HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING

September 14, 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. CONSENT ITEMS

   i. Approval of minutes, August 10, 2017

4. OPEN FORUM

5. NEW BUSINESS

   i. Appeal Hearing in cases:

   a. L15-0065; CNML Crescent Props, LLC v. Tenants
   b. L15-0016; Nand LLC v. Tenants

   ii. Discussion and Possible Action on Regulations for the Tenant Protection Ordinance Clarifying Terms "Bad Faith" and "Pattern and Practice"

6. SCHEDULING AND REPORTS

   1. Board Panel Minutes available for the following dates:

      - July 6, 2017
      - July 20, 2017
      - July 27, 2017
      - August 17, 2017
      - August 24, 2017

7. 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 services animals or emotional support animals.

If your service animal lacks visual evidence that it is a service animal (presence of an apparel item, apparatus, etc.), then please be prepared to reasonably establish that the animal does, in fact, perform a function or task that you cannot otherwise perform.

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

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

CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

Regular Meeting
August 10, 2017
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA

DRAFT MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:25 p.m. by Board Chair, Jessie Warner.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Debbie Mesaros	Tenant	X		
Terry Sandoval	Tenant		X	
Karen Friedman	Landlord		X	
Jessie Warner	Homeowner			X
Ramona Chang	Landlord		X	
Robert Stone	Homeowner	X		
Mary Jo Cook	Homeowner		X	
Ubaldo Fernandez	Tenant Alt	X		
Benjamin Scott		X		
Edward Lai	Homeowner	X		

Staff Present

Kent Qian	Deputy City Attorney
Luz Buitrago	Deputy City Attorney
Connie Taylor	Rent Adjustment Program Manager

3. CONSENT ITEMS

i. Approval of Minutes for July13, 2017

R. Stone made a motion to approve the minutes as drafted. U. Fernandez seconded. The Board voted as follows:

Aye: D. Mesaros, B. Scott, R. Stone, U. Fernandez, E. Lai
Nay: 0
Abstained: 0

The motion was approved by consensus.

4. OPEN FORUM

James Vann
Steven Gingold
Jill Broadhurst

5. REPORT ON CLOSED SESSION

Deputy City attorney, Kent Qian, gave report on closed session.

6. NEW BUSINESS

i. Hearing of Appeal in related Cases:

a. T14-0238
b. T15-0428
c. T16-0257

Speakers on item 6 i:

Brian Geiser
Jill Broadhurst

Board Discussion

After Board discussion of two pages omitted from the Board packet, E. Lai made a motion to continue the appeal hearing. R. Stone seconded. The Board voted as follows:

Ayes: D. Mesaros, R. Stone, U. Fernandez, B. Scott, E. Lai
Nay: 0
Abstain: 0

The motion was approved by consensus.

Case T14-0238

Appearances:

Tenant

Brian Geiser

Property Owner Representative

Della Gutierrez

Rebuttal

Brian Geiser
Della Gutierrez

Board Discussion: Property Owner Appeal

After Board discussion and questions to all parties, U. Fernandez made a motion to remand the decision to set the base rent at $900 at the time that the rent increase was noticed. E. Lai seconded. The Board voted as follows:

Aye: R. Stone, U. Fernandez, E. Lai, B. Scott, D. Mesaros
Nay: 0
Abstained: 0

The motion was approved by consensus.

Board Discussion: Tenant Appeal

After Board discussion and questions to all parties, E. Lai made a motion to remand to the Hearing Officer to reference Priority 1 and Priority 2 conditions in Appendix A at Section 10.2.2 (4) (A). Hearing Officer to hold a hearing to allow establishing a priority 1 or priority 2 condition of the electrical system. U. Fernandez seconded. The Board voted as follows:

Aye: R. Stone, U. Fernandez, E. Lai, B. Scott, D. Mesaros
Nay: 0
Abstained: 0

The motion was approved by consensus.

U. Fernandez made a motion to direct the Hearing Officer to reconcile the date on page 53 of the Board packet for effective date of rent increase. B. Scott seconded. The Board voted as follows:

Aye: B. Scott, R. Stone, U. Fernandez, E. Lai, D. Mesaros
Nay: 0
Abstained: 0

B. T15-0428; Geiser v. Chandler Properties

Appearances: Property Owner Appeal

Property Owner

Property owner representative had nothing to add (Della Gutierrez).

