

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

July 20, 2017

7:00 P.M.

**CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
 - i. Appeal Hearing in Cases:
 - a. L16-0021; Durham-Hammer et al v. Tenants
T16-0203; Falconer v. Durham-Hammer
 - b. T16-0015; Rosenblum v. Cherry
 - c. T16-0271; Tsay v. DeMara
5. 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.

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

2017 JUL 12 PM 2:47
OFFICE OF THE CITY CLERK
OAKLAND

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 Nos.: L16-0021; T16-0203
Case Name: Durham-Hammer et al v. Tenants & Falconer v. Durham-Hammer
Property Addresses: 275-281 Jayne Avenue, Oakland
Parties: Bradley J. Falconer & Walter Epp (Tenants)
Nathan Durham-Hammer (Property Owner)

PROPERTY OWNER APPEAL:

L16-0021

<u>Activity</u>	<u>Date</u>
Owner Petition filed	April 1, 2016
Tenant Response filed (W. Epp)	April 21, 2016

T16-0203

<u>Activity</u>	<u>Date</u>
Tenant petition filed (B. Falconer)	April 20, 2016
Owner Response filed	August 16, 2016

Both Cases

Hearing Decision issued	October 31, 2016
Owner Appeal filed	November 18, 2016

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2016 NOV 18 PM 12:23

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name Nathan Durham-Hammer		Owner-Occupant <input checked="" type="checkbox"/> Landlord <input type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 275-281 Jayne Ave, Oakland, CA 94610		Units involved: 275 Jayne Ave. & 281 Jayne Ave.	
Appellant's Mailing Address (For receipt of notices) 277 Jayne Ave Oakland CA 94610		Case Number L16-0021 & T16-0203 (consolidated)	
		Date of Decision appealed Postmarked: October 28, 2016 Oct. 31, 2016	
Name of Representative (if any)		Representative's Mailing Address (For notices) ↓ Received Nov. 4, 2016	

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

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


1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2. **The decision is inconsistent with decisions issued by other hearing officers.** You must identify the prior inconsistent decision and explain how the decision is inconsistent.
3. **The decision raises a new policy issue that has not been decided by the Board.** You must provide a detailed statement of the issue and why the issue should be decided in your favor.
4. **The decision is not supported by substantial evidence.** You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.
6. **The decision denies me a fair return on my investment.** You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

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

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on November 18, ~~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:

*Hand Delivered to the following neighbors:

<u>Name</u>	Bradley Falconer
<u>Address</u>	275 Jayne Ave.
<u>City, State Zip</u>	Oakland CA 94610
<u>Name</u>	Walker Epp
<u>Address</u>	281 Jayne Ave
<u>City, State Zip</u>	Oakland CA 94610

	11/17/16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

2016 NOV 18 PM 12: 2J

November 17, 2016

**ATTN: Oakland Rent Board
One Frank H Ogawa Plaza,
Oakland CA 94612**

**APPEAL: RIGHT TO FAIR RETURN
275-281 JAYNE AVENUE, OAKLAND
[CASE NUMBER L16-0021 & T16-0203]**

Appeal:

The owner asks the Rent Board to review the previous fair return case and reject this decision. The owner asks the Board consider the following statement, as well as the Owner's original petition L16-0021, its Supplement B and Owner's Closing Statement.

RAP Hearing Officer Response:

The hearing officer added three incremental increase percentages together in the "evidence" section, which demonstrates the hearing officer disregarded and did not try to understand the basic economics and calculations in the Owner's original petition (Pgs. 12-13 of Owner's Petition).

The hearing decision did NOT respond to the evidence. The hearing did NOT result in a fair and unbiased decision. Fair Return "Burden of Proof" is not defined in Oakland Ordinance Chapter 8.22.

Oakland Ordinance 8.22 states that our right to a fair return cannot be denied. Section 8.22.070C2(e) does not define specific methods for calculating fair return on investment, and does not define any specific "burdens of proof".

No publicly heard cases have been similar to ours. The RAP failed to provide any existing CA precedent that can be fairly applied to our case. Our case is unique because it involves a 4-unit owner-occupied rental property. The owner is a worker and a public school teacher. The owner pays monthly subsidies, each over \$1000/month, to two of three tenants.

The owners exemplify unintended consequences of excessive governmental control. The owner's affordability of housing in Oakland is severely impaired as a 4-unit Owner-Occupant. One of the unintended consequences is an individual tax levied on us. Oakland's over-reach of regulation is taking our property. The unfairness is inequitable because it redistributes our income without purpose. The amount the owners pay to tenants is financially devastating for us. We are Oakland, and Oakland must protect our rights.

Core Flaws of RAP Hearing Decision:

Fair return on residential income property, ownership sustainability, is ascertained through adequate net operating income. Appreciation is not required in the Ordinance 8.22 for analysis of constitutional rights to fair return. The property is Not For Sale, so appreciation is both irrelevant and purely speculative, and not “earned” by the owner.

The hearing decision’s “requirement” for appraisal is a costly and fictitious creation and was used by the Hearing Officer to ignore, disregard, and sidestep the evidence the owner provided. The hearing officer is not an expert on fair return on investment.

It is not appropriate to force the property owner to pay for an appraisal that does not shed any light on fair annual cash returns, that is, Net Operating Income, to provide decent rental housing. If an independent appraisal were to be conducted, it could show a change in market value, in which case the Cap Rate and rents must be directly tied to that new value.

Rents must increase proportionally with property value. If rents do NOT justify the appraised value of the residential income property, lenders will NOT lend against the investment on speculative (comparable approach) value, and the “appraised value” is again moot. Lenders lend against current net income for rental housing.

Appraisal of income property would require an income approach to check against a comparable approach. The value of an income property is directly proportional to rental income and industry standard operating expenses. There is no such thing as “money earned through appreciation” because our property is not for sale. The decision added “appreciation” into its response but has no authority to deny the right to a fair return by forcing speculation on the owner’s intergenerational investment.

MNOI is NOT tied to a reasonable base year; 1987 and 1998 in our case. The MNOI formula is not applicable without vacancy decontrol on 2 of 3 rented units. Vacancy decontrol is Oakland’s main form of protection for the right to a fair return. The 1987 and 1998 base years do not reflect the price that was required of the owner to acquire the investment. This property is our livelihood and residence. In order to be valid, MNOI must reset based on market conditions in a recent base year. The owner provided appropriate formulas in its Original Petition (Pgs. 46-48).

Evidence Provided but Disregarded in RAP Response:

The owner provided thorough evidence of our analysis of fair return on our rental income property, using a 3-unit approach for amount invested in the property. The owner excluded our own home from the purchase price. Rental income property NOI and Cap Rate are central to appropriate formulas for our case study.

The owner provided detailed evidence, including full-scale graphs the decision ignored, of the overarching risk of no vacancy over time. This risk could cost the owner around \$1,000,000 over the next twenty years on the two units alone. The owner also explained the “similar” enhanced risks of the 4-unit owner-occupied property, the older building with few units rented, the heightened barriers to ownership, and the risk of being forced out of Oakland as owners and residents.

Information NOT Provided - NOT Applicable & NOT Reasonable:

The Ordinance does NOT require that an appraisal be done to protect the right to a fair return. Appreciation is a misleading and inappropriate discussion, as detailed above.

The owner is attaching tax returns from 2013, 2014 and 2015 to this Appeal, as a CONFIDENTIAL exhibit for the Rent Board’s consideration. However, the burden of providing all bills and private financial information in literally thousands of pages is not reasonable. This is a violation our privacy, is not required by Oakland Ordinance section 8.22, and violates our right to confidentiality in our business practices by forcing the owner to provide this amount of documentation to tenants, much less to have our confidential financial information heard in a public hearing. The RAP denied us due process by suggesting we did not meet its fictitious “burden of proof” to provide every last bill, receipt, and copy of personal financial information.

We have our records on file. The RAP erroneously suggested that it would require a full audit of our private small business financial records in order to uphold our rights under the Ordinance. The owner provided accurate figures to the best of our knowledge and in compliance with Notice requirements under Ordinance 8.22. Furthermore, the tenants may be moneyed and readily able to pay a fair rent, but the tenants were not required to provide any private financial information. The RAP suggested that the owners had not adequately navigated the bureaucratic maze to uphold our legal rights, which is how the decision denied us due process and denied our right to a fair return on our investment.

RAP Procedure:

We filed our Petition April 1. The hearing was rescheduled twice from July 14th to August 11th to August 30th.

The Hearing Officer asked the owner to orally restate our entire case in five minutes. There was no logical purpose for an in-person hearing as the case was extensively detailed in the owner's original petition, and this case could have been handled through administrative process.

Mediation was agreed to by one tenant but not other. The cases should not have been consolidated per Oakland Ordinance section 8.22.010D. One should have been gone to mediation with the owner, the other should have had a separate hearing.

The Hearing Officer entered a "Tenants' Closing Statement" into the file on the day of the hearing. This was apparently "approved" by a RAP senior hearing officer who was not in the hearing. The owner submitted the Closing Statement on September 6th, but the hearing officer apparently disregarded it.

The RAP's Response arrived over 60 days after the hearing. The owner received the RAP's response, postmarked October 31, by mail on November 4th.

Appeal options/instructions in the RAP's Owner Packet differ from the language in the appeal form itself. It is not clear which is current and correct.

The hearing decision was sent to the owner twice, despite case consolidation.

Case Study Findings & Evidence Not Acknowledged by the RAP:

The RAP failed to acknowledge or respond to the calculations in the owner's original petition. The owner clearly stated the problems with MNOI formula and appreciation theory, and after conducting our own extensive analysis, the owner relied on appropriate formulas for fair return on our investment. These formulas were clearly presented to the tenants and the RAP on pages 46 through 48 of the owner's original petition.

