

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

June 22, 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 Hearings in cases:
 - a. T16-0152; Mellman v. Allen Associates
 - b. Consolidated cases:

T15-0617; Chow v. Lew
T15-0641; Kaplan v. Lew
5. SCHEDULING AND REPORTS
6. ADJOURNMENT

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.

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2017 JUN 13 PM 3:05

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 services 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.: T16-0152
Case Name: Mellman v. Allen Associates
Property Address: 2460 Park Blvd., #2, Oakland, CA
Parties: Miriam Mellman & Axel Meier (Tenants)
James Lee (Property Owner Agent)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant file Petitions	March 22, 2016
Owner Response filed	April 13, 2016
Hearing Decision issued	August 10, 2016
Tenant Appeal filed	August 30, 2016

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name MIRIAM MELLTAN AND AXEL MEIER		Landlord	<input checked="" type="radio"/> Tenant
Property Address (Include Unit Number) 2460 PARK BLVD #2 OAKLAND, CA 94606			
Appellant's Mailing Address (For receipt of notices) 2460 PARK BLVD. #2 OAKLAND, CA 94606		Case Number 716-0152	Date of Decision appealed 8-17-2016
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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.

Revised 5/29/09


Miriam Melltan *Axel Meier*

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 18 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 7/26/2016, 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:

CITY OF OAKLAND

Name	RESIDENTAL RENT ADJUSTMENT PROGRAM
Address	250 FRANK OGAWA PLAZA SUITE 5313
City, State Zip	OAKLAND, CA 94612
Name	MR. JAMES LEE ALLEN ASSOCIATES
Address	1814 FRANKLIN STREET SUITE 801
City, State Zip	OAKLAND, CA 94612

	
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE 8-30-2016

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.

To whom it may concern, we are appealing the decision of hearing Officer Linda Morose for the following reason:

Our apartment is in a severe state of disrepair, because Proprietor Jim Lee didn't repair all reported property damages caused by our hatefully burglarizing and vandalizing Neighbors. He accuses us of having caused said property damages ourselves, which is false. As previously stated he even tampered with evidence of burglars entry point from the brake-in of May 20-2016, in spite of our verbal protest He claimed that he wanted to measure the window-pane of the backdoor, which was removed and reinserted after the burglary by the perpetrators, in order to make repairs. The windowpane was loose, but not broken. I Axel Meier pointed this out at the rent board hearing on July 11-2016. Then he switched to wanting to repair, or install bars inside the backdoor, which do exist already and are not, damaged either. Said door has chunks of wood missing at the edge of the door-blade and inside the doorframe, also caused by the burglars. No repairs at the backdoor have been done to this day. When we requested to Jim Lee to please replace the flimsy and insecure screen door, he replied that we would have to purchase the door ourselves, because it is not his responsibility.

The same counts for all other property damages, such as cracked tiles on bathroom floor and kitchen sink, knocked out chunks of plaster at different parts of walls, wood damages on floor regions by wood gouging scratching and discoloring with an unknown black substance. Mr. Lee falsely accused me Axel Meier to be a liar at said rent board hearing. I interpret this false accusation as his projection.

We are under permanent threat of further burglaries by the same perpetrators. Our apartment security doesn't exist and doesn't justify any rent increase. Furthermore the main Perpetrator and upstairs neighbor Russell Arteaga has occupied our rented garage space with his junk and destroyed our stored property in the process and made the rented garage space completely unusable for us. Mr. Arteaga has admitted to his crimes against us. He threatened to continue burglarizing and vandalizing our apartment until we are moved to an unknown location, or are dead. He made multiple verbal death-threats against us and tried to run over Miriam with his car on October 5 2015. Complaints in this regard have been submitted to Mr. Lee and were never responded to either. This domestic terrorism has been reported to the O.P.D. and has not been investigated. We are responsible citizens who always pay our rent on time, report technical problems and property damages as required in the lease and don't accept to be treated as self-destructive individuals that destroy rented property as well as our own possessions.

We still have to keep our apartment occupied at all times, or it will be broken into again. As an example we had to hire a house sitter when we attended the Rent Board hearing.

000006

Listed below are some O.P.D. case-numbers/incident numbers from past crime incidents.

Permanent case number: 14-908502 assigned in July 2014

Incident # 15-035439 07-04-2015

RD number D654 10-29-2015

Incident # 0353 03-30-2016

Incident # 354 Date no assigned

RD number 15053768 10-02015

RD number 15-061769 11-11-2015

RD number 15-036107 07-07-2015

16-027727 assigned 05-24-2016

15-064127 assigned 12-03-2015

Unreadable number assigned 01-16-2015

15-061769 assigned 11-11-2015

Incident number: D 654 assigned 10-29-2015*

Incident number: 15-53768 assigned 10-08-2015

222 (prior report number: 14-908502) assigned 11-28-2014

For the latter case the burglary and vandalism incident took place on

Nov 23-2014. Police- technician Annette Blue identified the crime scene as a hate crime. Annette did not have the time to complete the police report, because she has an emergency to follow up on.,

Enclosed are some photos of said property damaged that remains unrepaired. We have more pictures of additional damaged, or destroyed objects, caused by the burglars who have also vandalize and stolen our property, legal documentation and more.

Sincerely, Axel Meier and Miriam Mellman

000007

Affidavit of Thomas Nunn

I, Thomas Nunn, swear under penalty of perjury that the foregoing is true and correct and represents my personal observations.

I have known Axel and Miriam for well over a decade and have played music with Axel from the time I met him. I have made frequent visits to their home on Park Blvd.

The last time I was there, I photographed some of the damage caused allegedly by their upstairs neighbor(s). I witnessed first-hand the damage to the front door when the neighbor(s) broke into Axel and Miriam's apartment. They pointed out various pieces of furniture that had been scratched/cut/scraped with a knife or something sharp. I saw a black tar-like stain that they had painted on various pieces of furniture, ruining its value. I saw they had damaged the kitchen stove, Axel and Miriam's pressure cooker, and I saw a cracked lamp. Worst of all, I saw damage to Axel's beautiful standup solid-body bass (which he had made himself), with cuts and scrapes on the neck and the black tar-like material on the body. I photographed several items damaged by these people.

Because we have been friends for a long time, Axel and Miriam have confided in me that the neighbors have done much more damage (beyond what I photographed); though I have not seen this myself, I have no reason to doubt them. Apparently, this neighbor has also hacked into Miriam's computer over a period of years, unbeknownst to Axel and Miriam until recently, when they noticed missing documents/programs.

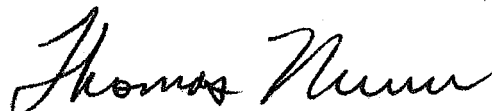
But, perhaps most heinous, in talking to them (by phone), almost daily, I have observed them to be utterly terrified, frustrated, angry, and at times, hopeless, because they have not been supported by the law enforcement community. After several complaints and a list of damages and stolen property, as well as material evidence they presented that connects the burglaries and damages to the neighbor, they remain at the mercy of the criminal upstairs.

Axel and Miriam are truly in fear for their lives as well as their property. When one considers the fact that Axel is blind and Miriam is elderly, it is baffling how little help they are managing to get from those who are supposed to serve the public, particularly the vulnerable such as the handicapped and elderly. I find it abhorrent.

It is my personal belief that this criminal activity is based on hatred. Although some valuable articles have been stolen (such as Axels' bass strings worth \$200 and Miriam's family silver), it is apparent that the criminals are more interested in destroying very personal items than they are in simply stealing valuable commodities. And I believe, from what I've been told by them about interactions with the neighbors – such as a personal threat to Miriam – that this hatred is based on race.

I believe Axel and Miriam should be granted a restraining order against these neighbors (man, wife, child) for their safety and protection. And I would hope a proper investigation of these crimes would be forthcoming.

Thomas Nunn



12/19/14

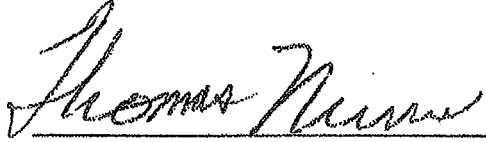
000008

AFFIDAVIT

I, Thomas Nunn, swear under penalty of perjury that the following is true and correct of my own personal knowledge.

I am a long-time friend of Miriam Mellman and Axel Meier. Miriam and Axel have told me about the problems they have been having over a period of months with their upstairs neighbor breaking into their apartment and stealing and damaging their property. On January 25, 2015, they needed to appear at a Municipal Court hearing in Oakland regarding their application for a restraining order against these neighbors. Since they were afraid they would be broken into again, they needed to hire someone to stay at their apartment while they went to the hearing. I volunteered to pay \$60 to the person they chose to stay there.

Executed this 22nd day of July, 2015 at San Francisco.

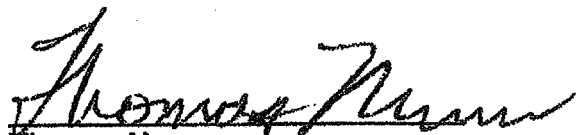

Thomas Nunn

AFFIDAVIT

I, Thomas Nunn, swear under penalty of perjury that the following is true and correct of my own personal knowledge.

I am a long-time friend of Miriam Mellman and Axel Meier. Miriam and Axel have told me about the problems they have been having over a period of months with their upstairs neighbor breaking into their apartment and stealing and damaging their property. At one point last year, while I was visiting Axel and Miriam, their landlord came over and personally inspected their apartment looking at damages caused by the upstairs neighbor. I witnessed this gentleman look at various damaged items, including the stove (which is owned by the landlord). I saw and heard Axel and Miriam describe various items that were damaged while pointing out the damage to the landlord.

Executed this 30th day of November, 2015 at San Francisco.

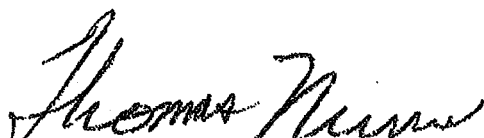

Thomas Nunn

AFFIDAVIT

I, Thomas Nunn, swear under penalty of perjury that the following is true and correct of my own personal knowledge.

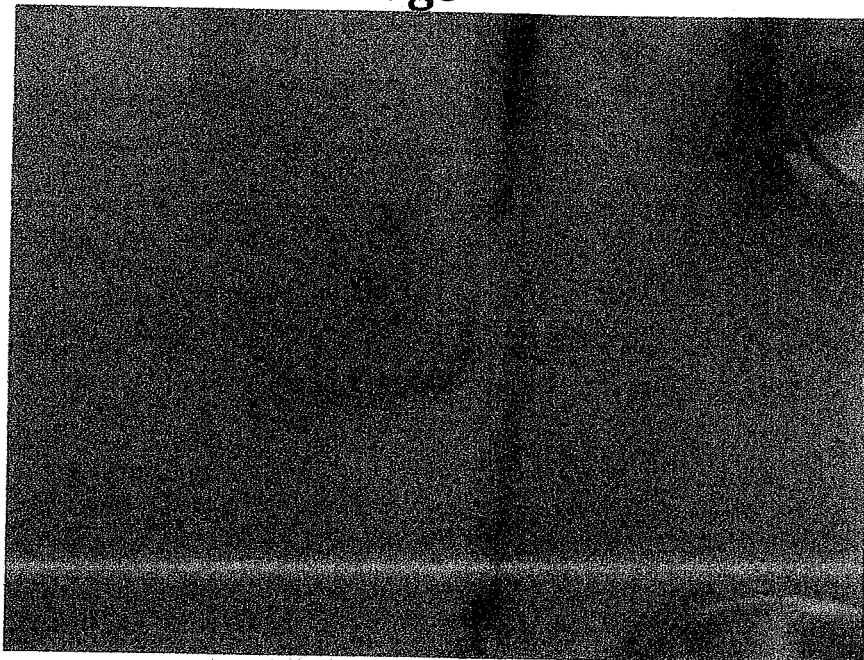
I am a long-time friend of Miriam Mellman and Axel Meier. Miriam and Axel have told me about the problems they have been having over a period of months with their upstairs neighbor breaking into their apartment and stealing and damaging their property. On January 25, 2015, they needed to appear at a Municipal Court hearing in Oakland regarding their application for a restraining order against these neighbors. Since they were afraid they would be broken into again, they needed to hire someone to stay at their apartment while they went to the hearing. I volunteered to pay \$60 to the person they chose to stay there.

Executed this 22nd day of July, 2015 at San Francisco.