Board Break: 9:00 p.m.

ROLL CALL 9:10 p.m.

B. Scott
E. Lai
U. Fernandez
D. Mesaros
R. Stone

Tenant

Brian Geiser

Rebuttal

Della Gutierrez
Brian Geiser

Board Discussion

After questions to all parties, including a question to property owner, Mimi Johnson-Jacobs, R. Stone made a motion to remand and set the base rent at $900 and to determine the date the rent reduction commenced and expired. Friendly amendment offered by U. Fernandez that the $18 decrease was to address decrease housing services. Friendly amendment accepted. B. Scott seconded. The Board voted as follows:

Aye: B. Scott, U. Fernandez, R. Stone, D. Mesaros, E. Lai
Nay: 0
Abstained

The motion was approved by consensus.

c. T16-0257; Geiser v. Jacobs

Appearances: Owner/Tenant Appeal

Property Owner Representative

Della Gutierrez

Tenant

Brian Geiser

Rebuttal

Della Gutierrez
Brian Geiser

Board Discussion

After Board discussion and questions to parties regarding the Business License, E. Lai made a motion that the good faith efforts made by the Owner regarding the Business License would suffice to satisfy the Ordinance requirements. R. Stone seconded. The Board voted as follows:

Aye: R. Stone, E. Lai, B. Scott, D. Mesaros, U. Fernandez
Nay: 0
Abstained: 0

The motion was approved by consensus.

U. Fernandez made a motion to remand to 1) determine when the RAP notice was served; and 2) if any banked increases should be disallowed before six months after notice was first served. D. Mesaros seconded. The Board voted as follows:

Aye: R. Stone, E. Lai, B. Scott, D. Mesaros, U. Fernandez
Nay: 0
Abstained: 0

U. Fernandez made a motion to remand to include the intercom as an on-going decrease in services. No seconded. Motion was withdrawn, substitute motion offered by U. Fernandez: remand the decision to include the intercom as a decrease service until a new cell phone is purchased. The Board voted as follows:

Aye: D. Mesaros, U. Fernandez
Nay: B. Scott, R. Stone, E. Lai
Abstained: 0

The motion failed.

E. Lai made a motion to remand to make the following changes on date stamp 138 of Board packet, under "Rent Underpayments:" 1) 3 months to 2 months for $197.70 underpayment, and 2) change "reduced" to "increased." U. Fernandez seconded. The Board voted as follows:

Aye: R. Stone, E. Lai, U. Fernandez, D. Mesaros, B. Scott
Nay: 0
Abstained: 0

The motion passed by consensus.

R. Stone made a motion to remand to direct Hearing Officer to address each basis for remand, to consolidate cases so that there is one clean case, make clear statements of fact, and to cite evidence and provisions of the Ordinance that are relied upon. B. Scott seconded. The Board voted as follows:

Aye: R. Stone, E. Lai, U. Fernandez, D. Mesaros, B. Scott
Nay: 0
Abstained: 0

The motion was passed by consensus.

8. ADJOURNMENT

E. Lai made motion to adjourn. R. Stone seconded. The meeting was adjourned by consensus at 10.30 p.m.

CHRONOLOGICAL CASE REPORT

Case No.:	L15-0065
Case Name:	CNML Crescent Props, LLC v. Tenants
Property Address:	480 Crescent Street, #204, Oakland, CA
Parties:	Gary Reynolds (Tenant) CNML Crescent Props, LLC (Landlord)

TENANT APPEAL:

Activity	Date
Owner Petition filed	October 29, 2015
Tenant Response filed	December 14, 2015
Dates of Hearing:	March 8, 2016 & January 6, 2017
Hearing Decision issued	March 29, 2017
Tenant Appeal filed	April 13, 2017

CITY OF OAKLAND

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

For Date Stamp

APPEAL

Appellant's Name Gary Reynolds	☐ **Owner** ■ **Tenant**
Property Address (Include Unit Number) 480 Crescent Street #204 Oakland, CA 94610	
Appellant's Mailing Address (For receipt of notices) Same as above	**Case Number** L15-0065 CNML Crescent Props. LLC v Tenants
	Date of Decision appealed 3/28/2017
Name of Representative (if any)	**Representative's Mailing Address (For notices)**

Please select your ground(s) for appeal from the list below. As part of the appeal, an explanation must be provided responding to each ground for which you are appealing. Each ground for appeal listed below includes directions as to what should be included in the explanation.