The RAP failed to acknowledge the common sense operational thresholds that make up a fair return on residential income property. Evidence of a fair return is reasonable rents per unit, adequate to cover the following common sense thresholds:

- Maintenance & Upgrades - completed, ongoing and anticipated
 - Reserves - industry guidelines
 - Management Costs - industry guidelines
 - Reasonable Debt Service - industry guidelines
 - Cash Flow - reasonably positive after debt service and expenses, per industry guidelines
- Capital Improvements - capital investments also require a fair return on investment per industry guidelines. The newly-reduced allowable pass-through currently yields losses to the owner. The current restrictions are harmful to owners' ability to improve their properties, but ultimately are most harmful to tenant living conditions. Restrictions have increased since we became owners.

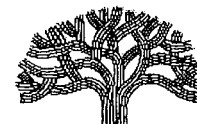
Conclusion:

The decision failed to follow the intent of Oakland Ordinance section 8.22.010F, which acknowledges the “special relationship” between owners and tenants in smaller owner-occupied properties.

The decision failed to acknowledge that our property is a 4-unit Owner-Occupied Residential Property, consisting of less than five units. The owner is most severely exposed of all Oakland’s rental property owners to unintended consequences with few units, heavily restricted rents, and massive individual housing subsidies paid monthly to two of three tenants.

The decision failed to acknowledge that our right to a fair return is denied without adequate Vacancy Decontrol. The decision failed to understand that our case is a unique case where tenants pay socially inequitable housing costs and the City levies an unlawful tax on the owner.

The RAP failed to provide an unbiased forum to resolve disputes, which is the RAP’s purpose according to the Ordinance chapter 8.22. The RAP exposed its biased, partisan approach when it denied us our rights. Compromise might be a reasonable response – outright denial by way of erroneous metrics is not acceptable. The goal of this appeal, as was the goal of this entire process, is to find fairness. The RAP was asked to consider a series of incremental rent increases over three years. We would consider accepting a reasonable response by the Rent Board that shows efforts to balance residents’ interests and uphold our rights under the law.



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 NUMBERS: L16-0021, Durham-Hammer, et al. v. Tenants
T16-0203, Falconer v. Durham-Hammer, et al.

PROPERTY ADDRESS: 275 and 281 Jayne Ave., Oakland, CA

DATE OF HEARING: August 30, 2016

DATE OF DECISION: October 28, 2016

APPEARANCES: Nathan Durham-Hammer, Owner
Bradley J. Falconer, Tenant
Walter Epp, Tenant

SUMMARY OF DECISION

The Owner Petition for Approval of Rent Increase on the ground that the increases are justified by constitutionally required fair return is denied.

CONTENTIONS OF THE PARTIES

On April 1, 2016, the owner filed a petition (L16-0021) for approval of a rent increase based on constitutionally required fair return.

On April 20, 2016, tenant Bradley Falconer filed a petition (T16-0203) contesting the future rent increases proposed in the owner petition.

On April 21, 2016, tenant Walter Epp filed a response to owner petition, contesting the owner's petition L16-0021.

Because both petitions involved the same parties and subject property, they were consolidated into a single hearing.

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ISSUE

1. Are the proposed rent increases justified by constitutionally required fair return?

EVIDENCE

Background

The subject property is a residential building consisting of four (4) residential units. All units are equal in size, about 650 sq. feet, and contain one bedroom and one bathroom. The owner occupies one of the units and the other three units are rented to tenants.

Proposed Rent Increases

The owner petitioned the Rent Adjustment Program to approve future rent increases for two of the three rented units.

The proposed rent increases for Unit A (281 Jayne Ave.) total \$846.00 per month (56.25%) and would increase the monthly rent over the next 3 years as follows:

- from \$1,256.72 to \$1,538.72, effective July 1, 2016;
- from \$1,538.72 to \$1,820.72, effective July 1, 2017; and
- from \$1,820.72 to \$2,102.72, effective July 1, 2018.

The proposed rent increases for Unit B (275 Jayne Ave.) total \$906.00 per month (56.57%) and would increase the monthly rent over the next 3 years as follows:

- from \$1,337.15 to \$1,639.15, effective July 1, 2016;
- from \$1,639.15 to \$1,941.15, effective July 1, 2017; and
- from \$1,941.15 to \$2,243.15, effective July 1, 2018.

With his petition, the owner submitted a 60-page document, called The Right to a Fair Return, dated April 1, 2016.¹ This document consists of rental history, calculation formulas relating to fair return, various articles and opinions on rent control, rental market, fair return, and investing in Oakland, including graphs and theories.

On August 23, 2016, the owner submitted a document entitled Exhibit B – Fair Return Supplement, containing mostly 22 pages of email correspondence between the owner and the City of Oakland Council members, newspaper articles, copies of photographs depicting the subject property, and a sample petition form proposed by the owner.²

¹ Exhibit A

² Exhibit B

On August 23, 2016, the tenants also submitted a document folder containing various court cases, hearing decisions, City of Oakland Ordinance, articles and market studies relating to rent control, rental market and fair return.³

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Constitutionally Required Fair Return

The City of Oakland Rent Adjustment Ordinance permits owners to claim that a rent increase greater than the CPI rent increase is necessary to meet constitutional or fair return requirement.⁴ However, the Ordinance does not set out any guidelines or particular standard for determining such 'fair return.'

Fair Return as Determined by the Courts

Over the years, the Courts have held that a rent control regulation system must be applied so as to provide investors a fair return.⁵ The term 'fair return' is incapable of precise definition. It must be high enough "to encourage good management, reward efficiency, discourage the flight of capital and enable operators to maintain their credit."⁶

On the other hand, it cannot be so high as to defeat the purposes of rent control and the rate of return permitted may not be as high as prevailed in the industry prior to regulation nor as much as the investor might obtain by placing his capital elsewhere.⁷

The Supreme Court held that ~~explained that~~ "comparison of the rate of return of rent-controlled mobile home parks with those of non-rent-controlled parks ... is of limited utility in establishing the constitutional minimum rate of return because it is not the case that a rent controlled investment must earn the same as a non-rent-controlled one."⁸

Formulas to Calculate Fair Return

The California Supreme Court has held that rent control ordinances may incorporate "any of a variety of formulas" for calculating rent increases and satisfy the fair return standard.⁹ Recently, the courts have further stressed that the rent control agencies are not obliged by either the state or federal Constitution to fix rents by application of any particular method or formula.¹⁰

Despite not requiring one specific approach, the courts have indicated in several cases that maintenance of net operating income ("MNOI") is a reasonable and preferred

³ Exhibit C

⁴ O.M.C. §8.22.070(C)(2)(e)

⁵ *Kavanau v. Santa Monica Rent Control Bd.* (1997), 16 Cal. 4th 761, 771

⁶ *Cole v. City of Oakland Residential Rent Arbitration Bd.* (1992) 3 Cal.App.4th 693

⁷ *Oceanside Mobilehome Park Owners' Assn. v. City of Oceanside* (1984) 157 Cal. App.3d 887, 907

⁸ *Galland v. City of Clovis* (2001) 24 Cal. 4th 1003, pp.1026-27

⁹ *Kavanau, supra*, 16 Cal. 4th at p. 761

¹⁰ *Colony Cove Properties LLC v. City of Carson* (2013) 220 Cal.App.4th 840, 867

standard, commonly used in other jurisdictions.¹¹ This standard provides that owners are entitled to seek rent increases sufficient to allow them to maintain the same net operating income, adjusted for inflation, as they had in a comparison ("base") year. Net operating income is the income remaining after subtracting regular operating expenses.

The MNOI approach does not focus on how much the owner chose to pay for a rent-controlled property or how the purchase was financed. The mortgage principal and interest payments are excluded from consideration. The rationale for an MNOI approach is that the owners are permitted an equal rate of growth regardless of their particular purchase and financing arrangements. Therefore, rents are regulated depending on increases in expenses and the inflation rate (CPI).

Evidence Required to Calculate Fair Return

No matter which formula or standard for calculating fair return is used, the following are the minimum evidentiary requirements necessary to run the calculations:¹²

- The amount that the owner has invested in the property;
- the amount, if any, that the property has appreciated in value during the time that it has been owned by the owner;
- the owner's net operating income during the time that the owner has owned the property (evidence of gross rental income and evidence of payments for regular operating expenses);
- the average return on other investments having risks comparable to the ownership of the subject property during the time that the owner has owned the property.

While the owner submitted various calculations he used to determine a fair return, the owner did not provide any evidence supporting the amounts used in those calculations. Without these documents, the Rent Adjustment Program is not able to determine the amounts to be used for the calculations and cannot calculate the fair return, no matter what standard/formula is used.

In addition, the owner provided no evidence of the amount, if any, that the property has appreciated in value during his ownership. Rental property owners typically earn a return on their investment from the income the property earns and the increase in value of the property over time. Without appraisals done by independent experts, both at the time of purchase and at the time of the owner petition is filed, the Rent Adjustment Program cannot know how much money has already been earned by the owner in appreciation.

¹¹ See *Oceanside Mobilehome Park Owners Ass'n v. City of Oceanside* (1984) 157 Cal.App.3d 887; *Palomar Mobilehome Park Ass'n v. Mobile Home Rent Review Commission [San Marcos]* (1993) 16 Cal. App.4th 481; *Colony Cove, supra*, 220 Cal.App.4th 840

¹² *Fisher v. City of Berkeley* (1984) 37 Cal.3d 644

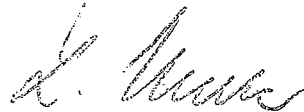
Therefore, the owner has not sustained his burden of proving that the proposed rent increases are necessary to meet the constitutionally required fair return.