Thomas Nunn

000011

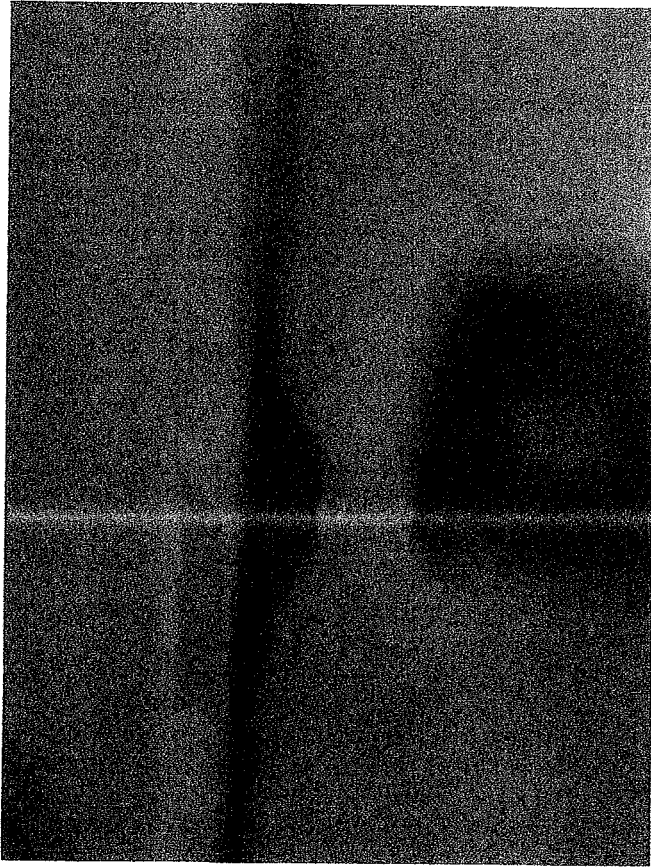
Front Door Damage



Front Door Damage

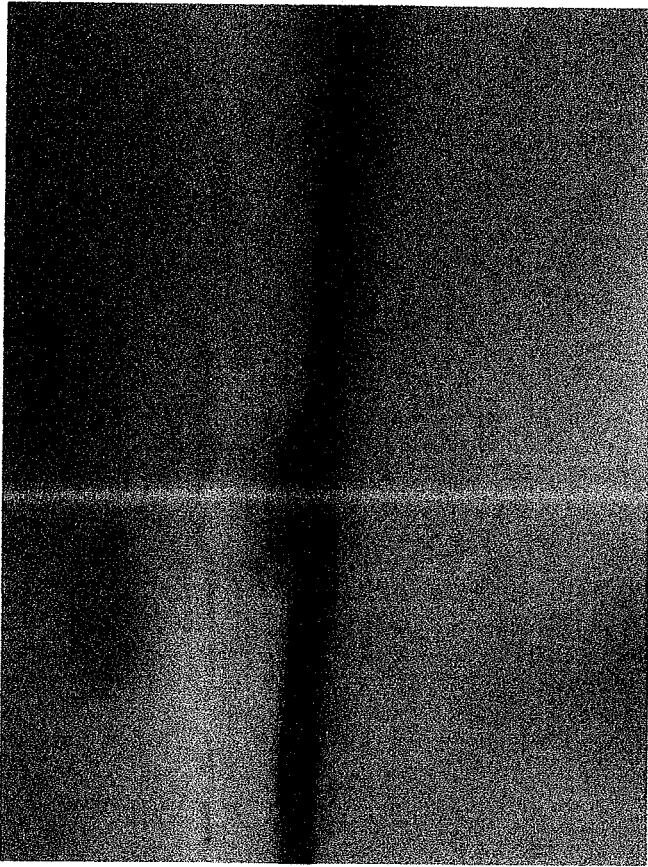


Front Door Damage Continued A



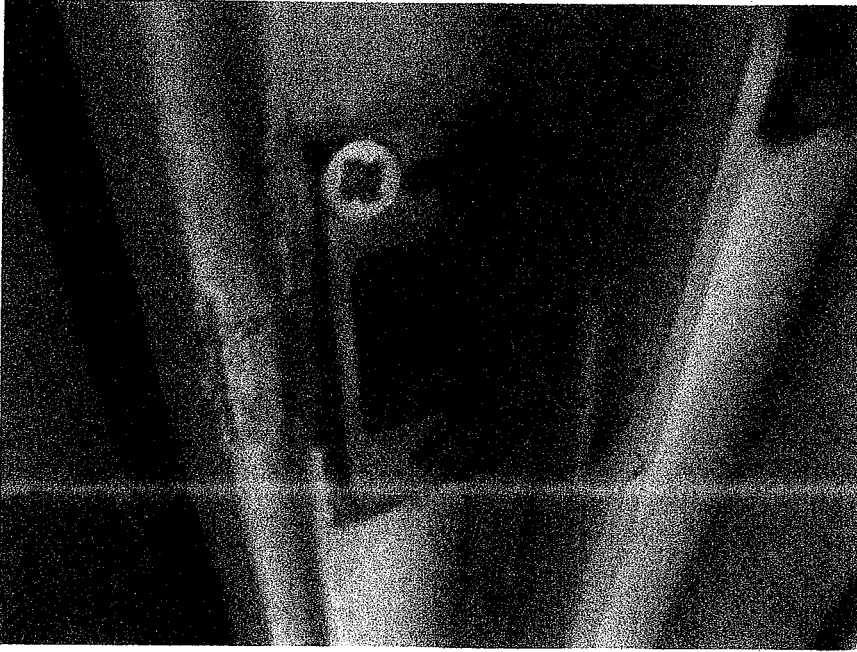
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Front Door Damage Continued B



000014

Back Door Damage Continued e



000015

BACK DOOR DAMAGE



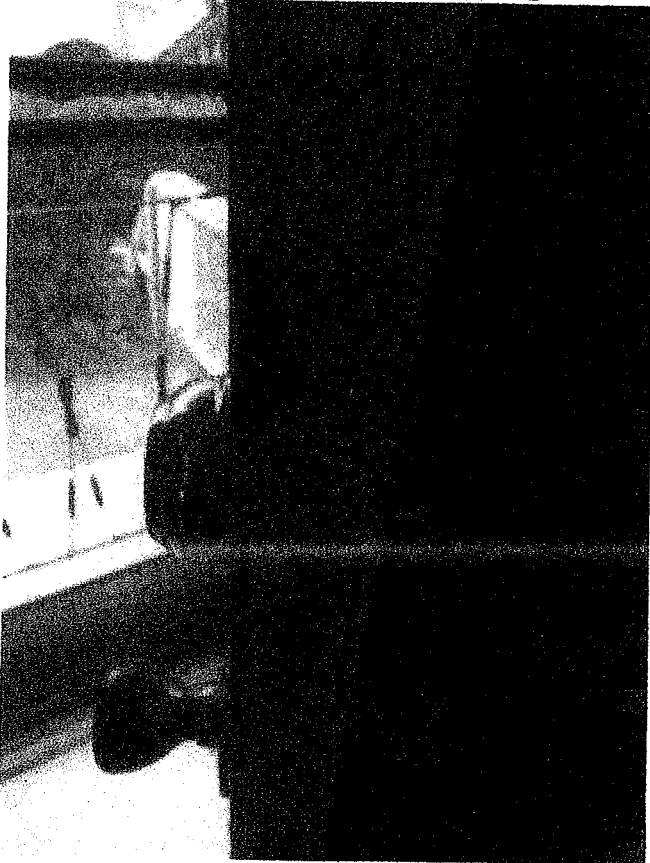
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Back door window pane *LEFT SIDE*



000017

F Back Door Damage

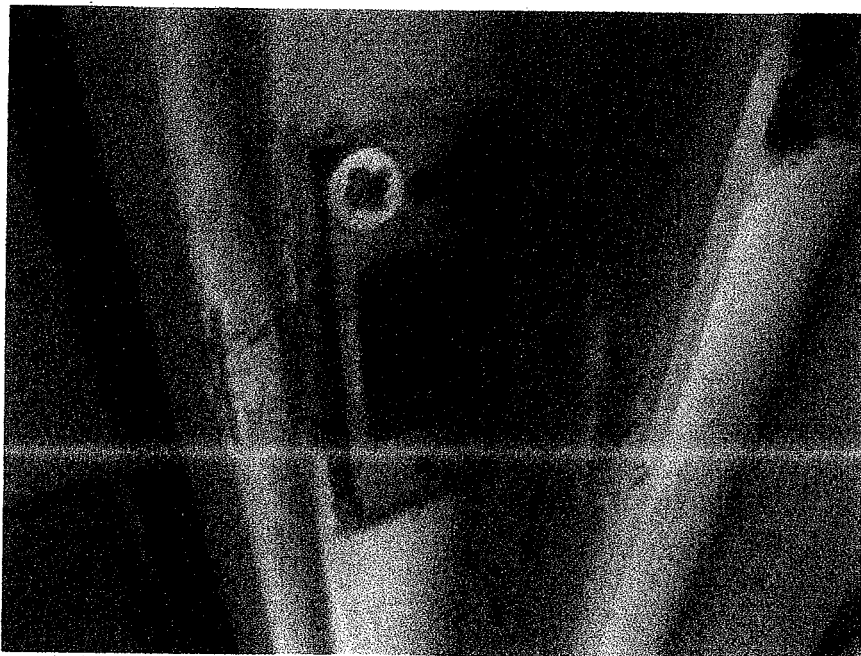


Back Door Window Pane Right Side
Damage



000019

More Damaged to Back Door



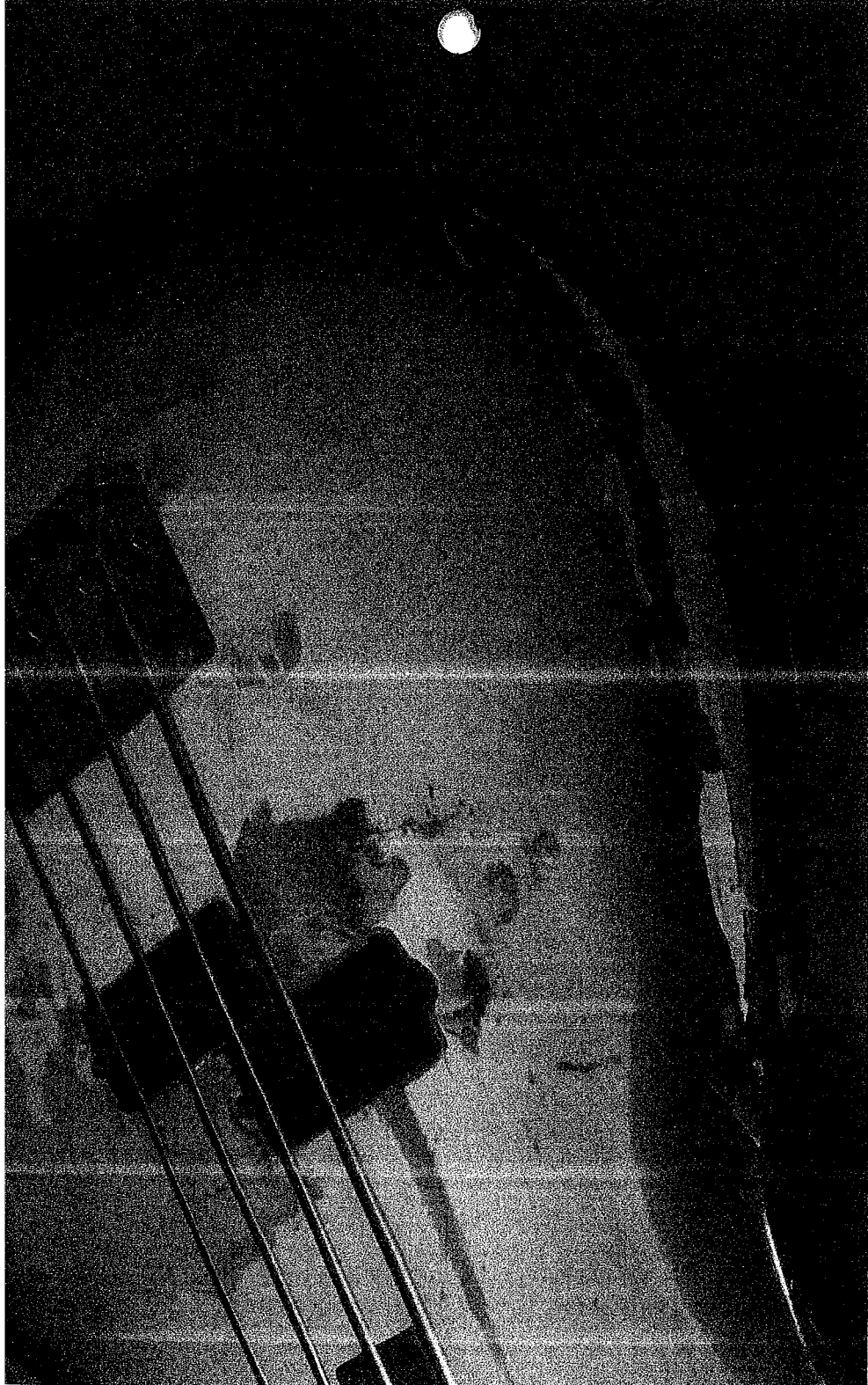
000020

Damaged Plaster Hallway Wall



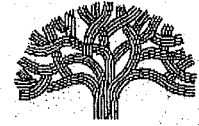


BLACK SUBSTANCE ALL OVER FLOORS



ONE EXAMPLE OF MANY, ALL
OF AXEL'S INSTRUMENTS. HEAVILY DAMAGED!