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

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

a) ☐ **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.).*

b) ☐ **The decision is inconsistent with decisions issued by other Hearing Officers.** *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*

c) ☐ **The decision raises a new policy issue that has not been decided by the Board.** *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.).*

d) ☐ **The decision violates federal, state or local law.** *(In your explanation, you must provide a detailed statement as to what law is violated.)*

e) ☐ **The decision is not supported by substantial evidence.** *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510)-238-3721.

f) ☒ **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** (*In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.*)

g) ☐ **The decision denies the Owner a fair return on my investment.** (*You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.*)

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

Submissions to the Board ***are limited to 25 pages from each party.*** *Please number attached pages consecutively. Number of pages attached:* ~~30~~ 25

You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on April 13, 2017, 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	MICHAEL BYKHOVSKY - CNML Crescent Props. LLC
Address	2350 BROADWAY ST,
City, State Zip	SAN FRANCISCO CA 94115
Name	Lapham Co Property Management
Address	4844 Telegraph Ave.
City, State Zip	Oakland, CA 94609

Daisy Reynoso	4/13/17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	**DATE**

For more information phone (510)-238-3721.

Gary Reynolds
480 Crescent Street, #204
Oakland, CA 94610

April 12, 2017

Department of Housing and Community Development
City of Oakland Rent Adjustment Program – Appeal Department
P.O. Box 70243
Oakland, CA 94612-0243

Reference: Case Number L15-0065 CNML Crescent Props LLC v Tenants

Dear City of Oakland Rent Adjustment Program – Appeal Department,

I am writing in regards to the case listed above L15-0065 CNML Crescent Props LLC v Tenants (Gary Reynolds) and would like to request an appeal based upon the fact, I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim; and the hearing officer would not allow my evidence to be entered into the record which was filed on time and should have been allowed to explain why I was adding the photos. I feel my photos would have explained the many inconsistencies with the workmanship performed by non-professional construction workers, they were day workers. I feel I was discriminated and asked that my evidence be allowed to show just cause to why I feel the work done on the property was not of the best quality and workmanship and we continue to experience problems in my unit even after the fact.

The hearing officer allowed the petitioner to add additional evidence but said he would not allow my evidence because he knows what an apartment building looks like but instead allowed a photocopy a check in the amount of $122,560 payment for project management to Mr. Gallagher to increase the capital improvement cost. By allowing photocopy of a check not knowing if the check was truly deposited into Mr. Gallagher's account and/or in fact was just a copy of a check with Mr. Gallagher name on it and we know what a check look like. I am asking that my evidence showing that this building has many problems be allowed. Note: Photos will be added to this appeal showing all the problems with this building.

Appeals:
The petitioner request I pay a portion of the replacement invoice for dry rot repair in the amount of $2,271.

- Is it not my responsibility as a tenant and should be the full responsibility of the owner of said building. Why a tenant should have to be charged for natural causes of wear tear of the building. The upkeep of a building should be the sole responsibility of said owner.

The petitioner request I pay a portion of the renovation of said kitchen and bathroom in the amount of $30,500 and stove for $10,421.

- There was nothing wrong with the kitchen when I request just a granite counter top. The kitchen was in excellent condition and not damaged in any way. The owner had just put in a new refrigerator and stove no less than six months prior the owner buying the building. I came home one day the entire kitchen was gone without even considering my wishes and I have to pay a portion of something forced upon with intention to use capital improvement to help pay for it and raise my rent at the same time. I should not have to pay for something I already had in the first place.

  Also, the previous owner just replaced the tile in the bathroom at the same time due to a water link in the tenant apartment above. He also replaces the vanity and the mirror and the light. There was nothing wrong with my bathroom and again I was shocked they ripped the entire bathroom. My bathroom shower window is so bad that water links onto the walkway outside my window where people walk, and may eventually cause dry rot.