ORDER

1. The petition L16-0021 is denied.
2. The petition T15-0203 is granted. The proposed rent increases are not valid.

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: October 28, 2016



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

PROOF OF SERVICE

Case Number L16-0021 and T16-0203

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

Nathan Durham-Hammer
277 Jayne Ave
Oakland, CA 94610

Owner

Amanda Harris
277 Jayne Ave
Oakland, CA 94610

Tenant

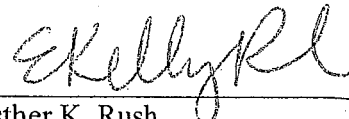
Walter Epp
281 Jayne Ave
Oakland, CA 94610

Tenant

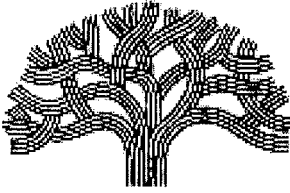
Bradley James Falconer
275 Jayne Ave
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **October 31, 2016** in Oakland, California.



Esther K. Rush
Oakland Rent Adjustment Program



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

P.O. Box 70243
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721ti

for Date Stamp Only
2016 APR 21 PM 1:50

CASE NUMBER L16-0021

Tenant Response

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

Your Name <i>Walter Epp</i>	Complete Address (with Zip Code) <i>281 Jayne Oakland CA 94610</i>	Telephone Day <i>510 839 8130</i> Evening _____
Your Representative's Name	Complete Address (with Zip Code)	Telephone Day _____ Evening _____

Are you current on your rent? Yes No

Number of Units in this Building: 4

Rental History

Date you entered into the Rental Agreement for this unit: Aug 1987

Date you moved into this unit: Aug 1987

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

Initial Rent: \$ 550 Initial rent included (please check all that apply) () Gas
() Electricity (x) Water (x) Garbage (x) Parking (x) Storage () Cable TV () Other (please specify)

Did you receive the City of Oakland's NOTICE TO TENANTS at any time during your tenancy in this unit?
Yes No

Please list the date you first received the Notice to Tenants many years ago

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
April 2016 Nov 18 2014	Jul 1 2016 Jan 1 2015	1256.72 \$ 1213.36	1538.72 \$ 1256.72	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Oct 30 2013	Jan 1 2014	\$ 1073.24	\$ 1213.36	<input type="checkbox"/> Yes <input type="checkbox"/> No
Oct 24 2012	Dec 1 2012	\$ 1041.99	\$ 1073.24	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Sep 23 2011	Nov 1 2011	\$ 1021.56	\$ 1041.99	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Sep 24 2010	Nov 1 2010	\$ 994.70	\$ 1021.56	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Sep 24 2009	Nov 1 2009	\$ 987.79	\$ 994.70	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Sep 23 2008	Nov 1 2008	\$ 987.16	\$ 987.79	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Contested Justification(s) for Rent Increase

Please attach a brief statement explaining why the landlord is not entitled to the proposed increase. The legal justifications are Banking, Capital Improvements, Increased Housing Service Costs, Debt Service, Uninsured Repair Costs, and Necessary to Meet Constitutional Fair Return requirements.

Banking		Debt Service	
Capital Improvement		Uninsured Repair Costs	
Increased Housing Service Costs		Constitutional Fair Return	<input checked="" type="checkbox"/>

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

The property owner has the burden of proving the contested rent increase is justified. If the landlord is claiming the unit is exempt from the Rent Adjustment Ordinance, do you contest the claim of exemption? Yes No

Verification

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

Tenant's Signature

21 Apr 2016

Date

Tenant's Signature

Date

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

Important Information

This form must be received at the following address within the time limits prescribed by Oakland Municipal Code, Chapter 8.22. City of Oakland, Housing Residential Rent Relocation Board, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. For more information, please call 510-238-3721. **You cannot get an extension of time to file your Response by telephone.**

File Review

You should have received with this letter a copy of the landlord petition.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.

For an appointment to review a file call (510) 238-3721.

MEDIATION PROGRAM

If you are interested in submitting your dispute to mediation, please read the following information carefully. Voluntary mediation of rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both parties agree and after your response has been filed with the Rent Adjustment Program.

You may elect to use a Rent Adjustment Program staff Hearing Officer acting as mediator or an outside mediator. Staff Hearing Officers are available to conduct mediation free of charge. 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. If you are unable to resolve your dispute after a good faith attempt at mediation, you will be given a priority hearing presided over by a Hearing Officer who was not your

If you want to submit your case to mediation, please check the appropriate box and si

- I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).
- I agree to have my case mediated by an Outside Mediator (fees to be paid by the parties).

Tenant's Signature (for Mediation Request

Date

Tenant's Signature (for Mediation Request

Date

Case Number L16-0021 - Durham-Hammer etal v Tenants

Addendum to Walter Epp tenant response 21 Apr 2016
281 Jayne Oakland

continuation of rent history:

effective	rent
Nov 1 2007	957.16
Nov 1 2006	926.59
May 1 2002	896.70
May 1 2001	839.77
May 1 2000	815.32
May 1 1999	748
May 1 1998	686.70
May 1 1997	630
Sep 1 1992	615
Sep 1 1991	600
Sep 1 1990	595
Sep 1 1989	583
Sep 1 1988	628
Aug 1987	550

brief statement why landlord not entitled to increase:

Landlord claim exceeds what's fair or constitutional.

MS
416-0021-RC-AM

RECEIVED

APR 01 2016

For date stamp.

2016 APR 9:41
APRIL 1 (RC)

CITY OF OAKLAND

RENT ADJUSTMENT PROGRAM

P.O. Box 70243

Oakland, CA 94612-0243

(510) 238-3721

**OWNER PETITION FOR
APPROVAL OF RENT INCREASE**

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your case. Before completing this petition, please read the Rent Adjustment Ordinance, sections 8.22.050 through 8.22.140 and Rent Adjustment Regulations, Appendix A.

Your Name <i>Nathan Durham-Hammer Amanda Harris</i>	Complete Address (with zip code) <i>277 Jayne Avenue Oakland CA, 94610</i>	Telephone Day: <i>510.333.9043</i>
Your Representative's Name	Complete Address (with zip code)	Telephone Day: _____
Property Address (If the property has more than one address, list all addresses) <i>275-281 Jayne Avenue, Oakland CA 94610</i>		Total number of units on property <i>4</i>

For each unit affected by this petition, you must attach a list of the mailing addresses of all of the units on the property showing the tenants in each unit on this property. Increases based on debt service, increased housing service costs and constitutional fair return affect all of the units on the property.

Type of units (circle one)	House	Condominium	<u>Apartment</u> or Room
I have given a copy of the NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM to the tenants in each unit effected by this petition:		<u>YES</u>	NO
Oakland Business License number: (Attach proof of payment of your business tax.)		<i>28038337</i>	
Attach proof of payment of your Rental Property service fee (Account must be current.)			

REASON(S) FOR PETITION: Check all that apply. I (We) petition for approval of one or more rent increases on the grounds that the increase(es) is/are justified by:

- | | |
|--|---|
| <input type="checkbox"/> Banking (Reg. App. 10.5) | <input type="checkbox"/> Increased Housing Service Costs (Reg. App. 10.1) |
| <input type="checkbox"/> Capital Improvements (Reg. App. 10.2) | <input type="checkbox"/> Uninsured Repair Costs (Reg. App. 10.3) |
| <input type="checkbox"/> Debt Service Costs (Reg. App. 10.4) | <input checked="" type="checkbox"/> Constitutionally required fair return |

(Note that Debt Service has been eliminated as a reason for a rent increase for property purchased after April 1, 2014.)

History: Attach a rent history for the current tenant(s) in each affected unit.

Banking: You must complete this section if you are claiming banking as a justification.

Have you given prior increases to any affected tenant justified by increased housing service costs, debt service or constitutional fair return? Yes No If yes, attach a list noting the affected unit, the effective date of each such increase and the amount.

An Excel spreadsheet for calculating available banking increases is available online at <http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/index.htm> For each unit you may either complete and attach the spreadsheet or attach a separate page the date the current tenant moved into the unit, the initial rent, and if the tenant has lived in the unit for more than 10 years, the rent in effect 10 years ago.

Capital Improvements and Uninsured Repairs: You must attach an itemized schedule of claimed capital improvements, showing the affected units, the cost and completion date for each item. You can only pass-through 70% of the capital improvement costs you have incurred. **You must submit organized documentation supporting your claims, including proof of expenditures and proof of payment.** An Excel spreadsheet for calculating entitlement to a capital improvement pass-through is available online at <http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/index.htm>. You may print out and attach a copy of the spreadsheet, or complete a capital improvements schedule manually. Uninsured repair costs use the same calculations as capital improvements but are not limited to 70%.

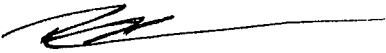
Debt Service: Debt service has been eliminated as a justification for a rent increase for all property purchased after April 1, 2014, unless a bona fide offer to purchase the property was made before April 1, 2014. To claim debt service you must submit organized documentation proving your commercially reasonable financing costs. This documentation must include at a minimum, a copy of the promissory note, a copy of the deed of trust, proof of the monthly mortgage payment and proof of your operating expenses. You may print out and attach a copy of the spreadsheet for calculation debt service costs found at:

<http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/DOWD008774>

Increased Housing Service Costs: You must present organized documentation of your housing service costs for two successive year periods. They may be calendar or fiscal years. You may print out and attach a copy of the spreadsheet for calculating increased housing service costs found at: <http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/DOWD008774>

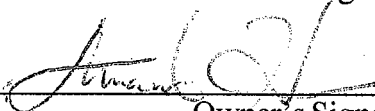
Verification (Each petitioner must sign this section):

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



Owner's Signature

4/1/2016
Date



Owner's Signature

4/1/2016
Date

File Review:

Your renter(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Tenant's Response. **Copies of attachments to the response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only.** For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the landlord's response time before scheduling a file review.