(PERSONAL PROPERTY



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: T16-0032 and T16-0152, Mellman et al. v. Lee
PROPERTY ADDRESS: 2460 Park Blvd., Unit #2, Oakland, CA 94610
DATE OF HEARING: July 11, 2016
DATE OF DECISION: August 2, 2016
APPEARANCES: Miriam Mellman, Tenant
Axel Meier, Tenant
James Lee, Owner's Agent and Property Manager

SUMMARY OF DECISION

The tenant petition is denied.

CONTENTIONS OF THE PARTIES

On January 21, 2016, the tenants filed a Tenant Petition T16-0032 alleging (1) the proposed rent increase exceeds the CPI Adjustment and is unjustified or greater than 10%; (2) no notice of the existence of the Rent Program (RAP Notice) was provided to the tenants with the notice of contested rent increase and at least six months before the effective date of the contested rent increase; (3) decreased housing services; and (4) health, safety, fire or building code violations.

On March 22, 2016, the tenants filed another Tenant Petition T16-0152 alleging (1) no RAP Notice was provided to the tenant at least six months before the effective date of the rent increase; (2) decreased housing services; and (3) health, safety, fire or building code violation.

The owner filed timely responses to both petitions alleging that (1) the proposed rent increase was justified by banking; (2) the RAP Notice was provided to tenants with the original lease and with the rent increase; and (3) no decreased or loss of services occurred because all issues and/or repairs have been timely addressed.

000024

Because both petitions involve the same parties and subject unit, the cases were consolidated into one single hearing.

THE ISSUES

- (1) Is the rent increase justified by banking, and if so, has it been calculated correctly?
- (2) Have the tenant's housing services been decreased, and if so, by what amount?

EVIDENCE

Background and Rent Increase

The tenants moved into the property on December 15, 2007, at an initial monthly rent of \$925.00. The subject unit is located in a residential building consisting of four residential units. On December 22, 2015, the tenants were served a rent increase notice proposing to increase the monthly rent from \$1,036.00 to \$1,088.00, effective February 1, 2016. A copy of the rent increase notice was submitted with the tenant petition and also with the owner response and admitted into evidence.¹ The tenants have not paid the increased rent. They testified at the hearing that they kept paying \$1,036.00 per month after February 1, 2016 through the hearing date. This evidence was not disputed.

Prior Case and RAP Notice

A Hearing Decision, issued on July 2, 2015, in case T15-0086 held that the initial RAP Notice was provided together with the Lease on December 14, 2007, at the beginning of the tenancy. A copy of the RAP Notice was also attached to the proposed rent increase, dated December 22, 2015, and submitted with the owner response.² This evidence was not disputed.

Decreased Housing Services

Burglaries: The tenants testified that their apartment was burglarized and vandalized several times since July 2, 2014, by their neighbor who gets inside their apartment when the tenants leave, and steals or destroys their personal property. The tenants filed police reports and notified Alameda County District Attorney's office.

The property manager testified that he inspected the apartment each time he was called about a break-in but did not find any evidence of a forced entry. The tenants testified that the last time the burglars got inside through a window by removing a window pane; the manager inspected the window, and the glass pane was not broken.

¹ Exhibit A

² Exhibit B

The tenants alleged these burglaries in their prior petitions and this issue was addressed in Hearing Decisions T15-0086 and T15-0416.

Plumbing: On February 11, 2016, the water heater broke down in the tenant's unit; the plumber was called and repaired it the next day, on February 12, 2016. A copy of the plumber's invoice, dated February 16, 2016, was submitted with the tenant petition and owner response and was admitted into evidence.³ This evidence was not disputed.

Utilities bill and credit: This issue relates to PG&E and EBMUD charges, billings and credits. However, this claim was withdrawn because the owner agreed to pay the tenants whatever credit they are entitled to and the parties agreed to work out the final accounting.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The RAP Notice Requirement

The Rent Adjustment Ordinance requires a landlord 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 A Landlord may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after a tenant first receives the required RAP notice.⁶

In the prior Hearing Decision, which has become final, it was determined that the tenants received the RAP Notice at the beginning of their tenancy. The RAP Notice was also provided with the rent increase notice. The owner submitted a copy of the rent increase notice with the RAP notice attached.⁷ Therefore, the RAP Notice requirements were satisfied.

Rent Increase justified by Banking

An owner is allowed to bank increases and use them in subsequent years, subject to certain limitations.⁸ However, the total of CPI adjustments imposed in any one rent increase, including the current CPI rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the rent increase notice.⁹ The attached banking calculation Table indicates the allowable banking amount of \$52.84 for the tenant's unit, allowing the rent to increase to \$1,088.84. Because the proposed rent increase (from \$1,036.00 to \$1,088.00) does not exceed the

³ Exhibit C

⁴ O.M.C. Section 8.22.060(A)

⁵ O.M.C. Section 8.22.070(H)(1)(A)

⁶ O.M.C. Section 8.22.060(C)

⁷ Exhibit B

⁸ O.M.C. Section 8.22.070(B)(5)

⁹ RAP Regulations 10.5

maximum allowable increase based on banking, the proposed rent increase is valid and justified by banking.

Because the tenant did not pay the increased amount, they underpaid their rent by \$52.00 per month for six (6) months, February 1 through July 1, 2016. The total amount of rent underpayment is \$312.00.

Decreased Housing Services

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹⁰ and may be corrected by a rent adjustment.¹¹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that is required to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence. The tenant also has the burden of proving notice to the owner about a complaint and the owner must be afforded a reasonable opportunity to respond to the complaint.

Burglaries: As held in the prior cases involving earlier burglaries (T15-0086 and T15-0416), these claims concern the tenants' right to the covenant of quiet enjoyment of their apartment. The RAP is an administrative agency whose power is limited to enforce the provisions of the Rent Adjustment Ordinance. In the case of Larson v. City and County of San Francisco, (2011) 192 Cal. App. 4th 1263, the Court examined the authority of San Francisco's Rent Board. The court held that the jurisdiction of administrative agencies is limited to those claims that are quantifiable in nature. The Court specifically held that the loss of quiet enjoyment is not such a claim. Larson at p. 1281.

The Board has also stated that the RAP does not have jurisdiction over any such claims. See the *Housing, Residential Rent and Relocation* Board Decision in *Aswad v. Fields*, T03-0377. The tenant's claims for decreased housing services as they relate to the covenant of quiet enjoyment are not claims that can be made under the Rent Adjustment Ordinance. While these acts may well constitute civil wrongs, these claims must be made in a court of competent jurisdiction. The tenants' claims for decreased housing services as they relate to the covenant of quiet enjoyment are dismissed.

Plumbing: The property manager received the notice of the plumbing issue, called the plumber, and the water heater was repaired within 24 hours. He acted reasonably to address this condition. Therefore, this claim is denied.

ORDER

1. The Tenant Petitions T16-0032 and T16-0152 are denied.

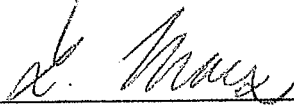
¹⁰ O.M.C. §8.22.070(F)

¹¹ O.M.C. §8.22.110(E)

2. The rent increase is justified by banking. The monthly base rent is \$1,088.00, as of February 1, 2016.
3. For the next six months, beginning September 1, 2016, through February 1, 2017, the tenants' rent will increase by \$52.00, to \$1,140.00, due to tenants' underpayment of rent when they did not pay the increased amount from February 1, 2016, through July 1, 2016.
4. The claim for decreased housing services is denied.

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

Dated: August 2, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0152

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

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

Tenant

Miriam Mellman
2460 Park Blvd. #2
Oakland, CA 94606

Owner

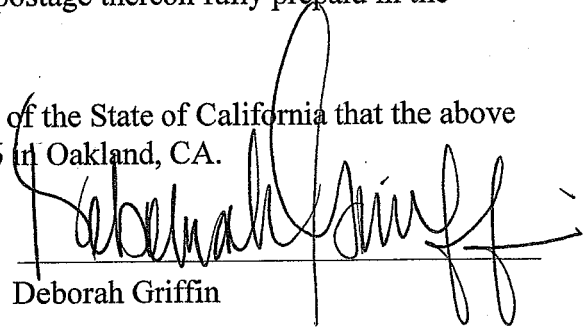
Carol Gong
1814 Franklin St. #801
Oakland, CA 94612

Owner Representative

James Lee/ Allen Associates
1814 Franklin St #801
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 10, 2016 in Oakland, CA.


Deborah Griffin

000030

KM

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. RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 2016 APR 13 AM 8:42
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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 T16-0152

OWNER RESPONSE

Please print legibly.

Your Name <u>CAROL GONG</u>	Complete Address (with zip code) <u>1814 FRANKLIN ST</u> <u>SUITE 801</u> <u>OAKLAND CA 94612</u>	Phone: <u>707 4332043</u> Email: _____
Your Representative's Name (if any) <u>JAMES LEE</u> <u>ALLEN ASSOCIATES</u>	Complete Address (with zip code) <u>1814 FRANKLIN ST</u> <u>SUITE 801</u> <u>OAKLAND CA 94612</u>	Phone: <u>510 8327805</u> Fax: <u>510 839 3029</u> Email: <u>jlee@allenassociates.com</u>
Tenant(s) name(s) <u>MIRIAM WELLMAN</u> <u>ARIEL MEYER</u>	Complete Address (with zip code) <u>2460 PARK BLVD #2</u> <u>OAKLAND CA 94610</u>	

Have you paid for your Oakland Business License? Yes No Number 2583267
 (Provide proof of payment.)

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

There are 4 residential units in the subject building. I acquired the building on 1/1/09

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 12-15-2007.

The tenant's initial rent including all services provided was \$ 925 / 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? 12-14-07

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? _____. 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	
12-22-15	2-1-16	\$ 1036	\$ 1088	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11-29-13	1-1-14	\$ 987	\$ 1036	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11-23-12	1-1-13	\$ 955	\$ 987	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11-29-11	1-1-12	\$ 925	\$ 955	<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

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)
12-22-15	<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"/>	<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.

UNIT'S WATER HEATER REPAIRED NEXT DAY, COPY OF INVOICE ENCLOSED.

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.**

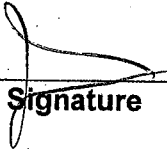
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

4-5-16

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

Date

Kleker Plumbing

3674 Delmont Ave.
Oakland, CA 94605
(510) 261-1425

Invoice

DATE	INVOICE #
2/16/2016	10683

BILL TO
Allen Associates 1814 Franklin St. Suite 801 Oakland, CA 94610

P.O. NO.	TERMS	PROJECT
	Due on receipt	2460 Park Blvd.

ITEM	DESCRIPTION	AMOUNT
Plumbing Serv	Plumbing Services # 2 Replace a bad TP valve on water heater. Replace flapper in toilet tank.	139.00

Phone #	Fax #	E-mail
		kleker.plum@sbcglobal.net

Total	\$139.00
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CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. RECEIVED MAR 22 2016 OAKLAND RENT ADJUSTMENT
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name MIRIAM MELLMAN	Rental Address (with zip code) 2460 PARK BLVD #2 OAKLAND - CA 94606	Telephone 510-986-1829
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) JIM LEE ALLEN ASSOCIATES	Mailing Address (with zip code) 510-832-7808 XLS 1814 FRANKLIN #801 OAKLAND, CA 94612	Telephone 510-832-7808 XLS

Number of units on the property: _____

Type of unit you rent (circle one)	House	Condominium	Apartment , Room, or Live-Work
Are you current on your rent? (circle one)	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 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input type="checkbox"/>	(a) The 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 checked="" 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 checked="" type="checkbox"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input checked="" 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: 12-15-2007 Initial Rent: \$ 925.00 /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: 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.

MRS MARLA DEE SULLIVAN WILL HAVE COPIES OF RENT INCREASE

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		
		\$	\$	<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
		\$	\$	<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.

Miriam Mellman 3-16-2016
Tenant's Signature Date

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

Miriam Mellman, Axel Meier

2460 Park Blvd. #2

Oakland, CA 94606

Ph. ☎(510) 986-1829

Account number: 9892200345-8☎

ATTENTION: NBU Team

Subject: Non beneficial energy usage explanation

To whom it may concern,

On 02-11-2016, we have been notified by an emergency phone-call of PG&E's none beneficial usage department about a sudden spike in our gas usage, which started on 01-05-2016.

Upon request a PG&E technician was send out immediately to investigate the problem.

He couldn't find any cause for the problem inside our apartment, so he knocked at the door of our direct neighbor's apartment, where the water heaters for both apartments (apt 1 and 2) are located.

The occupant of apartment #1, Laura Walker/Byes, answered her door but refused to let the PG&E technician in to inspect the appliances. Approximately 40 minutes later, after vehement knocking at her front and back door and repeated phone call attempts by the Proprietor Jim Lee of Allen Associates", Laura Walker/Byes gave in and let the technician proceed. The room where the water heaters are located was not accessible. The entrance door was blocked by her laundry appliances washer and dryer, right in front of the door. The technician was able to take a look through the partially opened door and spotted large puddles on the floor of the room in question. He concluded a significant water leakage of the appliances as the cause of the spike in our gas bill.