A Capital Improvements was pass through and granted for 209.05 and 89.56 for a period of 24 months. Raising my rent from $925.00 a month to $1,223.61 and many others double my amount for this fake capital improvement only use to raise the rent of tenants eventually forcing tenants to move in the end.

- I ask that this case be dismissed based on the fact the hearing was doomed from the beginning when the hearing officer forgot to record the session and requested tenants to return redo the hearing again. To repeat the hearing again would cause hardship for many tenants to when it should have be done correctly in the first place. Because of the hearing officer mistake, I honestly feel it discriminated against tenants who could not return to repeat the hearing again due to the hearing officer mistake. This alone left many tenants what a waste of time only giving the petitioner an edge at the hearing because many tenants present before could not return to the hearing due work and other obligations. Again, this is a form of discriminated against tenants because they could not return. At one point the petitioner tried to remove tenants that could not return and I demanded that they remained on the list. Everything about this capital improvement is FAKE and only being used as a way to increase the rent of tenants not paying market value rent.

I am asking this case be seriously look at and all the dishonesty trickery taking place and the greed of owner/owners trying to make a big payoff due to the local trend taking place in Oakland-Alameda County unlawful housing incensement. Please send a clear signal to owners seeking a big payoff and deny this case for capital improvement.

Gary Reynolds

Enclosed: Photos – Dated 12/27/2016 Received City of Oakland Rent Arbitration Program

cc: Michael Bykhovsky – CNML Crescent Props, LLC
Lapham Co. Property Management

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 DEC 27 PM 4:00

12/27/16

Gary Reynolds
480 Crescent St
#204
Oakland, CA
94610

Case # L15-0065
Date: 1/6/2017
Time: 10:00 Am

Court please allow these photos as evidence for the hearing of said case listed above.
Photos 1-32 attached

Gary Reynolds


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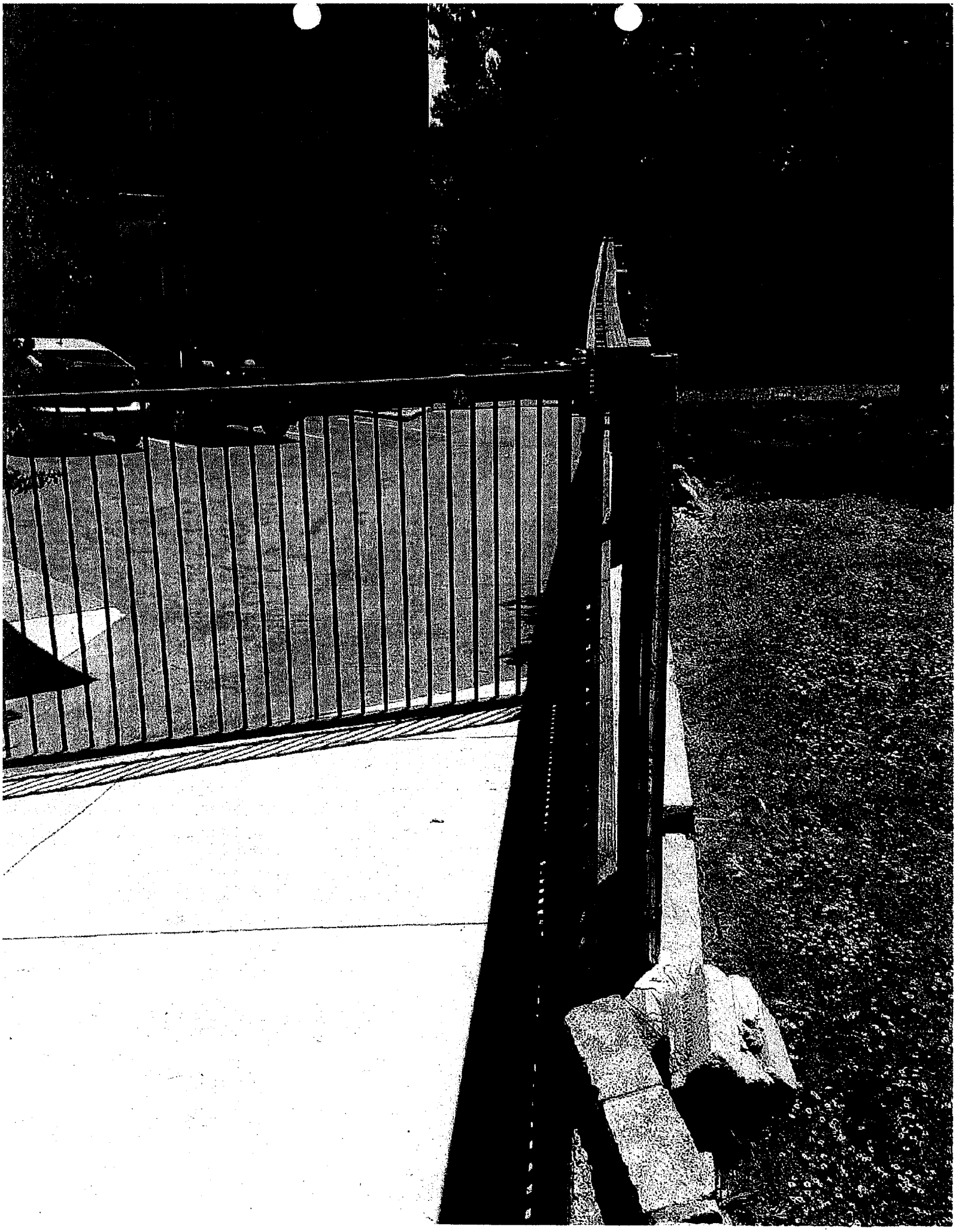
000016