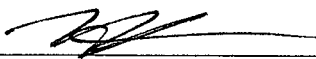
MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the tenant. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal 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 tenant 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 tenant's response have been filed with the Rent Adjustment Program). **The Rent Adjustment Program will not schedule a mediation session if the tenant 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

4/1/16

Date

April 1, 2016

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APR 01 2016

RENT ADJUSTMENT PROGRAM
OAKLAND

**Right to a Fair Return
275-281 Jayne Avenue, Oakland**

By Nathan T. Durham-Hammer & Amanda Harris

000025

EXECUTIVE SUMMARY

Introduction: We are an Oakland couple - a public school teacher and woman of color, and a native Oakland citizen and worker. We are not earning a fair return on our rental property investment in Oakland's Adams Point. We live on the property. The City of Oakland values equality and acceptance. A tenant and landlord are NOT inherently good, bad, victim or oppressor. Tenants and property owners are equals as residents of our diverse City. We are neighbors who are fortunate to have food and shelter, and so we must share equal rights and bear equal responsibility among one another.

Oakland has a housing shortage. Of the 425,000 people in Oakland, 59% rent. There are nearly 80,000 rental units of which about 25% are in small buildings of 1-4 units. Mayor Schaaf would like the City to protect 17,000 tenants. **In the spirit of equality, the City must also protect the approximately 2,800 small rental resident property owners who provide decent housing and are equally important threads in the fabric of Oakland.**

Fundamental Right: The U.S. Constitution protects our right to property and a fair return on investment, and Oakland's Rent Control Ordinance acknowledges this right.

Case Study Summary: We purchased our home and three rental units, and calculated a fair return that way. We set aside one quarter of the purchase price (\$207,500) as the cost of our home, and analyzed the asset based on three-quarters of the purchase price (\$622,500). Owning and operating our property requires at least \$74,130 in annual Gross Revenue on the three rented units, and \$48,391 in annual Net Operating Income. We will approach these minimums over another three-year period, not all at once, through incremental rent decontrol. The increased rents will still be well under market rents after the incremental Rent Decontrol. In 2015, our Operating Expenses were \$25,739 per year and Net Operating Income was \$27,347. Our Operating Expenses would need to be reduced by \$21,044 per year to approach a fair return. Operating Expenses generally increase, but even when they do not, rents must provide a fair return *after* deducting actual operating expenses. It would be unreasonable and unfair to force us to move out of our home to capture a fair return in actual dollars. Our plan is to pass the property on to our children, not to sell. Therefore, rents must be adjusted through Rent Decontrol to approach a fair return on our investment.

Case Study Results: Measures of fair return include: the rent-sustained capacity to maintain, repair and upgrade older rental property; the capacity to allot a reasonable percentage of gross revenue to management services; the accumulation of reserves for repairs and upgrades over time; and the capacity to either yield a dividend *or* service reasonable debt. Our study produced a fair return of a minimum 7% per year to operate our building. The rent decontrols resulting from this case study will bring the rents closer to a fair return, but rents will be

significantly less than fair market rents. The incremental increase, with advance notice, is the most fair and equitable method of decontrol for our case.

Purpose: We present an examination of our property and summarize the complex issues in the context of Oakland's need for more housing supply.

Reality of Rent Control: Tenants enjoy lifelong leases at fixed rates, without proving specific need. Over years, rent control causes unintended consequences, including diminishing property value and unfair hidden tax on the property owner. Most of people in Oakland face rising housing costs, except those who found a nice rent-controlled apartment and decided never to move. Displacement of primarily African American and Latino American Oakland residents accelerates in part because a select group of stagnant tenants, who has not shown need, reduces supply. Reduction of supply in higher-income neighborhoods causes displacement.

Investing in Oakland Mom & Pop: We own, occupy, and manage our property. We are just starting as investors in Oakland; this investment is our livelihood and a huge part of our future. Our investment would provide enough to start a family in Oakland if not for rent control. Rent control without vacancy will arbitrarily redistribute our livelihood over the next 20 years instead of helping us raise a family in our hometown. So far, in about three years of ownership, rent control has cost us over \$70,000. Over the next 20 to 25 years, continued rent control will cost Amanda and me upwards of \$1 million on two units alone. We are at risk of displacement out of Oakland. We cannot continue to provide rental housing indefinitely without a fair return each year.

Inequity of Rent Control in Our Case: The long-term tenants pay less than half of the monthly rent recent tenants must pay. We cannot afford to provide 55% rent subsidies to two of our three tenants. One of the heavily subsidized units houses a doctor. Two people live in each of the owners' unit and recent tenants' unit, but both long-term tenants are single occupants. Both have extra space, and single occupants with extra space in higher-income neighborhoods limit urban density and reduce affordable housing. One of the long-term tenants uses the entire bedroom as a large walk-in closet with retail-style clothes racks, and the other uses most of the apartment for storage.

Right to Property: This case highlights unintended consequences of Oakland's rent control policy, which unfairly avoids just compensation for public use of private property.

Examples in Practice Calculating Fair Return: The Waste Management per-unit fee and our recent capital improvements are examples of the destruction of NOI and property value by the rent control Ordinance and by policies that harm property owners. Oakland's CPI increases roughly account for inflation only. Therefore any increase in operating expenses above allowable CPI is actually a rent reduction to the owner. To the owner, the rent is being reduced over time and CPI

increases are not enough to justify capital expenditures. Rents in older buildings must adjust periodically to be reasonably close to comparable market rents, in order to provide quality housing long-term. Capital improvements that increase service quality and benefit tenants must be fully recoverable, otherwise the owner incurs further reduction in rent relative to the costs of ownership and sound operation of the property.

Housing Costs Rising Owner-Occupied 2-4 Unit Rental Housing: The SF Business Times reported that Oakland is the fourth-most expensive rental market in the nation. A select few tenants are protected, to the extreme detriment of owners of 2 to 4-unit owner-occupied rental properties. Those most adversely affected by the housing shortage are low-income families, local workers, residents of color, recent tenants and first-time homebuyers. The housing shortage persists in the face of, and in large part because of, long-term rent control. Rent control decreases supply and increases rents on vacant units, as shown by the ongoing flight of people of color from Oakland and resident displacement. Owner-occupants in 2 to 4-unit buildings require special protections.

Housing Equity Roadmap & Housing Plan: Oakland must partner with developers and build new housing, including low-income, luxury housing, and everything in between. Thousands of City-owned properties are underutilized, vacant, or blighted. As recent first-time buyers and owners of four units, we cannot afford the private subsidies mandated by Oakland's rent control. Shortsighted policies driven by well-funded tenant-advocates will harm small owner-occupants, and our voice has yet not been heard. Amanda and I are not accumulating necessary reserves to repair and improve the property, and are not benefitting from Oakland's renaissance. We are in danger of being displaced as a result of rent control on our property.

Refinancing this Property: We do not earn enough in our full-time jobs to continue to invest in Oakland. The Net Operating Income on this property is not enough for us to refinance. Lenders told us we need far more net income to set aside annual reserves for emergencies, in order to factor the use of rental funds for debt service into underwriting.

Capital Improvements & Fair Return: The current policy is illogical. It discourages owners from making improvements, because capital improvements lead to diminishing returns and decrease property value during the period of ownership. Real property is expected to appreciate at or above CPI. Costs for capital improvements reduce average annual returns relative to rents, and diminish property value by decreasing net operating income.

Deterioration of Rental Housing: Two- to four-unit rental properties are being converted to short-term rentals and condominiums, and are thereby removed from rentable inventory. We believe in providing quality rental housing, but speculation in condo-conversion in Adams Point could net \$500,000 or more for each of our

four charming one-bedrooms with parking. If a fair return is prevented in rent, then it makes sense to sell each controlled unit and recapture the value of the investment in each of those units. Each unit has its own value, and each unit must generate appropriate rents to sustain property use as a rental property, and to properly maintain condition and value.

Theory: Economic and social analyses show Oakland's version of rent control generally does more harm than good to neighborhoods with older, smaller buildings. Arguments for rent control are largely political manifestations of majority outcry. Advance subsidies such as lease buyouts are not reasonable practices in the residential landlord-tenant relationship, and on principle we are not in the business of speculation or tenant displacement.

The Big Picture and Brief History of Rent Control: Rent control has failed to protect lower-income families and people of color. Each case of rent control is unique, and many tenants take advantage of the windfall that rent control gives them. Under the Ordinance, each case must be fairly heard and each reasonable complaint that ties specifically to the Ordinance must be allowed due process.

Myths Versus Facts: Rent control exacerbates the housing shortage by decreasing supply. Rent control accelerates displacement, and displacement is the downside of gentrification. Local government should bear the burden to provide adequate housing for all its constituents. The property owner is not necessarily wealthier than the tenants. We certainly are not wealthy lords of the manor.

The Spirit of the Ordinance: The Spirit of the Ordinance is to protect Oakland's most vulnerable residents from rapidly rising rents, speculation and displacement. The Spirit is NOT to unfairly harm or force out mom & pop property owners. In higher-income areas, such as Adams Point, the tenant group receiving disparate protections is largely middle-aged individuals (historically the highest-income age demographic). First-time homebuyers and recent renters in uncontrolled housing pay extra. The owner of a single small, older rental property is most vulnerable and exposed to financial difficulty in his or her efforts to maintain and operate the rental property, and also requires protection under the Ordinance. The Ordinance enforces inequities at the direct expense of property owners and new entrants into the housing market. Rent control actually worsens living conditions and increases displacement of low-income families in many Oakland neighborhoods, by eliminating affordability in nearby higher-income neighborhoods.

Basic Economics and Ineffective Redistribution: Rent Control redistributes income arbitrarily, and our case highlights unfair redistribution. Arbitrary income redistribution is unfair to us and to our community.

Rent Decontrol: To afford to raise and educate a family in Oakland and approach a fair return, we will implement rent decontrol over three years, with 90 days' notice of the first increase. The goal is adequate (still well-below market) rents to provide

quality rental housing, to remain Oakland residents ourselves, to provide great quality housing long-term, and to continue to invest in Oakland.