The proprietor sends out a Plumber to repair the water heater. The water heater for apartment 2 was repaired by the plumber on 02-12-2016. Find a copy of the bill contained in this FAX.

Note: The plumber's bill reflects the water heater cause and repair, but has an additional repair item in it that is incorrect. The "flapper" in our water reservoir tank was not defect and wasn't

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replaced by the plumber. Said plumber didn't even enter our premise for any repairs. A request to our Proprietor to send us a corrected copy of the bill remained unanswered to this day.

Sincerely, Miriam Mellman, Axel Meier.

Kleker Plumbing

3674 Delmont Ave.
Oakland, CA 94605
(510) 261-1425

Invoice

DATE	INVOICE #
2/16/2016	10683

BILL TO
Allen Associates 1814 Franklin St. Suite 801 Oakland, CA 94610

P.O. NO.	TERMS	PROJECT
	Due on receipt	2460 Park Blvd.

ITEM	DESCRIPTION	AMOUNT
Plumbing Serv	Plumbing Services # 2 Replace a bad TP valve on water heater. Replace flapper in toilet tank.	\$139.00

Phone #	Fax #	E-mail	Total
		kleker.plum@sbcglobal.net	\$139.00

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CHRONOLOGICAL CASE REPORT

Case Nos.: Consolidated cases: T15-0617 & T15-0641
Case Name: Chow v. Lew & Kaplan v. Lew
Property Address: 335 – 49th Street, Rear House & Apt. B, Oakland,
Parties: Clara Chow & Patricia
and Richard Kaplan (Tenants)
Debra Lew (Property Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Case: T15:0617	
Tenant Petition filed	November 20, 2015
Owner Response filed	December 28, 2015
Tenant Appeal filed	April 19, 2017
Case: T15-0641:	
Tenant Petition filed	December 1, 2015
Owner Response filed	December 28, 2015
Additional Documents/Decisions:	
Owner Documents submitted:	January 30, 2017
Corrected Hearing Decision issued:	March 30, 2016
Hearing Decision Issued:	March 18, 2016
Hearing Decision on Remand issued in case # T14-0366; T14-0367 & T14-0380 (referenced in the Hearing Decision):	March 3, 2017

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City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721	2016 APR 19 PM 3:47 APPEAL
Appellant's Name CLARA CHOW	Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/>
Property Address (Include Unit Number) 335-49th Street, Rear House, Oakland Ca 94609	
Appellant's Mailing Address (For receipt of notices) 335-49th Street, Rear House Oakland, Ca 94609	Case Number T 15-0617 Date of Decision appealed 3-29-2016
Name of Representative (if any)	Representative's Mailing Address (For notices)

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.)

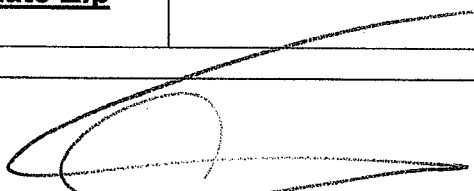
1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.*
2. **The decision is inconsistent with decisions issued by other hearing officers.** *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.*

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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 12. 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 4/19, ~~2002~~ 2016 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>	Debra Lew c/o David Golden
<u>Address</u>	90 New Montgomery St., Ste 905
<u>City, State Zip</u>	San Francisco, Ca 94105
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	April 19, 2016 DATE
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.

2016 APR 19 PM 3:47

Case # T15-0617

Corrected Hearing Decision = 3/29/2016

Proof Of service = 3/30/2016

Date of Hearing : 2/08/2016

A: Address correction for T15-0617

T15-0617 , Chow v. Lew (Rear Cottage) as stated on the corrected hearing decision is incorrect.

The unit where we resided since 11/1/1998 had always been recorded as

(335 - 49th St., Rear House) as our postal address and voter registration address as of 11/1/1998.

Please correct the error for case # T15-0617 (Chow v. Lew)

The Rear House is a 2 story unit. We have no access to the downstairs unit. The downstairs unit has a working toilet and sink, laundry facility (double sink with laundry hook ups). A studio is situated next to the laundry room with private access from the backyard. Our landlord and her contractors have complete control and access to the downstairs unit, which is equipped with water and electricity, and of course, many outlets throughout the area. We had been paying the utilities for the entire building (upper and lower unit) since we moved in 11/01/1998 , there are no separate meters for the upper and lower unit.

As noted on the (Notice of Hearing) executed on 11/24/2015 by Deborah Griffin from Oakland Rent Adjustment Program). The Tenant's address is :

334 49th Street, Rear Unit

Oakland, CA 94609

Case No. T15-0617

Case Title and File name is Chow v. Lew

Please make the necessary correction to our address on record. Reference to case # T14-0380 for further clarification as needed.

This is to clarify that our living unit is a shared space, where the landlord has complete access to entry. Please reference case # T14-0380 dated 04/15/2015 (page 10), where the hearing officer had physically toured the entire rear building (upper and lower units) on 2/25/2015 , with our current landlord and tenant (myself).

B: The hearing decision failed to address the validity of the rent increase. The contentions of the parties were mis-stated for T15-0617.

As stated in the original petition filed by tenant, I had questioned the validity of the CPI pass through for the year 2014. In reference to case # T14-0380, a \$205.67 Capital improvements had been granted to the owner. So, why is the owner entitled to 2 separate rent increases in a 12-month period.

Per 8.22.070(A1) An owner may increase the Rent on a covered unit occupied continuously by the same tenant only once in a 12-month period. Such rent increase cannot take effect earlier than the tenant's anniversary date.

In the corrected hearing decision dated 3/29/2016, THE ISSUES (item #1) was not answered to my understanding of the ordinance. Was the landlord entitled to 2 rent increases in a 12 month period for the year 2014 ??

The issues were stated on the petition filed by the tenant and thoroughly discussed on 2/08/2016 during the hearing. The CPI increase of \$23.06 in year 2014 should not have been be used in the calculation of the New monthly Rent Payment.

C: Base rent used for Calculation

A basement rent of \$975 was used for calculation in the (Annual Increases Table).

Please clarify as to how the base rent of \$975 was determined for year ending 10/31/2004.

At the commencement of our tenancy 11/1/98, we were not given or informed of the (City of Oakland Rent Adjustment Program, supplement required with notice increasing rent or changing terms of tenancy). Our base rent was \$850 on 11/1/1998, it was increased to \$ 1,100 by 8/1/2009 as noted by Lapham property management company. That was an increase of 29.4% from 11/1/1998 to 8/1/2009 with no proper notice requirements to the RAP program.

Thank you for your attention in this matter,

335 – 49th Street

Rear House,

Oakland, CA 94609

Sincerely yours,

Clara Chow

IP286
House

PROOF OF SERVICE

2017 JAN 30 PM 1:09

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

TO T. Kumamoto & Y. Clara Chow, TENANT IN POSSESSION
335 49th STREET # House, OAKLAND, CALIFORNIA.

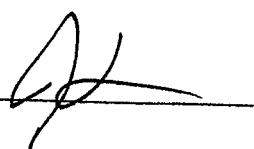
RE: DISTRIBUTION OF:

1. 30 DAY NOTICE OF CHANGE OF TERMS OF TENANCY
2. PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME PAMPHLET
3. LEAD DISCLOSURE FORM
4. LAPHAM BUILDING EMERGENCY PROCEDURES
5. HOUSE RULES
6. CITY OF OAKLAND RESIDENTIAL RENT ARBITRATION NOTICE
7. MEGAN'S LAW
8. MOLD ADDENDUM
9. PEST CONTROL ADDENDUM
10. NO CASH POLICY

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served the Notice of Change of Terms of Tenancy, of which this is a true copy, on the above mentioned Tenant in Possession in the manner(s) indicated below:

- () On _____, 20____, I handed the Notice to the tenant
- () I handed the Notice to a person of suitable age and discretion at the tenant's residence/business on _____, 20____.
- () I posted the Notice in a conspicuous place at the tenant's residence on _____, 20____.
- I sent by first class mail a true copy of the Notice to the tenant at his place of residence on 5-6-, 2009

Executed on 5-6-, 2009, at Oakland



Proof of RAP Notices 5/6/2009

Chow v Lew Appeal
TIG-0617 P.1 of 7

000047



(510) 238-3721

FAX (510) 238-3691

TDD (510) 238-3254

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ARBITRATION PROGRAM
JAN 30 PM 1:10

Community and Economic Development Agency
Rent Adjustment Program

NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

The City of Oakland has a Residential Rent Adjustment Program ("RAP") (Oakland Municipal Code Chapter 8.22) that covers most residential rental units built before 1983. It does not apply to units rented under section 8, most single family dwellings and condominiums and some other types of units. For more information on which units are covered, call the RAP office. This Program limits rent increases and some changes in terms of tenancy for covered residential rental property in Oakland.

You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (the CPI increase). A landlord can increase rent more than the CPI rate, but with some limits, for: capital improvements, operating expense increases, debt service, and deferred annual rent increases. You can also complain about other violations of the Rent Adjustment Ordinance. The landlord must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing.

If there is a decrease in the housing services provided to you, this may be considered an increase in your rent. A decrease in housing service includes substantial problems with the condition of a unit.

To contest a rent increase, you must file a petition with the RAP using the Rent Program's form, within sixty (60) days after first receiving written notice of the RAP or within sixty (60) days of receiving a notice of rent increase or change in terms of tenancy, whichever is later. You can obtain information and the petition forms from the Rent Adjustment Program office or online at <http://www.oaklandnet.com/government/hcd/rentboard/tenant.html>.

If you contest a rent increase, you must pay your rent, with the contested increase, until you file a petition. After you file your petition, you may pay only the portion of the increase due to the CPI Rent Adjustment percentage if the CPI increase amount has been stated on the notice of rent increase. If it has not been stated separately, you may pay only the rent you were paying before the notice of rent increase. If the increase is approved and you did not pay the increase as noticed, you will owe the amount of the increase retroactive to the date it would have been effective under the notice.

Eviction controls are in effect in the City of Oakland (the Just Cause for Eviction Ordinance, O.M.C. 8.22.200, et seq.). You cannot be arbitrarily evicted if your rental unit is covered by the Just Cause for Eviction Ordinance. For more information call the Rent Adjustment Office.

Oakland charges landlords a Rent Program Service Fee of \$30 per unit per year. If the landlord pays the fee on time, the landlord is entitled to get half of the fee (\$15) per unit from you. The \$15 you pay of the annual fee is not part of the rent.

The Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) may require that a tenant who commits or permits certain illegal acts in the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex must be evicted. If the owner does not evict, the City Attorney may do so.

TENANTS' SMOKING POLICY DISCLOSURE

Smoking MAY BE permitted in the unit you plan to rent. (See attached addendum)

Smoking IS permitted in other units of your building. (If both smoking and non-smoking units exist in the tenant's building, attach a list of units in which smoking is permitted.) [see attached addendum next page]

Smoking is PROHIBITED in all common areas, both indoors and outdoors.

There IS NOT a designated outdoor smoking area.

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

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

Bản Thông Báo quyền lợi của người thuê trong Oakland này cũng có bằng tiếng Việt. Nếu có một bản sao, xin gọi (510) 238-3721.

175 0617 p. 2 of 7

RECEIVED
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ARBITRATION PROGRAM
JAN 30 PM 1:10

ADDENDUM
NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM
Tenant's Smoking Policy Disclosure (Continued)
Multi-Unit Residential Properties

Whereas on November 4, 2007, the Oakland City council amended the City's Smoking Pollution Ordinance (Chapter 8.30 of the Oakland Municipal Code (OMC)) which changes confirm and modify no smoking policies in public areas and in and around multi-family residential properties (apartment Buildings), **and**

Whereas as property managers representing owners of multifamily properties (hereinafter "Owners"), it is Lapham Company responsibility to clearly state the basic provisions of OMC regarding smoking policy in and around multi-unit residential properties and to articulate the building-specific policy of said owners regarding the status of individual apartments within the multi-unit residential property, **and**

Whereas a part of the Owner's responsibility under the Oakland Smoking Pollution ordinance is to disclose to prospective and new tenants of the smoking policy for the apartments in multi-unit housing. Because it was previously not required for Owners to know the smoking status of residents, and in order to fully provide that disclosure, Owners must gather information from all existing tenants in the building regarding their individual smoking status, which information must be disclosed to prospective and new tenants, but which information is not available at the outset of the implementation of the amended Oakland Smoking Pollution Control Ordinance, **and**

Whereas it is Owner's plan to gather that information from existing tenants and provide same to prospective and new tenants as it becomes available, **now therefore**

Owner (Lapham Company as Agent of Owner) does hereby include the following information as an Addendum to the NOTICE TO TENANT'S OF RESIDENTIAL RENT ADJUSTMENT PROGRAM - Tenant's Smoking Policy Disclosure as a part of the attached NOTICE TO TENANT'S OF RESIDENTIAL RENT ADJUSTMENT PROGRAM:

1. It is acknowledged that at the outset of the tenancy, smoking **IS NOT** permitted in the apartment which is being rented pursuant to the attached lease.
2. There has been no previous requirement to address or monitor smoking in the subject building and smoking **IS** therefore probably occurring in other units of building in which the above referenced unit is located, but owner is not aware of the detail listing of which units in the building are occupied by tenants who smoke. However, Owner is endeavoring to obtain that information and will provide same to the tenant herein when such information is available.
3. As per the OMC, Smoking is **PROHIBITED** in all indoor and outdoor common areas of the property, including but not limited to hallways, walkways, elevator, stairways, garage, laundry room, lobby/entry, decks, landings, and within 25 feet of any doorway, air intake, or operable window.