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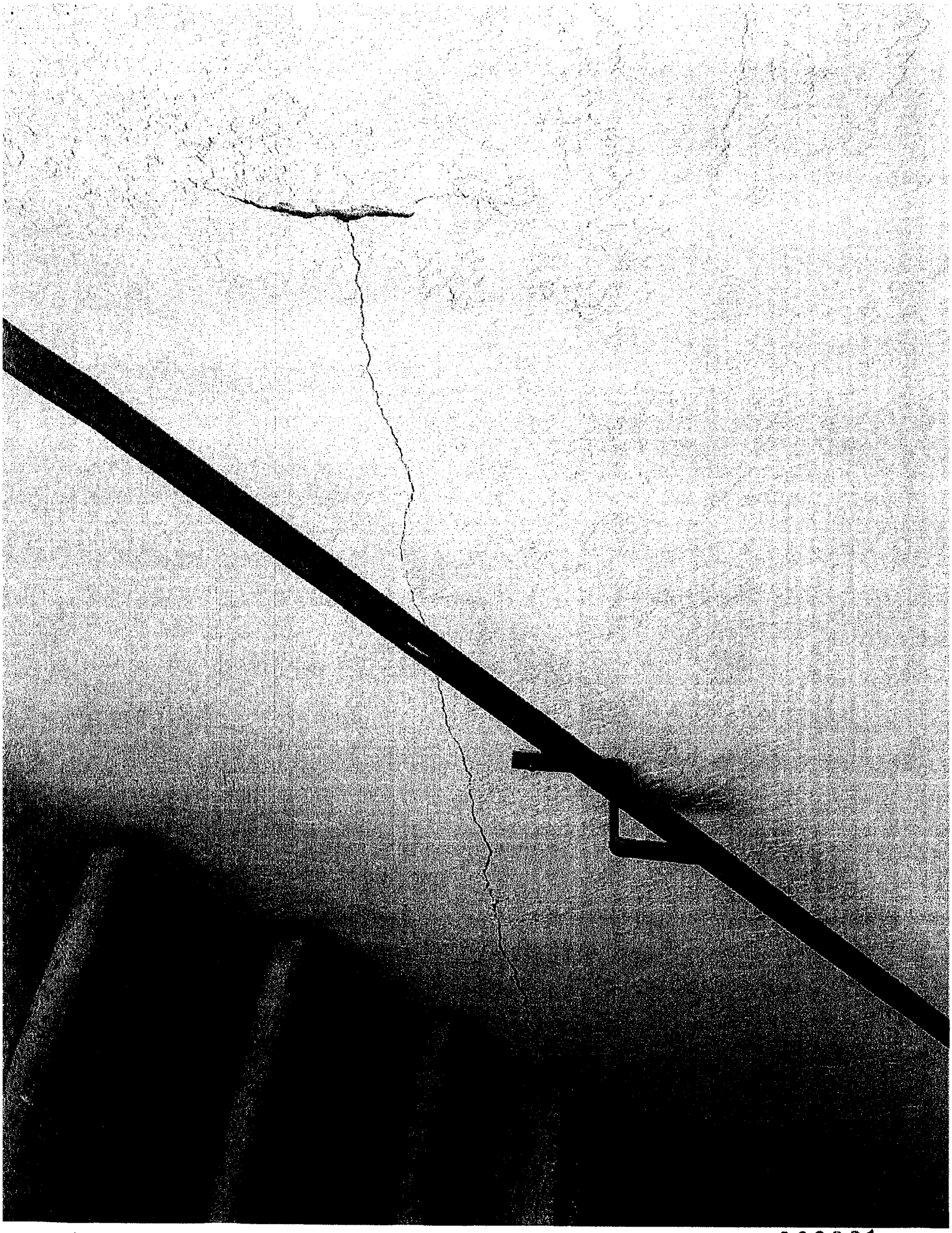