Conclusion: It is unfair for us to be forced to pay subsidies totaling \$25,644 per year (as of February 1, 2015) to tenants in two of three rented units. If housing assistance is needed, each tenant should apply for such aid through an appropriate publicly-funded program. Amanda and I cannot afford these subsidies.

Exhibit A: Fair return calculations produce a narrow range of annual gross revenue on the three rented units, adequate to own and operate our building, between \$70,896 and \$79,095 per year. Projected annual gross revenue in year 3 of the incremental decontrol totals \$74,130, the average of the fair return calculations. Projected annual Net Operating Income in year 3 totals \$48,314.

Pertinent Articles & Highlighted Sections of "Fair Return and the California Courts": We went into great detail in our research of rent control and our case study because our future is at stake. We spoke with many tenants, landlords, advocates for tenants and for landlords, and others interested in the subject of rent control in Oakland, and have included various examples of topics we read about during this process.

EXHIBIT A FAIR RETURN CALCULATIONS³

We purchased our home and a three-unit rental, and calculated a fair return accordingly. We set aside one quarter of the purchase price (\$207,500) as the cost of our home, and analyzed the asset based on three-quarters of the purchase price (\$622,500) and three-quarters of operating expenses.

2015 Operating Expenses:

Property Taxes	\$13,460
Insurance	\$ 2,703
Professional Fees	\$ 2,228
Utilities	\$ 3,483
Assoc. Dues	\$ 289
Upgrades	\$ 2,485
Repairs	\$ 100
Accounting	\$ 830
Landscaping	\$ 0
Materials	\$ 276
Maintenance	\$ 220
City Business Tax	\$ 729
Reserves	\$ 1,800 (\$150/month)
Management Fee	\$ 3,716 (7% of Gross Rents)
Rental Income Tax	\$ 2,000 (Estimated/TBD)
	<u>\$34,319</u>

$\$34,319 \times (3/4) =$

2015 Operating Expenses \$25,739

2015 Gross Rents \$53,086

2015 NOI \$27,347

2015 CAP Rate on 3 rented units: 4.24%

2015 Oakland-CPI adjusted Purchase Price on 3 rented units: \$622,500(1.019)(1.017) = \$645,111

Minimum Fair Return Calculations, Results Summary:

2015 Fair Return on Value	= \$70,896 annual gross revenue
2015 Fair Return on Equity	= \$72,400 annual gross revenue
2015 Fair Return on Investment	= \$79,095 annual gross revenue
Average 2015 Fair Return	= \$74,130 annual gross revenue
2015 Fair NOI	= \$48,391 annual NOI

Fair Return on Value (FROV): (a fair rent formula based on a reasonable rate of return on the current property value.)

$$\begin{aligned}\text{Fair Rent} &= \text{Expenses} + (\text{Reasonable CAP Rate})(\text{Purchase Price}) \\ &= \$25,739 + .07(645,111) = \mathbf{\$70,896}\end{aligned}$$

$$\begin{aligned}\text{Stabilized Rent (all 3 units rented within 15\% of market rents)} \\ &= \text{Expenses} + .10(\text{Purchase Price}) \\ &= \$90,250\end{aligned}$$

$$\begin{aligned}\text{Maximum Rent (maximum upgrades complete, all 3 units rented at highest market rents)} \\ &= \text{Expenses} + .14(\text{Purchase Price}) \\ &= \$116,054\end{aligned}$$

Actual Current Value Based on Current Rents using FROV:

$$\text{Actual Current Value} = \text{NOI} \div \text{Reasonable CAP Rate}$$

$$\text{Actual Current Value Based on Current Rents} = \$27,347 \div 7\% = \$390,671$$

Difference between Purchase Price and Actual Current Value as a function of suppressed rents:

$$\$645,111 - \$390,671 = \$254,439 = \text{Equity Redistribution from Owners to Tenants in this case}$$

Fair Return on Equity (FROE): (a fair rent formula based on current value minus debt, in this case, desired debt)

Desired Debt Service: Up to \$2167/month @ 4.25% 20yr-fixed

$$\begin{aligned}\text{Fair Rent} &= \\ &\text{Operating Expenses} + \text{Annual Debt Service} + (\text{Fair Return})(\text{Purchase Price} - \text{Loan Amount}) \\ &= \$25,739 + \$26,004 + .07(\$645,111 - \$350,000) \\ &= \mathbf{\$72,400}\end{aligned}$$

Without Gross Revenue of at least \$72,400, lenders will not refinance at the current CAP Rate. The building would be more "lendable" if the CAP Rate were a few percent greater than the annual interest rate. Ability to refinance would be

evidence of fair return, but inability to refinance is evidence of unfair suppression of annual returns on real property investment.

Fair Return on Investment (FROI): (a fair rent formula based on a reasonable rate of return on the original cash investment.)

$$\begin{aligned} &\text{Operating Expenses} + \text{Debt Service} + (\text{Actual CAP})(2013 \text{ Purchase} \\ &\text{Price})(2013 \text{ Bay Area CPI})(2014 \text{ Bay Area CPI}) \\ &= \$25,739 + \$26,004 + .0424(\$622,500)(1.022)(1.028) \\ &= \$79,472 \end{aligned}$$

FROI - most recent Oakland CPI:

$$\begin{aligned} &= \$25,739 + \$26,004 + .0424(\$622,500)(1.019)(1.017) \\ &= \mathbf{\$79,095} \end{aligned}$$

Maintenance of Net Operating Income (MNOI): (a formula where maintenance of base year NOI may provide a fair return)

**MNOI may be applied only after rent stabilization, where each unit has recently been subjected to free market conditions. For the purpose of MNOI calculations, we applied hypothetical market rents based on the latest vacancy and latest vacancy-decontrolled rent in the building.

$$\begin{aligned} &\text{Free Market Monthly Rents for Three Units (on 2/1/2015)} \\ &= \$2305 + \$2305 + \$2145 \\ &= \$6755/\text{month} \\ &\text{Annual Gross Fair Rent based on MNOI} \\ &= (\$6755 \times 12)(1.017) \\ &= \mathbf{\$82,438} \end{aligned}$$

$$\begin{aligned} \text{Fair NOI} &= \text{Fair Base Rent MNOI} - \text{Operating Expenses} \\ \text{Fair NOI under MNOI} &= \$56,699 \\ \text{Current NOI} &= \$27,347 \\ \text{Difference between Fair and Current NOI} &= \$29,352 \\ \text{Required Increase for Fair NOI} &= \$1,223/\text{month per controlled unit} \end{aligned}$$

NOI Ratio Standard: (a formula where a maintenance of a ratio between NOI and Gross Rent may provide a fair rate of return)

**Base year NOI must provide a fair rate of return in order to set a fair NOI ratio to be maintained.

$$\begin{aligned}\text{Fair NOI Ratio Standard} &= \text{NOI} \div \text{Gross Fair Market Rent under MNOI} \\ &= \$27,347 \div \$82,438 \\ &= \mathbf{0.33}\end{aligned}$$

$$\text{Current NOI Ratio} = 0.51$$

CPI Standard: (a formula that compares the level of indexing by local CPI to rent increases over a previous year)

**This formula shows that CPI must be set according to true price increases in the costs of living and housing in a particular city, but is insufficient in setting a standard for fair CPI increases on a specific rental property according to its location, condition, and below market rents. Below market rents set during the early stages of rent control are no longer reasonably close to the actual costs of living in Oakland.

Fair Rent = (Gross Rents Last Year)(Bay Area Consumer CPI This Year of 2.8%) ÷ (Bay Consumer CPI Last Year of 2.2%)(% of indexing of Oakland CPI relative to Consumer CPI)

$$\text{Fair Rent} = (\$53,086)(1.028) \div (1.022)(72\%)$$

$$\text{Fair Rent} = \mathbf{\$74,163}$$

While Oakland CPI is generally closely tied to Bay Area inflation rates over the last 20 years, the CPI Standard depicts the effects of partial indexing for inflation over the period of ownership. This standard for Fair Return is only applicable where Oakland's allowable CPI is less than Bay Area Consumer inflation rates. The CPI Standard above shows that Oakland's 2014 and 2015 CPI amounted to 72% of Bay Area CPI, according to the Bureau of Labor Statistics.

Glossary

Absentee Landlord	a landlord who does not live at the rental property.
Active Investment	an investment in rental property that requires ongoing management of the investor, or of a hired manager. The costs or fees associated with active management are generally higher than passive management.
Actual Current Value or Property Value	the value of a rental property at a point in time, determined by dividing the current NOI by the current CAP Rate (where the purchase price has been adjusted for inflation up to that time and used to determine the current CAP Rate).
Average Turnover Rate	the average number of vacancies in a rental property over a period of time.
CAP Rate	NOI divided by purchase price, used to measure property value.
Cash Flow	a measure of money flowing into and out of a business over a period of time, calculated as gross revenues minus debt service, income taxes, depreciation and amortization.
Confiscatory Taking	refers to the 5 th Amendment of the U.S. Constitution, regulations that confiscate private property from citizens for public use when that burden should be borne by the public, taking private property without due process or without just compensation.
Controlled-Rent to Market-Rent Ratio	a percentage showing the ratio of rent-controlled rent to fair-market rent at a point in time.
CPI or Consumer Price Index	the annual inflation rate according to the Bureau of Labor Statistics and associations of local governments.
Debt Service	the amount of money required for interest and principal payments on a loan.