715-0617

P.3 of 7

SINCE 1911

THE LAPHAM COMPANY, INC.

4844 Telegraph Avenue, Oakland, California 94609 • 510-594-7600 • Fax 510-594-7611

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2017 JAN 30 PM 1:10

April 25, 2009

Tom and Clara Kumamoto
335 49th Street - Rear House
Oakland, California 94609

RE: CHANGE OF PROPERTY MANAGEMENT

Via First Class Mail

Dear Clara and Tom:

We are pleased to inform you that effective **May 1, 2009**, The Lapham Company has been retained as Property Managers of 335 41st Street. The Lapham Company has been in business in the East Bay since 1911, and we look forward to serving you.

With your May, 2009 rent and thereafter, please make your monthly rent obligation check payable to **THE LAPHAM COMPANY** and forward to our office prior to the delinquency date. We have enclosed a supply of pre-addressed rental payment envelopes for your convenience. Our office is nearby at 4844 Telegraph Avenue in the Temescal district, and you are welcome to drop your rent off at our office or you can deposit your rent in our drop box if you prefer. As Agents of the property owner, our contact information is as follows:

The Lapham Company, Inc.
4844 Telegraph Avenue
Oakland, California 94609 **510-594-7600 / 594-7611 fax**
www.Laphamcompany.com

As a reminder, no rent payment invoices will be sent to you, and rent is due on the first day of each month. If you have a maintenance requirement, please contact our office at 510-594-7600. For after hours emergencies (only) contact, the number is 510-649-5743.

We look forward to meeting you as we visit the property in the weeks ahead, and we are grateful for the opportunity to serve the building ownership and residents. If you have any questions about this transition in property management responsibilities, please contact Jon in our office at extension 102.

Thank you.

LAPHAM MANAGEMENT COMPANY

T15-0611 p4 of 7



REAL PROPERTY ASSET MANAGEMENT
Email: laphamcompany@laphamcompany.com
www.laphamcompany.com

000050

CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CALIFORNIA 94612-0243

Community and Economic Development Agency
Rent Adjustment Program

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
ARBITRATION PROGRAM
JAN 31 10 10 AM '17

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

- The City of Oakland has a Residential Rent Adjustment Program ("RAP") (Chapter 8.22 of the Oakland Municipal Code) that covers most residential rental units built before 1983. It does not apply to units rented under section 8, most single family dwellings and condominiums and some other types of units. For more information on which units are covered, call the RAP office. This Program limits rent increases and some changes in terms of tenancy for covered residential rental property in Oakland.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (the CPI increase). A landlord can increase rent more than the CPI rate, but with some limits, for: capital improvements, operating expense increases, debt service, and deferred annual rent increases. You can also complain about other violations of the Rent Adjustment Ordinance. The landlord must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing.
- If there is a decrease in the housing services provided to you, this may be considered an increase in your rent. A decrease in housing service includes substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP using the Rent Program's form, within sixty (60) days after first receiving written notice of the RAP or within sixty (60) days of receiving a notice of rent increase or change in terms of tenancy, whichever is later. You can obtain information and the petition forms from the Rent Adjustment Program office or online at <http://www.oaklandnet.com/government/hcd/rentboard/tenant.html>
- If you contest a rent increase, you must pay your rent, with the contested increase, until you file a petition. After you file your petition, you may pay only the portion of the increase due to the CPI Rent Adjustment percentage if the CPI increase amount has been stated on the notice of rent increase. If it has **not** been stated separately, you may pay only the rent you were paying before the notice of rent increase. If the increase is approved and you did not pay the increase as noticed, you will owe the amount of the increase retroactive to the date it would have been effective under the notice.
- Eviction controls are in effect in the City of Oakland (the Just Cause for Eviction Ordinance, O.M.C. 8.22.200, et seq.). You cannot be arbitrarily evicted if your rental unit is covered by the Just Cause for Eviction Ordinance. For more information call the Rent Adjustment Office.

Oakland charges landlords a Rent Program Service Fee of \$30 per unit per year. If the landlord pays the fee on time, the landlord is entitled to get half of the fee (\$15) per unit from you. The \$15 you pay for the annual fee is not part of the rent.

The Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) may require that a tenant who commits or permits certain illegal acts in the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex **must** be evicted. If the owner does not evict, the City Attorney may do so.

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit A, ^{all units in the building} the unit you plan to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in the tenant's building, attach a list of units in which smoking is permitted.)
- Smoking is PROHIBITED in all common areas, both indoors and outdoors.
- There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____

I received a copy of this notice on _____

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
ARBITRATION PROGRAM
2017 JAN 31 PM 1:10

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

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

Bản Thông Báo quyền lợi của người thuê trong Oakland này cũng có bằng tiếng Việt. Để có một bản sao, xin gọi (510) 238-3721.

AMW CEDAhou1207aEN Rev. 12/5/07
T15-0617 P.6 of 7

Please see reverse for Rent Increase Information→

000052

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM
SUPPLEMENT REQUIRED WITH NOTICE INCREASING RENT OR CHANGING
TERMS OF TENANCY

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 JAN 30 PM 1:10

Oakland has a Rent Adjustment Program that limits rent increases.

A rental property owner may increase rent only once every 12 months. A tenant who receives a rent increase above an annual amount (CPI Rent Adjustment) may petition the Rent Adjustment Program to require the owner to justify the amount of the increase in excess of the CPI Rent Adjustment. A tenant must file the petition within 60 days of the owner's serving the rent increase notice or the tenant gives up the right to contest the increase.

When a rent increase exceeds the CPI amount allowed, a tenant may request a summary of the justifications for the rent increase from the owner. The request must be made in writing within 30 days of receipt of the notice of increase. The owner must provide a written response within 15 days of the tenant serving the request for the summary or the increase notice is invalid.

The tenant and the owner are encouraged to communicate with each other to resolve their differences without the need for filing a petition.

The current annual increase allowed is 2.1%

This notice provides limited information. For further information, contact the Rent Adjustment Program at 250 Frank H. Ogawa Plaza, 5th Floor, Oakland CA 94612 - (510) 238-3721.

Optional by owner: If you file a petition with the Rent Program on the petition is decided by the Rent Adjustment Program. This amount is \$ _____

PROOF OF SERVICE

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served this rent increase, you must pay the amount of the increase equal to the CPI Rent Adjustment until the Change of Terms of Tenancy and Supplemental Notice, of which this is a true copy, on the above mentioned Tenant in Possession in the manner(s) indicated below:

On _____ I handed the Notice to the tenant .

I handed the Notice to a person of suitable age and discretion at the tenant's residence / business on _____

I posted the Notice in a conspicuous place at the tenant's residence on _____

I sent by 1st class mail a true copy of the Notice to the tenant at his place of residence on July 24, 2013

Executed July 24th, 2013, at Oakland, CA

at

See Reverse

CHOW
715-0617

P. 7 of 7

000053

Debra Lew
c/o David Golden
22 Battery Street Suite 800
San Francisco, CA 94111
(415)722-7527

RESERVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2016 AUG - 1 PM 1:37

July 26, 2016

Oakland Rent Adjustment Board
250 Frank Ogawa PL Suite 5313
Oakland, CA 94612

Re: Debra Lew's **New Address** and **Notice of Unavailability**
Kaplan v. Lew (T15-0516, T15 -0608, T15-0641)
Chow v. Lew (T15-0617) ✓

Dear Clerk:

Please note and file a notice in each of the cases above, that effective immediately, my new mailing address is:

c/o David Golden
22 Battery Street Suite 800
San Francisco, CA 94111

My telephone number shall remain the same (415)722-7527.

Please also note that I am **unavailable and out of the state from October 24 – November 1, 2016**. Please do not set the appeal hearing for that day.

Thank you.

Sincerely,



Debra D. Lew

000054

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. <div style="text-align: right;"> 2015 DEC 28 PM 12:15 CITY OF OAKLAND RENT ADJUSTMENT PROGRAM </div>
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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 T15-0617 MS/LM

OWNER RESPONSE

Please print legibly.

Your Name Debra Law	Complete Address (with zip code) c/o David Golden 90 New Montgomery ST #905 San Francisco CA 94105	Phone: (415) 722 7527 Email: <u>DBGLAW@AOL.COM</u>
Your Representative's Name (if any) David Golden	Complete Address (with zip code) 90 New Montgomery ST #905 San Francisco CA 94105	Phone: (415) 806 9995 Fax: _____ Email: <u>GOLDKOP@AOL.COM</u>
Tenant(s) name(s) Clara Chow Tom Kumamoto	Complete Address (with zip code) 335 44th ST, Bear House Oakland CA 94609	(510) 597-1689

Have you paid for your Oakland Business License? Yes No Number 28042043
 (Provide proof of payment.) SEE ATTACHED

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

There are four residential units in the subject building. I acquired the building on 12/18/2015

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 11/01/1998.

The tenant's initial rent including all services provided was \$ 950 / 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? 12/20/2013.

Is the tenant current on the rent? Yes No No dispute that RAP notice was not given to tenants previously. see also Petition # T14-0380.

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? _____. 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. X

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 ^{pp2}		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		*PROPOSED/PENDING ONLY From	To	
9/27/2015	11/01/2015	\$ 1220.27	\$ 1264.58*	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/5/2014	10/01/2014	\$ 1220.27	\$ *	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No →
7/24/2013	09/13/2013	\$ 1195.17	\$ 1220.27	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

No Final Decision to Appeal.
#TA-0360 from 10/14

Increases by prior not in dispute.
Owner etc

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.

Date of Notice of Increase	Banking (deferred annual increases.)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/27/15	<input checked="" type="checkbox"/> 2014 (banked) <input type="checkbox"/> 2015 (CPI)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7/5/14	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> No CPI or banked rent requested or paid.	<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 N/A

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

2015 DEC 28 PM 12:34
RENT ADJUSTMENT PROGRAM

IV. EXEMPTION N/A

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.**

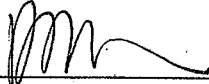
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

12/23/2015

Date

2015 DEC 23 PM 12:35
RENT ADJUSTMENT PROGRAM

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

Date

715-0617

Rev. 2/25/15

response p. 4 of 8
4

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T15-0617 MS/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. CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 2015 NOV 20 PM 4:44</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Clara Chow</i>	Rental Address (with zip code) <i>335-49th St Rear House, Oakland</i>	Telephone <i>510-597-1689</i>
Your Representative's Name <i>James Vann</i>	Mailing Address (with zip code) <i>251 Wayne Ave., Oakland, Ca 94606</i>	Telephone <i>510-763-0142</i>
Property Owner(s) name(s) <i>Debra Lew</i>	Mailing Address (with zip code) <i>c/o David Golden 90 New Montgomery St. # 905</i>	Telephone <i>415-722-7527</i>

Number of units on the property: 5 S.F., Ca 94105

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 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 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).

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

Date you moved into the Unit: 11-1-1998 Initial Rent: \$ 850⁰⁰ /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: 12/20/2013 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		
9-27-2015	11-1-2015	\$ 1220.27	\$ 1264.58	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9-27-2015	11-1-2015	\$	\$	<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: T14 - 0380

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

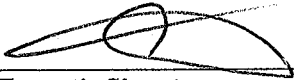
If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying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

OFFICE OF LANDLORD-TENANT MEDIATION
RENT ADJUSTMENT PROGRAM
2013 NOV 20 11 11 AM

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

11-20-2015

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): _____

Date : 11/20/2015

Reference Case # : **T14-0380**

To: City of Oakland, Rent Adjustment Program

This Petition is to contest the CPI increase of 1.9% for Year 2014.

In Reference to Case #T14-0380, pending hearing before the rent board on 12/10/2015, the owner of the property had already served us a notice of increase on 7/05/2014. The current base rent of \$1220.27 was increased by **35%** (\$414.72) to the final sum of \$1634.99. The rent increase was to commence on 10/1/2014, will be in effect for 60 months (5 years), to be expired on 9/01/2019.

The 35% rent increase was due to alleged capital improvements that did not benefit our family tenant). On 9/27/2015, the owner had served us another " Notice of Increase of Rent ", in the sum of \$44.31 per month effective 11/1/2015. The increase was based on 2014 CPI of 1.9% and 2015 CPI of 1.7%.

Since the current base rent is \$1220.27, The 2014 CPI of 1.9% would yield an increase of \$23.18 for a subtotal of \$1243.45. I was advised by the staff member at the RAP program, in addition, I sought additional information from the Oakland Tenant's Union. I was strongly advised to file a petition to contest the CPI increase for 2014. Since the landlord had already asked to pass through capital improvements costs of \$414.72 per month for a duration of 5 years beginning 10/1/2014, the additional CPI increase of 1.9% for 2014 was not justified . This will of course affect the calculation of the 2015 CPI increase of 1.7%.

