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:

James Coleman
490 Lakepark Ave #16091
Oakland, CA 94610

James Coleman
360 Grand Ave #80
Oakland, CA 94610

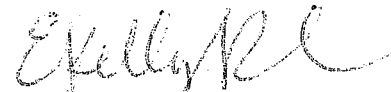
Sarah Hellman
4410 Edgewood Ave #C
Oakland, CA 94602

Christopher Tse
296 Parkview Ter
Oakland, CA 94610

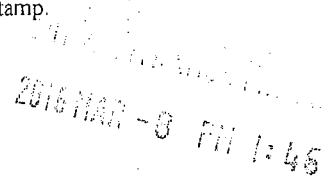
Brianne Ullman
4410 Edgewood Ave #B
Oakland, CA 94602

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **June 24, 2016** in Oakland, California.



Esther K. Rush
Oakland Rent Adjustment Program

| | |
|---|--|
| CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721 | For filing stamp.  |
|---|--|

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 - 160073

OWNER RESPONSE

Please print legibly.

| | | |
|--|--|--|
| Your Name <i>James Coleman</i> | Complete Address (with zip code) <i>490 Lake Park Ave #1609B Oakland, 94610</i> | Phone: <i>(510) 463-1411</i> Email: <i>JColeman4910@gmail.com</i> |
| Your Representative's Name (if any) | Complete Address (with zip code) | Phone: _____ Fax: _____ Email: _____ |
| Tenant(s) name(s) <i>Bree Ullman</i> | Complete Address (with zip code) <i>4410 Edgewood Ave #B Oakland, Ca 94602</i> | |

Have you paid for your Oakland Business License? Yes No Number _____
 (Provide proof of payment.)

Have you paid the Rent Adjustment Program Service Fee? (\$30 per unit) Yes No
 (Provide proof of payment.)

There are 3 residential units in the subject building. I acquired the building on 12/02/15

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 04/01/2010

The tenant's initial rent including all services provided was \$ 1500 / 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

If you believe your unit is exempt from Rent Adjustment you may skip to **Section IV. EXEMPTION.**

III. 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 on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. 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** for 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.

V. IMPORTANT INFORMATION

Time to File. This form **must be received** by the Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612-0243, within 35 days of the date that a copy of the Tenant Petition was mailed to you. (The date of mailing is shown on the Proof of Service attached to the Tenant Petition and other response documents mailed to you.) A postmark does not suffice. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open. If you wish to deliver your completed Owner Response to the Rent Adjustment Program office in person, go to the City of Oakland Housing Assistance Center, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland, where you can date-stamp and drop your Response in the Rent Adjustment drop box. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m. **You cannot get an extension of time to file your Response by telephone.**

NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

File Review. You should have received a copy of the petition (and claim of decreased services) filed by your tenant with this packet. Other documents provided by the tenant will not be mailed to you. You may review additional documents in the RAP office by appointment. For an appointment to review a file or to request a copy of documents in the file call (510) 238-3721.

VI. VERIFICATION

Owner must sign here:

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.

James Colman
Owner's Signature

09/09/14
Date

VII. MEDIATION AVAILABLE

Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

If the parties reach an agreement during the mediation, a written Agreement will be prepared immediately by the mediator and signed by the parties at that time. If the parties fail to settle the dispute, the case will go to a formal Rent Adjustment Program Hearing, usually the same day. A Rent Adjustment Program staff Hearing Officer serves as mediator unless the parties choose to have the mediation conducted by an outside mediator. If you and the tenant(s) agree to use an outside mediator, please notify the RAP office at (510) 238-3721. 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. (There is no charge for a RAP Hearing Officer to mediate a RAP case.)

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner 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).

James Colman
Owner's Signature

Date

File 0093 RC/BC

| | |
|--|--|
| CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721 | For date stamp: 2015 FEB -3 PM 4:28 |
|--|--|

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

TENANT PETITION

Please print legibly

| | | |
|---|--|------------------------------------|
| Your Name <i>Brianne Ullman</i> | Rental Address (with zip code) <i>4410 Edgewood Ave Apt. B</i> | Telephone <i>(425) 318-0708</i> |
| Your Representative's Name <i>Sarah Hellman</i> | Mailing Address (with zip code) <i>" Apt C</i> | Telephone <i>(916) 261-7961</i> |
| Property Owner(s) name(s) <i>James Coleman Christopher TSC</i> | Mailing Address (with zip code) <i>360 Grand Ave #80 Oakland, CA 94610 296 Parkview Terrace Oakland, CA 94610</i> | Telephone <i>(510) 463-1411</i> |

Number of units on the property: 3

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

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

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

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

Date you moved into the Unit: April 1, 2010 Initial Rent: \$ 1,500.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: Probably w/ lease If never provided, enter "Never."
Definitely on 6/1/13

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

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

| Date Notice Served (mo/day/year) | Date Increase Effective (mo/day/year) | Amount Rent Increased | | Are you Contesting this Increase in this Petition?* | Did You Receive a Rent Program Notice With the Notice Of Increase? |
|----------------------------------|---------------------------------------|-----------------------|------------|---|---|
| | | From | To | | |
| 12/10/15 | 2/08/15 | \$1601.11 | \$2800.00 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 6/30/15 | 8/1/15 | \$1545.00 | \$1,682.77 | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 6/1/13 | 8/1/2013 | \$1500.00 | \$1545.00 | <input type="checkbox"/> Yes <input checked="" 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 |

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

List case number(s) of all Petition(s) you have ever filed for this rental unit.

L15-022 | T15-0389

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

Are you being charged for services originally paid by the owner? Yes No

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

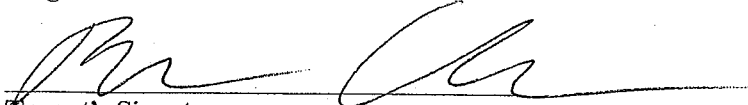
Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

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

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

1/31/16

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Notice of Change of Terms of Tenancy

Date: December 2, 2015

Received Dec. 2, 2015

To: Brianne Ullman

Tenant in possession of the premises at
4410 Edgewood Ave., #B
City of Oakland, County of Alameda, California

The terms of tenancy under which you occupy these premises are changed as follows:

As of **December 2nd, 2015**, James Coleman is the new owner / landlord.

You are hereby authorized and directed to make all future rent payments, beginning with the payment falling due on **January 01, 2016** to the New Owner at the following address:

360 Grand Ave., #80, Oakland, Ca 94610
ph: 510.463.1411

Please note that payments postmarked past the due date will be subject to all penalties as specified on the lease agreement. Additionally, new owner is aware that rent maybe adjusted per Rent Adjustment Program's decision on case # T15-0389

The change in terms of tenancy shall be effective immediately.

James Coleman
 James Coleman - Landlord / Owner

12/2/2015
 Date

subject property.

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