Displacement	A residential tenant is said to be “displaced” when forced to move as a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property.
Economic Mobility	the ability of an individual or family to improve their economic status
Fair Market Rent	the amount for which a rental unit would be rented in an unrestricted free market.
Fair Market Value	the amount a property would sell for on the open market; the purchase price a ready, willing, able and fully-informed buyer pays a ready, willing, able and fully-informed seller for real property.
Fair Return	Broadly, “return” means the income or profit that results from property ownership. But no consensus has been reached by courts and other authorities on the definition of “fair return”. Case law established that property owners subject to rent control must be allowed a “fair return”, but case law has not established a general standard for calculating fair return. The purpose of this report is to clarify the definition of “fair return” in our specific case.
Gentrification	the process of renewal and rebuilding accompanying the influx of middle-class or affluent people into otherwise deteriorating areas, displacing poorer residents; generally caused by a strong local job market, location accessibility and added amenities.
Gross Rental Revenue	total rental income in a given year.
Hidden Tax	the private subsidy imposed on the rental property owner by rent control resulting in losses for the property owner and non-taxable income to the tenant. The “loss” is not included in income, so it has the same effect as a deduction.
Housing-to-Income Ratio	housing costs (rent or mortgage payments) divided by gross income, expressed as a percentage.
Housing Shortage	a lack of available housing in an area with a growing number of residents

Impact Fees	fees imposed by the local government on private developments of market rate rental housing to provide new affordable housing for those who cannot afford housing at market rates.
Indexing	adjusting a value to account for inflation.
Inflation	increase in the general price of goods and services in an economy over time.
Just Compensation	Fair Market Value.
Lease Buyout	a sum of money offered by landlord to a tenant in exchange for the tenant vacating.
Loan-to-Value (LTV)	the principal amount of a loan on real property divided by fair market value of such property.
Market-Rate to Controlled-Rent Ratio	the number of market rate or recent market rate rental units owned compared to the number of rent-controlled units owned by the same owner; in our building the ratio is 1:2, that is 1 market-rate unit and 2 controlled-rent units.
Market Cost of Property Management	the amount an owner-manager would otherwise be required to pay to hire a property management company to do the same work, customarily 6% to 8% of gross rental revenue.
Mortgage to Income Ratio	mortgage payments on a property divided by gross income.
NOI or Net Operating Income	the income remaining when Operating Expenses are subtracted from gross rents, calculated annually.
Operating Expenses	the costs of running the property such as maintenance, management, insurance, property taxes, and utilities, typically excludes debt service and major capital improvements

Optimal Rents	rents in amounts slightly below fair market rents, at affordable levels for long-term tenants and new tenants, intended to reduce vacancy/turnover and provide at least a minimum fair return (see Exhibit A for minimum fair return in our case).
Ordinance	a piece of legislation enacted by a municipal authority.
Personal Financial Statement	a disclosure of all of an individual's assets, liabilities, annual income and annual expenditures.
Real Cost Increases	rising operating expenses, no real cost increases are covered by CPI rent increases, so real cost increases are the same as rent reductions.
Redistribution of Income	the amount of income taken from an owner by the Ordinance; the same amount becomes income to the tenant; equal to the amount of hidden tax.
Refinance	a new loan secured by real property, excluding a loan used to purchase the property.
Rent Decontrol	a method of reducing or eliminating the restrictions imposed by rent control.
Rental Trap	where a tenant cannot afford to move to higher-quality housing, closer to work or purchase housing due to a housing shortage, rising housing costs and a high rent-to-income ratio.
Rent-to-Income Ratio	tenant's annual rent payments divided by tenant's annual gross income.
Risk	the probability or likelihood of occurrence of losses relative to the expected return on any particular investment; in rental property investments, risks include vacancy, turnover costs, random repairs, previously deferred maintenance, decreasing real rents, economic downturn, few units, recent purchase, increasing Operating Expenses, structural capital improvements, late or missed rent payments, and so forth.

Reasonable CAP Rate	a percentage that is a measure of minimum fair return a rental property would be expected to generate annually if allowed to operate in free market conditions; a Cap rate that covers operating expenses, increases in operating expenses, inflation and also provides a reasonable annual return
Seller's Market	a period of high demand and low supply of quality housing inventory, characterized by rising home prices.
Spirit of the Ordinance	to provide affordable housing to lower-income residents; to protect Oakland's diverse communities; to protect against negative effects (if any) of gentrification; to reduce socio-economic disparities.
Subsidy	a form of financial aid or support extended to an institution, business, or individual, generally with the aim of promoting economic and social policy.
Vacancy Decontrol	Oakland's current policy allowing market rents to be set only when vacancy occurs.
Windfall Gains	unearned financial gains, which could be due to winning a lottery, unforeseen inheritance, artificially induced shortage of supply, or regulatory requirements.

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: center;"> RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM </div> <div style="text-align: center;"> 2016 AUG 16 PM 1:44 </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.

Original Petition Case #: L16-0021
CASE NUMBER T16-0203 → Please refer to **OWNER RESPONSE**
case # L16-0021 (consolidated)

Please print legibly.

Your Name <i>Nathan Durham - Hansen</i>	Complete Address (with zip code) <i>275-281 Jayne Ave Oakland CA 94610</i>	Phone: <i>510.337.9013</i> Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <i>Brad Falconer</i>	Complete Address (with zip code) <i>275 Jayne Ave Oakland CA 94610</i>	

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

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

There are _____ residential units in the subject building. I acquired the building on ___/___/___.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on _____.

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

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
 Yes ___ No ___ I don't know ___ If yes, on what date was the Notice first given? _____

Is the tenant current on the rent? Yes ___ No ___

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? <input type="checkbox"/> Yes <input type="checkbox"/> No
		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

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)
_____	<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"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

8/16/16
Date

VII. MEDIATION AVAILABLE

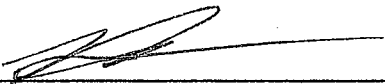
Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

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

8/16/16
Date

Tile 0203 MS/LM - consolidated w/ 16-0021

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. <div style="text-align: center; border: 1px solid black; padding: 5px;"> RECEIVED APR 20 2016 </div> 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 Bradley James Falconer	Rental Address (with zip code) 275 Jayne Avenue Oakland, CA 94610	Telephone (510) 282-3771
Your Representative's Name Nancy M. Conway	Mailing Address (with zip code) 345 Franklin Street San Francisco, CA 94102	Telephone (415) 241-1140
Property Owner(s) name(s) Nathan T. Durham-Hammer Amanda Harris	Mailing Address (with zip code) 277 Jayne Avenue Oakland, CA 94610 ^{Text}	Telephone (510) 333-9043

Number of units on the property: 4

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

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

X	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
	(e) 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.
	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
	(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>
	(g) The contested increase is the second rent increase in a 12-month period.
	(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.
	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
X	(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).
	(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: July 22, 1998 Initial Rent: \$ \$850 /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: Date Unknown. If never provided, enter "Never."

(note: form was provided in a timely manner)

- 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		
4/1/2016	7/1/2016	\$ \$1337.15	\$ 1639.15	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4/1/2016	7/1/2017	\$ \$1639.15	\$ 1941.15	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4/1/2016	7/1/2018	\$ \$1941.15	\$ 2243.15	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* 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: T13-0405

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

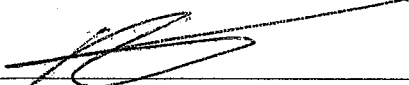
- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

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

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

April 15, 2016

Date

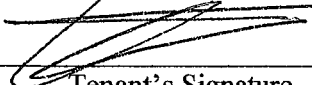
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

April 15, 2016

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): City of Oakland Web Site

CHRONOLOGICAL CASE REPORT

Case No: T16-0015
Case Name: Rosenblum v. Cherry
Property Address: 365 Hanover Avenue, Oakland
Parties: Carl Rosenblum (Tenant)
Frank Cherry (Property Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 11, 2016
Owner Response filed	None
Letter/Memos rescinding rent increase	May 13, 15 & 16, 2016
Administrative Decision issued	May 18, 2016
Tenant Appeal filed	June 1, 2016

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City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721	APPEAL
--	---------------

Appellant's Name CARL ROSENBLUM	Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/>
---	--

Property Address (Include Unit Number) 365 HANOVER AVE 304
--

Appellant's Mailing Address (For receipt of notices) OAKLAND CA 94606	Case Number T16-0015
	Date of Decision appealed MAY 18, 2016

Name of Representative (if any)	Representative's Mailing Address (For notices)
--	---

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.

IT IS MY ALLEGATION THAT FRANK
CHERRY LANDLORD HAS MADE CONSISTENT
MISTAKES IN CALCULATING PAST CPI
INCREASES. LANDLORD HAS MADE MISTAKES
IN THE PAST AND HAVE GONE BACK TOO
FAR IN YEARS FOR INCREASE AND PROBABLY
RECALCULATED SAME ON THE NEXT INCREASE
LANDLORD HAS ROUNDED OUT THESE
INCREASES TO THE HIGHER DOLLAR AMOUNT.

WOULD LIKE TO HAVE YOUR AGENCY
REVIEW SAID CPI FROM PAST AND SEE
IF THEY WERE DONE CORRECTLY.

Paul Douglas

June 1, 2016

2016 JUN -1 PM 3:07

000049

PROOF OF SERVICE

Case Number T16-0015

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.

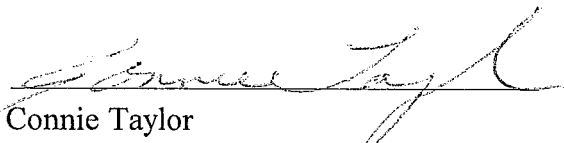
Today, I served the attached Appeal by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Owner

Frank Cherry
365 Hanover Ave #102
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 January 12, 2017 in Oakland, CA.