It makes no sense to post an increase for 2015 CPI, since our base rent is under further review with the rent board, our hearing is scheduled on 12/10/2015. I am certain our Base rent will be adjusted after the final hearing.

As of 11/1/2015, I had paid the total rent amount of \$ 1,264.48 to the landlord. I will continue to do so pending the results of the petition.

Thank you for your time and patience,

Clara Chow

335 49th St., Rear house

Oakland, CA 94609

Attachment : Notice of Increase dated 9/27/2015

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City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721	2016 APR 18 AM 11:36 <p style="text-align: center;">APPEAL</p>
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Appellant's Name Patricia and Richard Kaplan	Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/>
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Property Address (Include Unit Number) 335 49th St. Apt. B Oakland, CA 94609

Appellant's Mailing Address (For receipt of notices) 335 49th St. Apt. B Oakland, CA 94609	Case Number T15-0641 Date of Decision appealed March 15, 2016 March 29, 2016 JK
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Name of Representative (if any) James E. Vann	Representative's Mailing Address (For notices) 251 Wayne Ave. Oakland, CA 94606
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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.*

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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 April 15, 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>	Debra Lew c/o David Golden
<u>Address</u>	90 New Montgomery Street Suite 905
<u>City, State Zip</u>	San Francisco, CA 94105
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

Patricia Kaplan Richard Kaplan SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	4/14/16 4/14/16 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.

April 15, 2016

To: City of Oakland Rent Adjustment Program
From: Patricia and Richard Kaplan
335 49th St. Apt. B
Oakland, CA 94609

2016 APR 18 AM 11:36

We, the undersigned residents of 335 49th St. Apt. B, wish to appeal the March 29, 2016 Corrected Hearing Officer's decision in Case# T15-0641, served on March 30, 2016.

In the decision, the Hearing Officer did not address either of our grievances:

- 1) The landlord did not use "banking" properly to calculate the rent increase of Dec. 15, 2015;
- 2) The landlord cannot increase the rent based on BOTH Capital Improvements and CPI.

1. Banking: misapplication of the rule

The rent increase is based on faulty understanding of how the "Banking" rules should work. There are two different ways that the Hearing Officer and the landlord erred in figuring "Banking."

First, there have been no years when we did not have an increase. Our initial lease began on July 20, 2006 at a rent of \$1250. As you can see in the table below, our rent remained \$1250 until July 1, 2008. There has been only one year, 2007, that we have not received a CPI rent increase. The following year, 2008, the rent increase was for \$50 or 4% (by the previous landlord, now deceased), more than the allowed CPI for 2007 of 3.3% or 2008 of 3.2%. According to the Landlord form for Banking, "Past increases for unspecified reasons are presumed to be for banking." *Therefore, 2007 is no longer bankable. It was already used as a "banked" year.* Landlord Lew cannot use 2007 as a bankable year as she states she is doing in her Justification for Rent Increase.

Second, the 3x in the "banking" formula refers to the number of years in the last 10 years that no CPI increase has been taken, with a maximum of 3 years. It appears that Landlord Lew and the Hearing Officer interpreted the "3x" in the Banking maximum to mean that the landlord can collect 3 times the current CPI. Our contention is that the "3x" means that the landlord is limited to collecting rent increases from a maximum of 3 years of missed CPI rent increases in the last 10 years. If, for instance, the landlord failed to impose a CPI increase for 2 years of the past 10 years, then the landlord may only multiply the current CPI by 2, not 3, in order to determine the increase.

2. The landlord may charge tenants either Capital Improvements OR CPI in the same year, NOT BOTH

In October, 2014, our landlord increased our rent based on Capital Improvements. The landlord cannot take the CPI increase for a year, 2014, that she has taken a capital improvements pass-through. The RAP Landlord Resource states, "*An owner may take the CPI increase OR any combination of individual adjustments, but not both.*" —please see attached copy of that webpage.

(<http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/DOWD008760>).

Therefore, she cannot bank this failure to increase the rent by the CPI in 2014 which is precisely what she says she is doing in her "Justification for Increase of Rent."

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Please note:

STATE OF CALIFORNIA
DISPUTE RESOLUTION PROGRAM

Since August 31, 2015, we have received 4 notices concerning a rent increase for 2015, including 3 "amended" notices. One of these notices was an amended notice that changed the rent by one cent. Two of these completely changed the due date for our rent. In addition, we finally received a rescission of the previous rent increases and now the current increase notice. That's 6 notices in 9 weeks. Furthermore, she has recently "appealed" the Hearing Officer's Decision based on a 14 cent typographical error.

Please overturn the Hearing Officer's Decision.

Thank you.

Patricia Kaplan
Richard Kaplan

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Landlord's Name
		From	To	
7/5/14	10/1/14	\$1442.14	\$1659.89	D. Law
7/24/13	9/1/13	\$1412.48	\$1442.14	L. Leong
7/24/12	9/1/12	\$1371.34	\$1412.48	L. Leong
7/19/11	9/1/11	\$1344.45	\$1371.34	L. Leong
7/29/10	9/1/10	\$1309.10	\$1344.45	L. Leong
5/1/09	8/1/09	\$1300	\$1309.10	L. Leong
5/1/08	7/1/08	\$1250	\$1300	L. Leong

000066

2016 APR 18 AM 11:36

2015 DEC -1 PM 2:15

Debra Lew
C/O David Golden
90 New Montgomery Street Suite 905
San Francisco, CA 94105

November 9, 2015

Patricia and Richard Kaplan
335 49th Street, Unit B
Oakland, CA 94609

RE: Notice to Change Terms of Tenancy (Notice of Increase of Rent)

Dear Mr. and Ms. Kaplan:

Notice is hereby given that the terms of tenancy under which you occupy the above premises will change. As you are aware, all prior notices of increase of rent were rescinded per the Notice of Rescission dated November 8, 2015. It has been over two (2) years since your base rental rate was reviewed or otherwise adjusted based on the cost of living and other economic factors. In order to keep up with the operating costs at the property and to offset various taxes, fees and other expenses that have been charged to the property for services enjoyed by the tenants, your rental rate will be changed as follows:

Effective December 15, 2015, your base rent will be increased by \$73.54 per month, from \$1,442.14 to \$1,515.68 per month, payable in advance.

The CPI for 2015 is 1.7% (or \$24.51 for a total of \$1,466.65); three times the current CPI is 5.1% or \$73.54. This is the maximum banked amount allowed to be raised.

This is \$.01 less than noticed in the Second Amended Notice mailed on October 12, 2015, as there is an error in the City of Oakland RAP's online excel sheet, which rounds up. The banking years' total is 5.2% for 2007 (3.3%) and 2014 (1.9), which exceeds the 3 x current CPI by .1%. Using the CPI ceiling, 5.1% times \$1,442.14 is the \$73.54 corrected increase. The \$73.54 increase plus the \$1,442.14 base rent equals \$1,515.68. Please note, there was no increase based upon CPI in 2014. That notice for increase was solely based upon a capital improvement pass-through.

The City of Oakland Has a Residential Rent Arbitration Ordinance (RRAO) which sets forth certain guidelines for annual rent increases for rentals within the City. Should you have questions about the propriety of the subject rent increase, please feel free to contact the Oakland Rent Adjustment Program (510)238-3721. While we have provided this information to you previously, we have attached a duplicate copy of the ordinance summary herewith for your reference. It is the express intention of the Landlord that the balance of any allowed rent increases under the Ordinance are deemed banked under the provisions of the RRAO and can be added to any future increases and transferred to any future property owners.

Very truly yours,


Debra Lew, Owner/Landlord

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Justifications for Rent Increase Higher than the CPI Increase

Banking:

Saving rent increases that are not given in one year and imposing them in subsequent years.

Capital Improvements: Seeking a rent increase based on improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. These improvements must primarily benefit the tenant. Increases are divided among all units benefited by the improvement and are amortized (spread out) over five years. The increase expires at the end of 5 years.

Uninsured Repairs: An increase for work performed to secure compliance with any state or local law to repair damage from fire, earthquake, or other casualty or natural disaster to the extent the repairs are not reimbursed by insurance. These increases are allocated and amortized like capital improvements.

Debt Service Costs: An increase that allows an owner to collect rents sufficient to cover the combined housing service and debt service costs for a loan secured by the property to finance a purchase of the property or improvements in the property that directly benefits the tenants..

Increased Housing Service Costs: An increase that compares two years of operating expenses and allows for an increase in situations where there has been an increase in those costs.

Constitutional Fair Rate of Return: By law, owners must be allowed an increase that allows them to earn a fair rate of return on their investment.

NOTE: An owner may take the CPI Increase OR any combination of individual adjustments, but not both.

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? 11-17-15. 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.

Petition #
 115-0641
 115-0608
 115-0516
 114-0367
 01 by prior owner undisputed

Date Notice Given (mo/day/year)	Date Increase Bc Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
11-9-15	12-15-15	\$ 1442.85	\$ 1515.68	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10-13-15 *	11-17-15 *	\$ 1442.85	\$ 1515.68	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10-12-15 *	11-17-15 *	\$ 1442.85	\$ 1515.69	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10-8-15 *	11-15-15 *	\$ 1442.85	\$ 1496.05	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8-31-15 *	9-1-15 *	\$ 1442.85	\$ 1500.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7-5-14	10-1-14 yr	\$ 1442.85	\$ 1659.80 ^{yr}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/24/13	9/1/13	\$ 1412.48	1442.14	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/24/12	9/1/12	\$ 1371.34	1412.48	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/19/11	9/1/11	\$ 1344.45	1371.34	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7/29/10	9/1/10	\$ 1309.10	1344.45	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/1/09	8/1/09	\$ 1300	1309.10	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/1/08	7/1/08	\$ 1250	1300.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Date of Notice of Increase	Banking (deferred annual increases)	Increased Housing Service Purported Effective Date	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
11/9/15	<input checked="" type="checkbox"/>	12/15/15 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10/13/15	<input checked="" type="checkbox"/>	11/17/15 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10/12/15	<input checked="" type="checkbox"/>	11/17/15 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10/8/15	<input checked="" type="checkbox"/>	11/15/15 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8/31/15	<input checked="" type="checkbox"/>	9/1/15 <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7/15/14	<input type="checkbox"/>	10/1/14 <input type="checkbox"/>	<input checked="" type="checkbox"/> (no CPI)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7/24/13	<input type="checkbox"/>	9/1/13 <input type="checkbox"/> (Prior Owner CPI) ^{all prior years are undisputed}	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2015 DEC 28 PM 12:48

CITY OF WASHINGTON
 APPOINTMENT PROGRAM

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.

* Withdrawn/canceled/rescinded
 Rev. 2/25/15
 Response P. 2 of 10
 ✓ appeal pending.

000070

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.

2015 DEC 28 PM 12:48

IV. EXEMPTION MA

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.

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2015 DEC 28 PM 12:48

VI. VERIFICATION

Owner must sign here:

CITY OF SAN FRANCISCO
RENT ADJUSTMENT PROGRAM

2015 DEC 28 PM 12:48

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

12/23/2015

Date

(# Plus Eight Exhibits for Kaplan v. KW in total #1-37)
SEE #T15-0608 Owners Response (attached hereto)

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

Date

6 pages are attached hereto and incorporated as though set forth in full, for a total of 10 pages

2015 DEC 28 PM 12:48

CITY OF SAN FRANCISCO
RENT ADJUSTMENT PROGRAM

T15-0641 MS/LM

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp: ARBITRATION PROGRAM 2015 DEC -1 PM 2:14
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Patricia and Richard Kaplan	Rental Address (with zip code) 335 49th St. Apt. B 94609	Telephone 510-596-8846
Your Representative's Name James Vann	Mailing Address (with zip code) 251 Wayne Ave., Oakland, CA 94606	Telephone 510-763-0142
Property Owner(s) name(s) Debra Lew	Mailing Address (with zip code) c/o David Golden 90 New Montgomery St. #905, San Francisco, CA 94105	Telephone 415-722-7527

Number of units on the property: 5

Type of unit you rent (circle one)	House	Condominium	<input checked="" type="checkbox"/> Apartment Room, or Live-Work
Are you current on your rent? (circle one)	<input checked="" type="checkbox"/> 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:**

<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 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 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: July 20, 2006 Initial Rent: \$ 1250 /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: December 20, 2013 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		
11/09/2015	12/15/2015	\$ 1442.14	\$ 1515.68	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
07/05/2014	10/01/2014	\$ 1442.14	\$ 1659.09	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No **	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
07/24/2013	09/01/2013	\$ 1412.48	\$ 1442.14	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
07/24/2012	09/01/2012	\$ 1371.34	\$ 1412.48	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
07/19/2011	09/01/2011	\$ 1344.45	\$ 1371.34	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
07/29/2010	09/01/2010	\$ 1309.10	\$ 1344.45	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" 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.

and T15-0608

List case number(s) of all Petition(s) you have ever filed for this rental unit: ** T14-0367, current T15-0516

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.