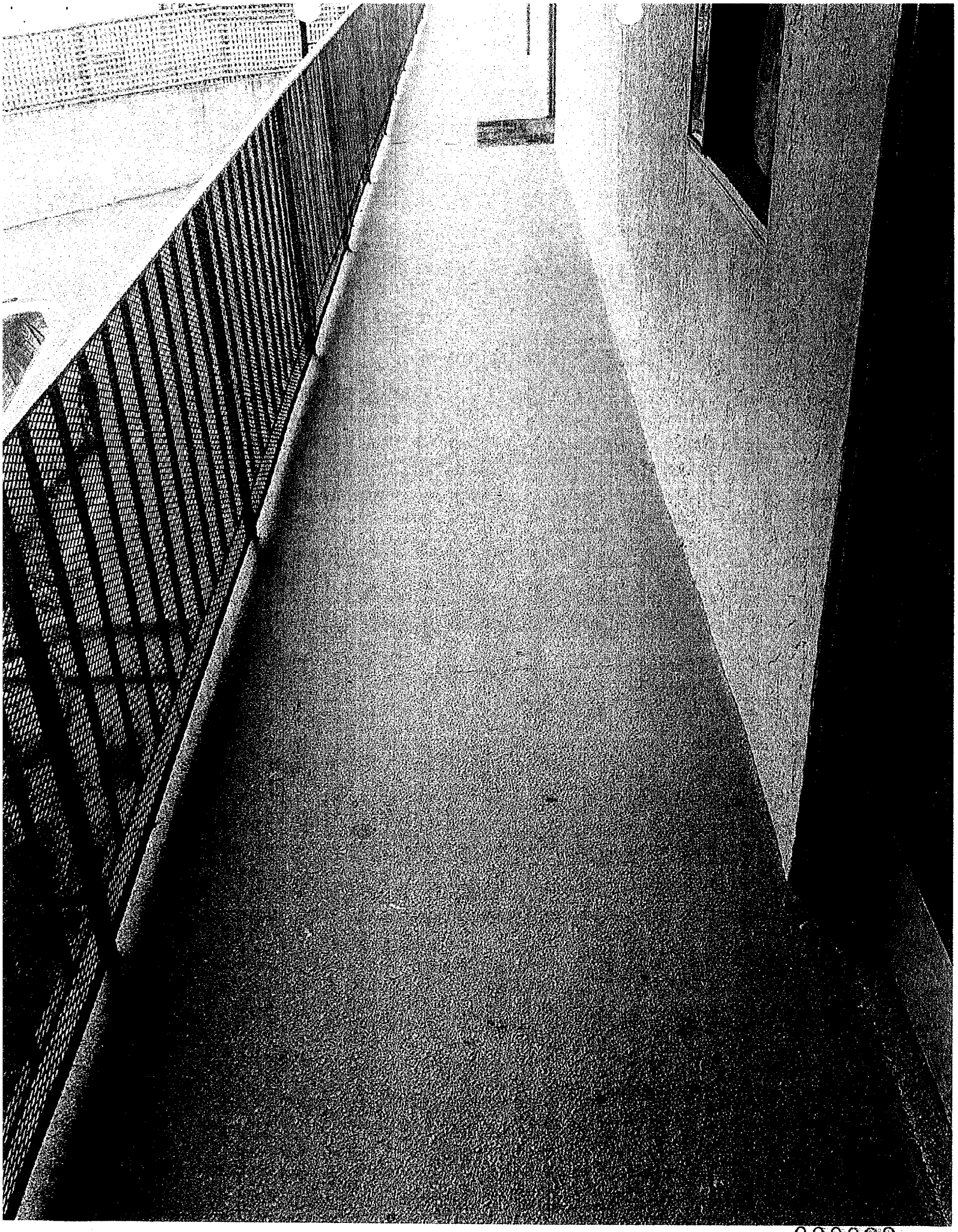