Connie Taylor
Oakland 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

ADMINISTRATIVE DECISION

CASE NUMBER: T16-0015, Rosenblum v. Cherry
PROPERTY ADDRESS: 365 Hanover Ave., #304, Oakland, CA 94606
PARTIES: Carl Rosenblum, Tenant
Frank Cherry, Owner

INTRODUCTION AND EVIDENCE

The tenant filed a Tenant Petition on January 11, 2016, alleging (1) an unjustified rent increase greater than 10%; and (2) no notice of the Rent Adjustment Program (RAP). The tenant listed prior rent increases he was contesting from 2008, 2011, 2013, and 2015. The most recent rent increase was served on November 27, 2015, and proposed to increase the monthly rent by \$16.00, from \$888.00 to \$904.00, effective February 1, 2016.

On his petition, the tenant marked "yes" indicating that he received a RAP Notice with each rent increase listed on his petition. The tenant also stated on his petition that he received the first RAP Notice in November of 2013. The tenant made these statements on the Tenant Petition under penalty of perjury.

On May 16, 2016, the owner notified the Rent Adjustment Program office that the most recent rent increase was rescinded, and a refund of \$64.00 (\$16.00 x 4) was issued to the tenant who paid the increased rent for four (4) months (February through May of 2016).

REASON FOR ADMINISTRATIVE DECISION

An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to allow the parties to present testimony and other evidence to allow resolution of disputes of material fact. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing and there are no material facts in dispute. Therefore, an Administrative Decision is being issued.

000051

Timeliness of filing of Tenant Petition to Contest Prior Rent Increases

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

According to the tenant, he received the RAP notice with every single rent increase listed on his petition. Therefore, the prior rent increase notices dated in 2008, 2011 and 2013 are denied as untimely.

Dismissal

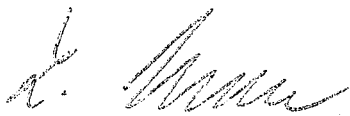
The only issue to be decided at the hearing is the most recent rent increase. It is undisputed that this rent increase was rescinded and the tenant was given a refund for rent overpayments. There are no other outstanding issues to be decided. Therefore, the tenant petition is dismissed.

ORDER

1. The rent increases for 2008, 2011 and 2013 are denied.
2. The rent increase effective 2/1/2016 was rescinded and tenant was refunded.
3. The hearing scheduled for May 26, 2016, is cancelled.

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: May 18, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

¹ O.M.C. §8.22.090A(2)

PROOF OF SERVICE

Case Number T16-0015

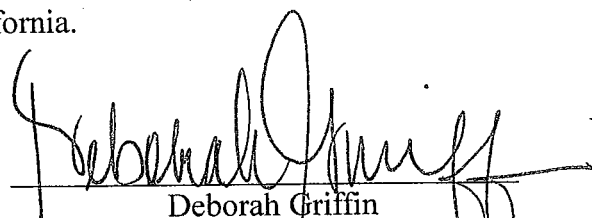
I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached **Administrative 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:

Carl Rosenblum	Frank Cherry
365 Hanover Avenue #304	365 Hanover Avenue #107
Oakland, CA 94606	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 **May 18, 2016** in Oakland, California.


Deborah Griffin
Oakland Rent Adjustment Program

000053

ole



REGISTRATION PROGRAM

2016 MAY 16 PM 12:30

Memo

To: Carl Rosenblum, Tenant
From: Frank Cherry, Owner RAP
cc: Linda Moroz, RAP Hearing Officer, File
Date: May 13, 2016
Re: Tenant to Dismiss Hearing/Refund to tenant of new Feb 2016 rent increase

This memo is to refund the rent increase that started on Feb 1, 2016. The refund is \$64.00. This is for 4 month's rent (\$16.00 x 4 = \$64.00). Please see enclosed check for \$64.00.

Payable rent June 1 will be rent of \$888.15 (Rent \$809.15 + \$79.00 Cap Improvement pass-through = \$888.15).

Instructions for Tenant:

1. Dismiss petition Case #T16-0015 Hearing on May 26,, 2016 with RAP as soon as possible.
2. Rent of \$888.15 is due June 1, 2016 payable to Frank Cherry, Owner.

FRANKLIN P. CHERRY
 365 HANOVER AVENUE, APT. 102
 OAKLAND, CA 94606

90-7162 41350
 3222

756

DATE 5-13-16

PAY TO THE ORDER OF

CARL ROSENBLUM

\$ 64.00

SIXTY-FOUR DOLLARS & 00/100

Security Features
 See Back of Card for Details

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

Refund rent increase in
 MEMO FEB, MARCH, APRIL & MAY 2016

Frank P. Cherry

⑆322271627⑆

97084334810756

16-0015

NOTICE OF RECISSION OF RENT INCREASE ON 2-1-2016

Date: May 15, 2016

To: Carl Rosenblum, Tenant

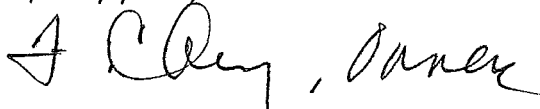
Dear Carl,

This Notice and the memo on May 13, 2016 is to rescind the rent increase on 2-1-16.

You have been returned your rent increase of \$64.00 (4 month's rent \$16.00 x 4 = \$64.00) on May 14, 2016. (Check #756). Elena Lieberman personally gave you the check on May 14, 2016. You tried to refuse the check. She placed the check and the memo on the floor of the unit.

You have been instructed to dismiss the petition to the City of Oakland RAP. There is not a valid reason to have a hearing.

Very truly yours,



Frank Cherry, Owner

365 Hammer Ave. #304

2016 MAY 19 AM 9:49

000055

2016 MAY 16 PM 12:30

Mira Lago
Apartments

Memo

RECEIVED

MAY 16 2016

RENT ADJUSTMENT PROGRAM
OAKLAND

To: Linda Moroz, City of Oakland RAP Hearing Officer
From: Frank Cherry, Owner
cc: File
Date: May 16, 2016
RE: Case #T16-0015 -Notice of Recission/Cancelled Rent increase to tenant

I have made a recission /canceled the tenant's rent increase on 2-1-16. He was personally refunded a check in the full amount of the rent increase of \$64.00 on May 14, 2016.

This memo is to cancel the hearing. I have given instructions to the tenant to dismiss the petition with the RAP. We see no valid reason to have a hearing since there is no rent increase.

Any questions, please feel free to call Elena Lieberman at 925-768-4880.

Thank you!

000056

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. 2016 JAN 25 PM 12:33
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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 16-0015

OWNER RESPONSE

Please print legibly.

Rosenblum v. Cherry

Your Name FRANK CHERRY, OWNER	Complete Address (with zip code) 365 HANOVER Ave #102 Oakland CA 94606	Phone: <u>925-768-4880</u> Email: _____
Your Representative's Name (if any) Elena Lieberman, owner Certified California Residential mgr.	Complete Address (with zip code) 365 HANOVER Ave #102 Oakland CA 94606	Phone: <u>925-768-4880</u> Fax: <u>925-687-3444</u> Email: <u>liebermantravelagency@msiu.com</u>
Tenant(s) name(s) Carol L. Rosenblum	Complete Address (with zip code) 365 HANOVER Ave #304 Oakland CA 94607	

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

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

There are 24 residential units in the subject building. I acquired the building on 1/1985

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

I. RENTAL HISTORY

The tenant moved into the rental unit on Sept 1, 97

The tenant's initial rent including all services provided was \$ 450- / 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? Sept 1, 1987

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? 2-1-16. 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 on 2-1-16

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	
11/27/2015	2/1/2016	\$ 888-	\$ 904-	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/28/2014	2/1/2015	\$ 773-	\$ 888-	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/30/2013	1/1/2014	\$ 869 ⁸²	\$ 773	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6/30/2011	8/1/2011	\$ 855 ⁵⁵	\$ 869 ⁸²	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/25/2008	12/1/2008	\$ 650-	\$ 855 ⁵⁵	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input checked="" 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.

Date 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)
2/1/2016	<input checked="" type="checkbox"/> - This is a BANKED 2015 CPI INCREASE					
	<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 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.

2016 JAN 25 PM 12:33

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:

RENT ADJUSTMENT PROGRAM

2016 JAN 25 PM 12:33

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.

J. Chey, Owner
Owner's Signature

1/25/16
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).

J. Chey, Owner
Owner's Signature

1/25/16
Date

T16-0015 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: ARBITRATION PROGRAM 2016 JAN 11 AM 9:34</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 CARL ROSENBLUM	Rental Address (with zip code) 365 HANCOCK AVE 304 OAKLAND CA 94606	Telephone 510 332-1751
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) FRANK CHERRY	Mailing Address (with zip code) 365 HANCOCK AVE 107 OAKLAND CA 94606	Telephone 925 256 0988 510 282 9668

Number of units on the property: 24

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

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

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

304 12/1/08

650

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

Date you moved into the Unit: 204 9/1/87 Initial Rent: \$ 450 /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: Nov 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		
11-27-15	2-1-16	\$ 888	\$ 904	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11-30-13	1-1-14	\$ 869.80	\$ 773	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11-14-13	1-1-14	\$ 869.80	\$ 925	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-30-11	8-1-11	\$ 855	\$ 869.80	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9-30-08	12-1-08	\$ 650	\$ 855	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* 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.

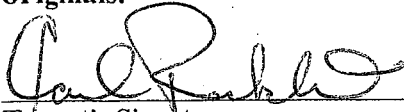
- Are you being charged for services originally paid by the owner? Yes No
- Have you lost services originally provided by the owner or have the conditions changed? Yes No
- Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

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.