Patricia Kaplan
Richard Kapile

Tenant's Signature

11-30-2015
11-30-2015

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): _____

November 30, 2015

To: Rent Adjustment Program Hearing Officer

From: Patricia and Richard Kaplan
335 49th St. Apt. B
Oakland, CA 94609

We, the undersigned residents of 335 49th St. Apt. B, wish to petition against:

- 1) the rent increase of \$73.54 to take effect December 15, 2015.
- 2) the change in due date of the rent to the 15th of the month from the 1st.
- 3) harassment with constant and trivial amendments to her rent increases, etc.

Rent Increase

The landlord notified us of a capital improvements increase last year. The decision of the Hearing Officer in that case is still on appeal. The appeal is set to be heard on Dec. 10.

The RAP Landlord Resource states, "An owner may take the CPI increase OR any combination of individual adjustments, but not both." —please see attached copy of that webpage. (<http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/DOWD008760>).

Landlord Lew's proposed rent increase violates two requirements:

1. The landlord cannot take the CPI increase for a year, 2014, that she has taken a capital improvements pass-through.
2. The 3x in the "banking" formula refers to the number of years in the last 10 years that no CPI increase has been taken, with a maximum of 3 years.

Our initial lease began on July 20, 2006 at a rent of \$1250. As you can see in the table below, our rent remained \$1250 until July 1, 2008. There has been only one year, 2007, that we have not received a CPI rent increase. Therefore, the calculation for "banking" should only be ONE times the current CPI of 1.7%. Our current base rent is \$1442.14. That would calculate to an increase of \$24.52.

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 to Tenants with the Notice of Increase?	Landlord's Name
		From	To			
7/5/14	10/1/14	\$1442.14	\$1659.09	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	D. Lew
7/24/13	9/1/13	\$1412.48	\$1442.14	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	L. Leong
7/24/12	9/1/12	\$1371.34	\$1412.48	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	L. Leong
7/19/11	9/1/11	\$1344.45	\$1371.34	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	L. Leong
7/29/10	9/1/10	\$1309.10	\$1344.45	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	L. Leong
5/1/09	8/1/09	\$1300	\$1309.10	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	L. Leong
5/1/08	7/1/08	\$1250	\$1300	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	L. Leong

(continued)

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Due date

Lew has changed the due date for our rent from the 1st of the month to the 15th. We are also petitioning to have the due date remain the 1st of each month, as it has been since we started renting this apartment 9 years ago, before she became the owner.

Harassment

During the summer, Lew sent us unnecessary and unsolicited copies of several additions to her appeal of the Hearing Officer's decision for the 2014 capital improvements pass-through.

Since August 31, 2015, we have received 4 notices concerning a rent increase this year, including 3 "amended" notices. Two of these completely changed the due date for our rent. In addition, we received a rescission of the previous rent increases and now the current increase notice. That's 6 notices in 9 weeks.

Please examine this rent increase, the change in the due date, and this harassment.

Thank you.

Patricia Kaplan
Richard Kaplan

Patricia Kaplan
Richard Kaplan



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

CORRECTED HEARING DECISION

CASE NUMBER: T15-0516, Kaplan v. Lew (Unit B)
T15-0608, Kaplan v. Lew (Unit B)
T15-0617, Chow v. Lew (Rear Cottage)
T15-0641, Kaplan v. Lew (Unit B)

PROPERTY ADDRESS: 335 49th St., Oakland, CA 94609

DATE OF HEARING: February 8, 2016

DATE OF DECISION: March 29, 2016

APPEARANCES: Richard Kaplan, Tenant (Unit B)
Patricia Kaplan, Tenant (Unit B)
Clara Chow, Tenant (Rear Cottage)
James B. Vann, Tenant Representative
Debra Lew, Owner

REASON FOR CORRECTED DECISION

On March 18, 2016, a Hearing Decision was mailed to all parties. On March 25, 2016, the owner filed an Appeal stating that there was a calculation error in the Hearing Decision with respect to the banking calculation and the base rent. The banking calculator left out two decimal points of 'current rent before increase.' This Decision corrects this error. Other than the correction of the banking calculation, the Hearing Decision remains the same.

This CORRECTED HEARING DECISION sets out a new appeal period.

SUMMARY OF DECISION

The tenant petitions are granted in part.

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CONTENTIONS OF THE PARTIES

The tenants Patricia and Richard Kaplan filed three Tenant Petitions (T15-0516 on 9/29/15, T15-0608 on 11/10/15, and T15-0641 on 12/28/15), contesting three different rent increases, alleging that the rent increases are unjustified, exceed the CPI Adjustment or greater than 10%.

The tenant Clara Chow filed a Tenant Petition (T15-0617), contesting a single rent increase, alleging that the increase exceeds the CPI adjustment and is unjustified or greater than 10%.

The owner filed timely responses to all tenants' petitions, alleging banking justification for the rent increases.

The tenant petitions were consolidated into a single hearing.

THE ISSUES

- (1) Are the rent increases valid?
- (2) If so, has the banking justification been properly calculated?

EVIDENCE

Background

The subject Unit B is located in a residential building consisting of three (3) units and a Cottage unit is a separate building in the back of the property. The entire property consists of total four (4) units. It is undisputed that the tenants received their first notice of the existence of the Rent Adjustment Program (RAP) on December 20, 2013, and also with each rent increase notice.

Tenants Patricia and Richard Kaplan (Unit B): The tenants moved into the subject unit on July 20, 2006, at an initial monthly rent of \$1,250.00. It was clarified at the hearing, and confirmed by the owner, that the only pending rent increase is the rent increase proposing to increase the monthly rent from \$1,442.14 to \$1515.68, effective December 15, 2015.¹ All prior rent increases have been rescinded or superseded by this most recent rent increase. The tenant testified that they paid \$1,466.66 on December 15, 2015, and \$1,442.14 in January and February of 2016.

Tenant Clara Chow (Rear Cottage): The tenant moved into the cottage on November 1, 1998, at an initial monthly rent of \$850.00. She was served a rent increase notice dated September 27, 2015, proposing to increase her rent from \$1,220.27 to \$1,264.58, effective November 1, 2015. The tenant has been paying the increased amount since November 1, 2015.

¹ Exhibit A

The owner filed timely responses to tenant petitions, alleging banking as a justification for the rent increase.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Hearing Decision After Remand

On March 3, 2016, this office issued a Decision After Remand relating to tenants' prior petitions T14-0367 and T14-0380. This Decision sets the base rents as of October 1, 2014, plus capital improvements pass-through a for five-year amortization period from October 1, 2014, through September 30, 2019. Therefore, this Hearing Decision is bound by the base rent amounts and capital improvements pass-through set in the Remand Decision and will use these amounts for the banking calculations for the pending rent increases.

Banking

An owner is allowed to bank increases and use them in subsequent years, subject to certain limitations.² However, the total of CPI adjustments imposed in any one rent increase, including the current CPI rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the rent increase notice.³ The banking calculations set forth in the attached Tables indicate the allowable banking amounts for each unit.

Unit B: The maximum allowable Banking is \$73.55. The new base rent is \$1,515.69. This is the new base rent before the capital improvement pass-through of \$213.81.

Rear Cottage: The maximum allowable Banking is \$37.55. The new base rent is \$1,257.82. This is the new base rent before the capital improvement pass-through of \$205.67.

Unit #	Base rent	Banking allowed	New base rent	CI Pass-Through	New Monthly Rent Payment
B	\$1,442.14	\$73.55	\$1,515.69	\$213.81	\$1,729.50 as of 12/15/15
Cottage	\$1,220.27	\$37.55	\$1,257.82	\$205.67	\$1,463.49 as of 11/1/15

² O.M.C. Section 8.22.070(B)(5)

³ RAP Regulations 10.5

CITY OF OAKLAND



Department of Housing and Community Development
 Rent Adjustment Program
<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>

P.O. Box 70243
 Oakland, CA 94612
 (510) 238-3721

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	1-Nov-1998	MUST FILL IN D9, D10, D11 and D14	Case No.: T15-0617	CHANGE YELLOW CELLS ONLY
Effective date of increase	1-Nov-2015		Unit: cottage	
Current rent (before increase and without prior cap. improve pass-through)	\$1,220.27			
Prior cap. imp. pass-through	\$ 205.67			
Date calculation begins	31-Oct-2004			
Base rent when calc.begins	\$975.00			
			If the planned increase includes other than banking put an X in the box→ <input type="checkbox"/>	

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
10/31/2015				1.7%	\$ 21.03	\$ 1,257.82
10/31/2014				1.9%	\$ 23.06	\$ 1,236.79
10/31/2013				2.1%	\$ 24.96	\$ 1,213.73
10/31/2012				3.0%	\$ 34.62	\$ 1,188.77
10/31/2011				2.0%	\$ 22.63	\$ 1,154.14
10/31/2010				2.7%	\$ 29.75	\$ 1,131.51
10/31/2009				0.7%	\$ 7.66	\$ 1,101.76
10/31/2008				3.2%	\$ 33.93	\$ 1,094.11
10/31/2007				3.3%	\$ 33.87	\$ 1,060.18
10/31/2006				3.3%	\$ 32.79	\$ 1,026.31
10/31/2005				1.9%	\$ 18.53	\$ 993.53
10/31/2004				-	-	\$975.00

Calculation of Limit on Increase

Prior base rent	\$1,220.27
Banking limit this year (3 x current CPI and not more than 10%)	5.1%
Banking available this year	\$ 37.55
Banking this year + base rent	\$ 1,257.82
Prior capital improvements recovery	\$ 205.67
Rent ceiling w/o other new increases	\$ 1,463.49

Notes:

1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases include all past annual CPI adjustments.
5. An Increased Housing Service Cost increase takes the place of the current year's CPI adjustment.
6. Past increases for unspecified reasons are presumed to be for banking.
7. Banked annual increases are compounded.
8. The current CPI is not included in "Banking", but it is added to this spreadsheet for your convenience.

PROOF OF SERVICE

Case Number T15-0516, T15-0608, T15-0617, T15-0641

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 **Corrected 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

Debra Lew c/o David Golden
90 New Montgomery St #905
San Francisco, CA 94105

Tenant

Richard and Patricia Kaplan
335 49th St. #B
Oakland, CA 94609

Tenant

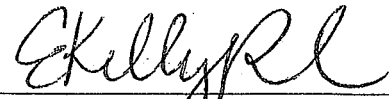
Clara Chow
335 49th St. Rear Unit
Oakland, CA 94609

Tenant Representative

James Vann
251 Wayne Ave.
Oakland, CA 94606

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 **March 30, 2016** in Oakland, California.



Esther K. Rush

Oakland Rent Adjustment Program

000083

ORDER

1. The Tenant Petitions T15-0516, T15-0641, and T15-0608 (Unit #B) are granted in part. The rent increase based on banking is allowed in the amount of \$73.55. The new base rent is \$1,515.69 before the capital improvement pass-through of \$213.81. On October 1, 2019, the rent will be reduced by \$213.81.
2. The Tenant Petition T15-0617 (Rear Cottage) is granted in part. The rent increase based on banking is allowed in the amount of \$37.55. The new base rent is \$1,257.82 before the capital improvement pass-through of \$205.67. On October 1, 2019, the rent will be reduced by \$205.67.
3. Any overpayments or underpayments should be determined by the parties and adjusted over a six-month period.

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: March 29, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program



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: T15-0516, Kaplan v. Lew (Unit B)
T15-0608, Kaplan v. Lew (Unit B)
T15-0617, Chow v. Lew (Rear Cottage)
T15-0641, Kaplan v. Lew (Unit B)

PROPERTY ADDRESS: 335 49th St., Oakland, CA 94609

DATE OF HEARING: February 8, 2016

DATE OF DECISION: March 15, 2016

APPEARANCES: Richard Kaplan, Tenant (Unit B)
Patricia Kaplan, Tenant (Unit B)
Clara Chow, Tenant (Rear Cottage)
James B. Vann, Tenant Representative
Debra Lew, Owner

SUMMARY OF DECISION

The tenant petitions are granted in part.

CONTENTIONS OF THE PARTIES

The tenants Patricia and Richard Kaplan filed three Tenant Petitions (T15-0516 on 9/29/15, T15-0608 on 11/10/15, and T15-0641 on 12/28/15), contesting three different rent increases, alleging that the rent increases are unjustified, exceed the CPI Adjustment or greater than 10%.

The tenant Clara Chow filed a Tenant Petition (T15-0617), contesting a single rent increase, alleging that the increase exceeds the CPI adjustment and is unjustified or greater than 10%.

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The owner filed timely responses to all tenants' petitions, alleging banking justification for the rent increases.

The tenant petitions were consolidated into a single hearing.

THE ISSUES

- (1) Are the rent increases valid?
- (2) If so, has the banking justification been properly calculated?

EVIDENCE

Background

The subject Unit B is located in a residential building consisting of three (3) units and a Cottage unit is a separate building in the back of the property. The entire property consists of total four (4) units. It is undisputed that the tenants received their first notice of the existence of the Rent Adjustment Program (RAP) on December 20, 2013, and also with each rent increase notice.