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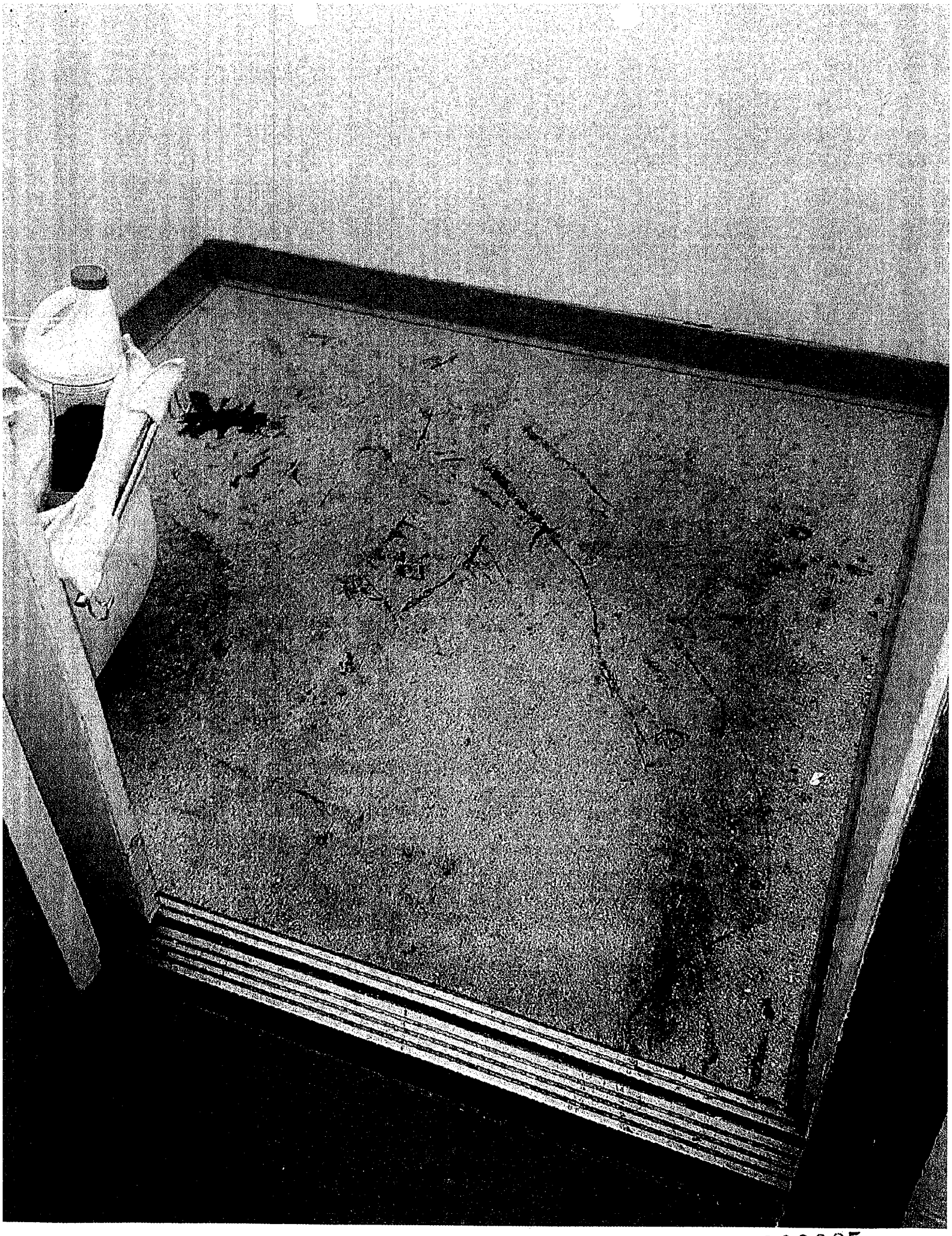