Tenant's Signature

Jan 11, 2016
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): _____

CHRONOLOGICAL CASE REPORT

Case No: T16-0271
Case Name: Tsay v. DeMara
Property Address: 496 Mandana Blvd., #2, Oakland
Parties: Angela Tsay (Tenant)
Keitha DeMara Cherry (Property Owner)

PROPERTY OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 26, 2016
Owner Response filed	None
Hearing Decision issued	October 10, 2016
Owner Appeal filed	October 28, 2016

2016 OCT 28 PM 3:41

APPEAL

City of Oakland
Residential Rent Adjustment Program
250 Frank Ogawa Plaza, Suite 5313
Oakland, California 94612
(510) 238-3721

Appellant's Name

Keith C. DeMora

Landlord

Tenant

Property Address (Include Unit Number)

*496 Mendocino Blvd # 2
Oakland, Ca. 94610*

Appellant's Mailing Address (For receipt of notices)

*P.O. Box 5715
Walnut Creek, Ca. 94596*

Case Number

16-0271

Date of Decision appealed

Oct 6, 2016

Name of Representative (if any)

Representative's Mailing Address (For notices)

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

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance, section, regulation or prior Board decision(s) and specify the inconsistency.
2. **The decision is inconsistent with decisions issued by other hearing officers.** You must identify the prior inconsistent decision and explain how the decision is inconsistent.
3. **The decision raises a new policy issue that has not been decided by the Board.** You must provide a detailed statement of the issue and why the issue should be decided in your favor.
4. **The decision is not supported by substantial evidence.** You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.
6. **The decision denies me a fair return on my investment.** You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

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

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on _____, 200__, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Angela Tsay
Address	496 Mandana Blvd #2
City, State Zip	Oakland, Ca. 94618
Name	
Address	
City, State Zip	

Keitha C. DeMera	10-28-16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

RE. Appeal 496 Mandana Blvd #2
Case # T 16-0271

- 6 5 mos. rent paid \$2200.⁰⁰ not \$2420.⁰⁰
(as per rent checks)
- 6 \$100.⁰⁰ increase for 2nd. Tenant
added to lease, as per lease.
Aug 2012 thru October 2016.

Please respect Decision of Oct
4, 2016

Thank You
Kectha Wellman
925-639-6793



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: T16-0271, Tsay v. DeMara
PROPERTY ADDRESS: 496 Mandana Blvd., Unit #2, Oakland, CA 94610
DATE OF HEARING: September 6, 2016
DATE OF DECISION: October 6, 2016
APPEARANCES: Angela Tsay, Tenant
Keitha DeMara, Owner
Ethan DeMara, Owner's son

SUMMARY OF DECISION

The tenant petition is granted in part.

CONTENTIONS OF THE PARTIES

On May 26, 2016, the tenant filed a petition alleging (1) unjustified rent increases in excess of the CPI Adjustment and/or greater than 10%; (2) no notice of Rent Program was provided with the rent increase notice and at least six months before the effective date of the rent increase; (3) decreased housing services; and (4) code violation.

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

THE ISSUES

- (1) Did the owner have a good cause for filing no response?
- (2) Are the contested rent increases valid?
- (3) Have the tenant's housing services been decreased, and if so, by what amount?

EVIDENCE

The tenant moved into the subject unit in March of 2010, an initial monthly rent of \$1,750.00. The subject unit is located in a residential building consisting of four (4) residential units. Prior to the contested rent increases, the monthly rent was \$1,875.00.

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Rent Increases and RAP Notice

The tenant is contesting the following three prior rent increases:

- \$1,875.00 to \$2,000.00, as of February 1, 2013;
- \$2,000.00 to \$2,200.00, as of March 1, 2015;
- \$2,200.00 to \$2,420.00, as of May 1, 2016.

The tenant stated on her petition and testified at the hearing that she has never received the notice of the existence of the Rent Adjustment Program (RAP Notice). She also testified that she did not receive the RAP Notice of any of the contested rent increases. The tenant paid the increases as noticed. This evidence was not disputed and the owner confirmed that she did not know about the RAP Notice.

No Response by Owner

On May 31, 2016, a Notice of Hearing and Landlord Notification of Tenant Petition was mailed to the owner's address with a proof of service. The Owner Response Form was also included in the mailing. The mail was not returned as non-delivered. The owner testified at the hearing that she received the mail and had the documents with her at the hearing. She apologized for not filing the owner response and testified that this was her first time dealing with the Rent Program.

Decreased Housing Services

The tenants submitted a list of items as decreased services with her petition. The list was admitted into evidence.¹ At the hearing, the tenant identified the reduction of trash bins as the only item relating to decreased housing services. She testified that about eight months ago, the owner reduced the trash bins from four to two in the 4-unit building, and now the trash overflows. The tenant testified that she called the Waste Management but not the owner. She testified that she did not notify the owner.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

No Good Cause for Filing No Response

The Rent Adjustment Ordinance requires an owner to file a response to a tenant's petition within 35 days after service of a notice by the Rent Adjustment Program that a tenant petition was filed. "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ." ² The owner response was due on July 5, 2016. The owner filed no response. The owner did not provide any reason as to why she did not file a response. The owner does not have a good cause for filing no response. Therefore, the owner is limited to cross-examination and summation.

¹ Exhibit C

² O.M.C. §8.22.070(C)2

No RAP Notice

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy³ and together with any notice of rent increase.⁴

Because the owner never provided the RAP notice to the tenant, the contested rent increases are not valid and the rent will roll back to \$1,850.00, the monthly rent amount before the first contested rent increase. The tenant paid all of the rent increases and is entitled to restitution, which is limited to three (3) years prior to the hearing.⁵ Therefore, the tenant will receive a credit for rent overpayments for 36 months, from October 1, 2013 to September 1, 2016, as follows:

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-May-16	1-Sep-16	\$2,420	\$1,875	\$ 545.00	5	\$ 2,725.00
1-Mar-15	30-Apr-16	\$ 2,200	\$1,875.00	\$ 325.00	14	\$ 4,550.00
1-Oct-13	28-Feb-15	\$ 2,000	\$1,875.00	\$ 125.00	17	\$ 2,125.00
				\$ -		-
TOTAL OVERPAID RENT						\$ 9,400.00

RESTITUTION

MONTHLY RENT	
TOTAL TO BE REPAYED TO TENANT	\$ 9,400.00
TOTAL AS PERCENT OF MONTHLY RENT	
AMORTIZED OVER	MO. BY REG. IS
OR OVER 24	MONTHS BY HRG. OFFICER IS
	\$ 391.67

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁶ and may be corrected by a rent adjustment.⁷ 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. "Living with lack of painting, water leaks and defective Venetian blinds may be unpleasant, aesthetically unsatisfying, but does not come with the category of habitability. Such things will not be considered in diminution of the rent."⁸ The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

³ O.M.C. Section 8.22.060(A)

⁴ O.M.C. Section 8.22.070(H)(1)(A)

⁵ HRRAB Appeal Decisions T06-0051 (*Barajas/Avalos v. Chu*) & T08-0139 (*Jackson-Redick v. Burks*)

⁶ O.M.C. §8.22.070(F)

⁷ O.M.C. §8.22.110(E)

⁸ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

In a decreased services case, the tenant must establish she has given the owner notice of the problem and the opportunity to correct the problem before she is entitled to relief.

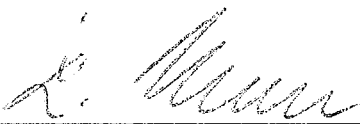
Trash bins: The tenant testified at the hearing that she did not notify the owner of this problem but called the Waste Management instead. Therefore, the tenant is not entitled to relief and this claim is denied. However, the owner is now on notice to address the issue of trash bins.

ORDER

1. Tenant Petition T15-0632 is granted in part.
2. The rent increases are not valid. The monthly rent is \$1,875.00.
3. The monthly base rent of \$1,875.00 is temporarily reduced by \$391.67, to \$1,483.33, due to rent overpayments. The total amount of credit is \$9,400.00 and this amount is adjusted by a rent decrease for the next twenty-four (24) months, beginning November 1, 2016, through October 1, 2018.
4. If the owner wishes to pay the tenant restitution in a lump sum (\$9,400.00), the owner may do so.
5. 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: October 6, 2016



Linda M. Moroz, Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0271

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

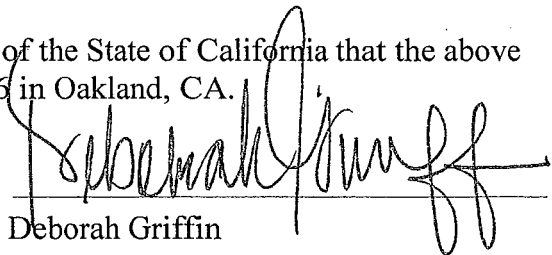
Angela Tsay
496 Mandana Blvd. #2
Oakland, CA 94610

Owner

Keitha DeMara
P.O. Box 5715
Walnut Creek, CA 94596

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

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


Deborah Griffin

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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.
 2016 MAY 26 PM 3:12

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>ANGELA TSAI</i>	Rental Address (with zip code) <i>496 Mandela Blvd # 2 94612</i>	Telephone <i>510 - 219-6787</i>
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <i>Keitha DeMura</i>	Mailing Address (with zip code) <i>P.O. Box 5715 Dulmet Corral, CA 94596</i>	Telephone <i>925 - 639-6793</i>

Number of units on the property: 4

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

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

<input checked="" type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input checked="" type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input checked="" type="checkbox"/>	(e) 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 checked="" 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: March 2010 Initial Rent: \$ 1750 /month

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

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<i>past marked</i> April 1, 2016	5/1/16	\$ 2200	\$ 2420	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	3/1/15	\$ 2000	\$ 2200	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	2/1/13	\$ 1875	\$ 2000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* 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: None

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.

[Handwritten Signature]

Tenant's Signature

10/11/2016

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): word of mouth

Reduced services: Used to have only three tenant cars parked in driveway, now there are four cars, so very inconvenient for parking. Also, no space now with the additional car for the trash/recycling/green cans so those are often just left on sidewalk. We used to have four trash receptacles (one for each unit), but now there are only two, so they are always overflowing and smell and attract raccoons and possums.

There was a City of Oakland blight notice posted on the front door of the property sometime last year, I believe. Most of the issues have not been addressed.