Tenants Patricia and Richard Kaplan (Unit B): The tenants moved into the subject unit on July 20, 2006, at an initial monthly rent of \$1,250.00. It was clarified at the hearing, and confirmed by the owner, that the only pending rent increase is the rent increase proposing to increase the monthly rent from \$1,442.14 to \$1515.68, effective December 15, 2015.¹ All prior rent increases have been rescinded or superseded by this most recent rent increase. The tenant's testified that they paid \$1,466.66 on December 15, 2015, and \$1,442.14 in January and February of 2016.

Tenant Clara Chow (Rear Cottage): The tenant moved into the cottage on November 1, 1998, at an initial monthly rent of \$850.00. She was served a rent increase notice dated September 27, 2015, proposing to increase her rent from \$1,220.27 to \$1,264.58, effective November 1, 2015. The tenant has been paying the increased amount since November 1, 2015.

The owner filed timely responses to tenant petitions, alleging banking as a justification for the rent increase.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Hearing Decision After Remand

On March 3, 2016, this office issued a Decision After Remand relating to tenants' prior petitions T14-0367 and T14-0380. This Decision sets the base rents as of October 1, 2014, plus capital improvements pass-through a for five-year amortization period from October 1, 2014, through September 30, 2019. Therefore, this Hearing

¹ Exhibit A

Decision is bound by the base rent amounts and capital improvements pass-through set in the Remand Decision and will use these amounts for the banking calculations for the pending rent increases.

Banking

An owner is allowed to bank increases and use them in subsequent years, subject to certain limitations.² However, the total of CPI adjustments imposed in any one rent increase, including the current CPI rent Adjustment, may not exceed three times the allowable CPI Rent Adjustment on the effective date of the rent increase notice.³ The banking calculations set forth in the attached Tables indicate the allowable banking amounts for each unit.

Unit B: The maximum allowable Banking is \$73.54. The new base rent is \$1,515.54. This is the new base rent before the capital improvement pass-through of \$213.81.

Rear Cottage: The maximum allowable Banking is \$37.53. The new base rent is \$1,257.53. This is the new base rent before the capital improvement pass-through of \$205.67.

Unit #	Base rent	Banking allowed	New base rent	CI Pass-Through	New Monthly Rent Payment
B	\$1,442.00	\$73.54	\$1,515.54	\$213.81	\$1,729.35 as of 12/15/15
Cottage	\$1,220.00	\$37.53	\$1,257.53	\$205.67	\$1,463.20 as of 11/1/15

ORDER

1. The Tenant Petitions T15-0516, T15-0641, and T15-0608 (Unit #B) are granted in part. The rent increase based on banking is allowed in the amount of \$73.54. The new base rent is \$1,515.54 before the capital improvement pass-through of \$213.81. On October 1, 2019, the rent will be reduced by \$213.81.
2. The Tenant Petition T15-0617 (Rear Cottage) is granted in part. The rent increase based on banking is allowed in the amount of \$37.53. The new base rent is \$1,257.53 before the capital improvement pass-through of \$205.67. On October 1, 2019, the rent will be reduced by \$205.67.

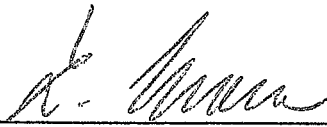
² O.M.C. Section 8.22.070(B)(5)

³ RAP Regulations 10.5

3. Any overpayments or underpayments should be determined by the parties and adjusted over a six-month period.

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: March 15, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

CITY OF OAKLAND



Department of Housing and Community Development
 Rent Adjustment Program
<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>

P.O. Box 70243
 Oakland, CA 94612
 (510) 238-3721

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	1-Nov-1998		Case No.:	T15-0617	CHANGE YELLOW CELLS ONLY
Effective date of increase	1-Nov-2015		Unit:	Cottage	
Current rent (before increase and without prior cap. improve pass-through)	\$1,220				
Prior cap. imp. pass-through	\$ 205.67				
Date calculation begins	31-Oct-2004				
Base rent when calc. begins	\$975				

If the planned increase includes other than banking put an X in the box →

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
10/31/2015				1.7%	\$ 21.02	\$ 1,257.53
10/31/2014				1.9%	\$ 23.06	\$ 1,236.51
10/31/2013				2.1%	\$ 24.96	\$ 1,213.46
10/31/2012				3.0%	\$ 34.62	\$ 1,188.50
10/31/2011				2.0%	\$ 22.63	\$ 1,153.88
10/31/2010				2.7%	\$ 29.74	\$ 1,131.26
10/31/2009				0.7%	\$ 7.66	\$ 1,101.52
10/31/2008				3.2%	\$ 33.92	\$ 1,093.86
10/31/2007				3.3%	\$ 33.86	\$ 1,059.94
10/31/2006				3.3%	\$ 32.78	\$ 1,026.08
10/31/2005				1.9%	\$ 18.52	\$ 993.30
10/31/2004				-	-	\$975

Calculation of Limit on Increase

Prior base rent	\$1,220.00
Banking limit this year (3 x current CPI and not more than 10%)	5.1%
Banking available this year	\$ 37.53
Banking this year + base rent	\$ 1,257.53
Prior capital improvements recovery	\$ 205.67
Rent ceiling w/o other new increases	\$ 1,463.20

Notes:

1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases include all past annual CPI adjustments.
5. An Increased Housing Service Cost increase takes the place of the current year's CPI adjustment.
6. Past increases for unspecified reasons are presumed to be for banking.
7. Banked annual increases are compounded.
8. The current CPI is not included in "Banking", but it is added to this spreadsheet for your convenience.

PROOF OF SERVICE

Case Number **T15-0516, T15-0608, T15-0617, T15-0641**

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

Debra Lew c/o David Golden
90 New Montgomery St #905
San Francisco, CA 94105

Tenant

Richard and Patricia Kaplan
335 49th St #B
Oakland, CA 94609

Tenant Representative

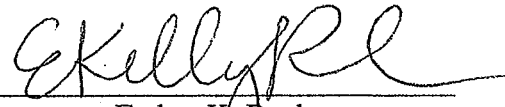
James Vann
251 Wayne Ave
Oakland, CA 94606

Tenant

Clara Chow
335 49th St.- Rear Unit
Oakland, CA 94609

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 **March 18, 2016** in Oakland, California.



Esther K. Rush
Oakland Rent Adjustment Program

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

DECISION AFTER REMAND

CASE NUMBERS: T14-0366; Geren v. Lew (Unit C)
T14-0367; Kaplan v. Lew (Unit B)
T14-0380; Chow v. Lew (Rear house)

PROPERTY ADDRESS: 335 49th Street, Oakland, CA

DATE OF HEARING: December 18, 2014

DATE OF INSPECTION: February 25, 2015

DATE OF REMAND DECISION: March 3, 2016

APPEARANCES: Patricia Kaplan (Tenant Unit B)
Megan Geren (Tenant Unit C)
Peter Arensdorf (Tenant Unit C)
Clara Chow (Tenant Rear House)
David Golden (Witness for Owner)
Debra Lew (Owner)
Jun Grady Han (Witness for owner)
James Vann (Tenants' Representative)

INTRODUCTION

On February 11, 2016, an Appeal Decision was issued in this matter remanding the case back to the Hearing Officer to exclude the non-residential unit from the number of units used to calculate the allowable capital improvement rent increase.

SUMMARY OF REMAND DECISION

A recalculation of the allowable rent increase effective October 1, 2014, is set forth in the Order below.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

What is the allowable rent increase based on capital improvements?

The two charts below document the allowable increases.

The first chart below documents the work that was done for the entire property, (in the top portion) as well as the work done on the front building only (in the bottom portion.) The top section is divided by 4 units (all the units on the property), and the bottom section is divided by 3 units (the work done on the 3 unit front building).

CAPITAL IMPROVEMENTS

Effective Date of Increase

1-Oct-14

Number of Residential Units on Property

4

Improvements and repairs benefitting all units					
IMPROVEMENT OR REPAIR	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	VALIDITY CHECKS
Sewer Lateral	27-Mar-14	\$6,200.00	4	\$25.83	OK
Tree Removal	3-Jan-14	\$1,150.00	4	\$4.79	OK
Subtotal				\$30.63	OK

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
Roof	16-Jan-14	\$27,150.00	3	\$150.83	A, B & C	OK
Painting	27-Jun-14	\$5,822.50	3	\$32.35	A, B & C	OK
Total				\$183.18	A, B & C	

Total Allowable Increase for Units in Front Building

\$213.81

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The chart below is for work done on the "rear house". For Ms. Chow, her allowable rent increase includes the costs listed in the top portion of the first chart (for the property wide expenses) and the costs listed in the second chart. The allowable costs from the property wide improvements (\$30.63) is listed below the subtotal.

CAPITAL IMPROVEMENTS

Effective Date of Increase 1-Oct-14
 Number of Residential Units on Property 1

Improvements and repairs benefitting all units			NUMBER OF MONTHLY		
IMPROVEMENT OR REPAIR	DATE COMPLETED	COST ALLOWED	UNITS BENEFITTED	COST PER UNIT	VALIDITY CHECKS
Gutters and downspouts	16-Jan-14	\$550.00	1	\$9.17	OK
Kitchen Repair	26-Jun-14	\$5,125.00	1	\$85.42	OK
Exterior Painting	27-Jun-14	\$4,827.50	1	\$80.46	OK
Subtotal				\$175.04	OK
Plus Costs from Property Wide Improvements				\$30.63	
Total Allowable Pass-Through to Rear House:				\$205.67	

Allowable Rent:

Tenant Kaplan: Prior to the rent increase at issue, Ms. Kaplan's base rent was \$1,442.00. The owner is entitled to a capital improvement pass-through, effective October 1, 2014, of \$213.81. Her total allowable legal rent is therefore \$1,655.81. On September 30, 2019, tenant Kaplan's rent will be reduced by the capital improvement pass-through of \$213.81.

Tenants Arensdorf and Geren: Prior to the rent increase at issue, Mr. Arensdorf and Ms. Geren's base rent was \$1,225.00. The owner is entitled to a capital improvement pass-through, effective October 1, 2014, of \$213.81. Their total allowable legal rent is therefore \$1,438.81. On September 30, 2019, their rent will be reduced by the capital improvement pass-through of \$213.81.

Tenant Chow: Prior to the rent increase at issue, Ms. Chow's base rent was \$1,220.27. The owner is entitled to a capital improvement pass-through, effective October 1, 2014, of \$205.67. Ms. Chow's total allowable legal rent is therefore \$1,425.94. On September 30, 2019, her rent will be reduced by the capital improvement pass-through of \$205.67.

For all parties: Since there was an appeal pending in this matter for many months, it is unknown exactly what rent amounts were paid by the tenants. The parties can determine what underpayments (or overpayments) were made and if the tenants owe the owner restitution (or if the owner owes the tenants restitution.) For any restitution owed, it should be adjusted over a 12 month period.

ORDER

1. Effective October 1, 2014, a Capital Improvements pass-through is granted to the owner in the amount of \$213.81 per month, for a period of 60 months for tenants Geren and Kaplan.

Effective October 1, 2014, a Capital Improvement pass-through is granted to the owner in the amount of \$205.67 for tenant Chow.

2. Tenant Kaplan's base rent is \$1,442.00. Effective October 1, 2014, her current legal rent with the capital improvement pass through is \$1,655.81 per month.

3. Any underpayment or overpayment by Ms. Kaplan should be determined by the parties and adjusted over a 12 month period.

4. Tenant Geren's base rent is \$1,225.00. Effective October 1, 2014, her current legal rent with the capital improvement pass through is \$1,438.81 per month.

5. Any underpayment or overpayment by Ms. Geren should be determined by the parties and adjusted over a 12 month period.

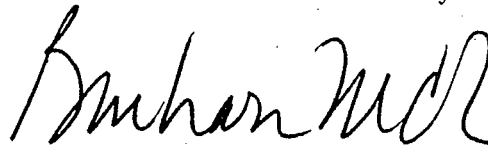
6. Tenant Chow's base rent is \$1,220.27. Her current legal rent with the capital improvement pass through is \$1,425.94 per month.

7. Any underpayment or overpayment by Ms. Chow should be determined by the parties and adjusted over a 12 month period.

8. The pass-through granted for tenants Kaplan, Geren and Chow expire on September 30, 2019. On October 1, 2019, the rent for tenants Kaplan and Geren will be reduced by \$213.81 per month and the rent for tenant Chow will be reduced by \$205.67 per month.

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

Dated: March 3, 2016



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number(s): T14-0366, T14-0367, T14-0380

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 **DECISION AFTER REMAND** 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:

Patricia and Richard Kaplan
335 49th Street, Unit B
Oakland, CA 94609

James Vann
251 Wayne Avenue
Oakland, CA 94606

Megan Green
Peter Arendorf
335 49th Street, Unit C
Oakland, CA 94609

Clara Chow aka Clara Kumamoto
Tom Kumamoto
335 49th Street, Rear House
Oakland, CA 94609

Debra Lew
c/o David Golden
90 New Montgomery Street,
Suite 905
San Francisco, CA 94105

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 March 3, 2016, in Oakland, California.



Barbara M. Cohen
Oakland Rent Adjustment Program

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