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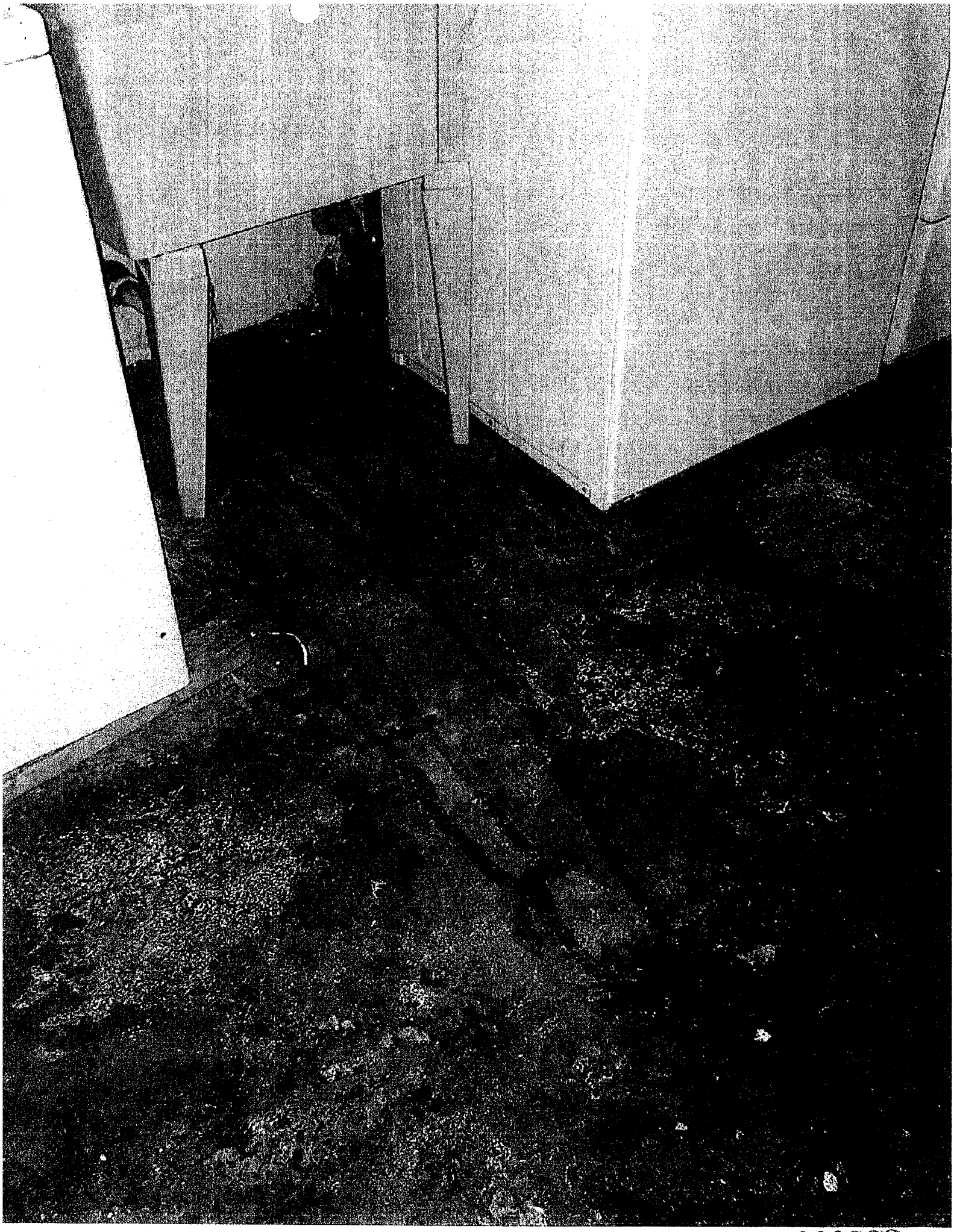

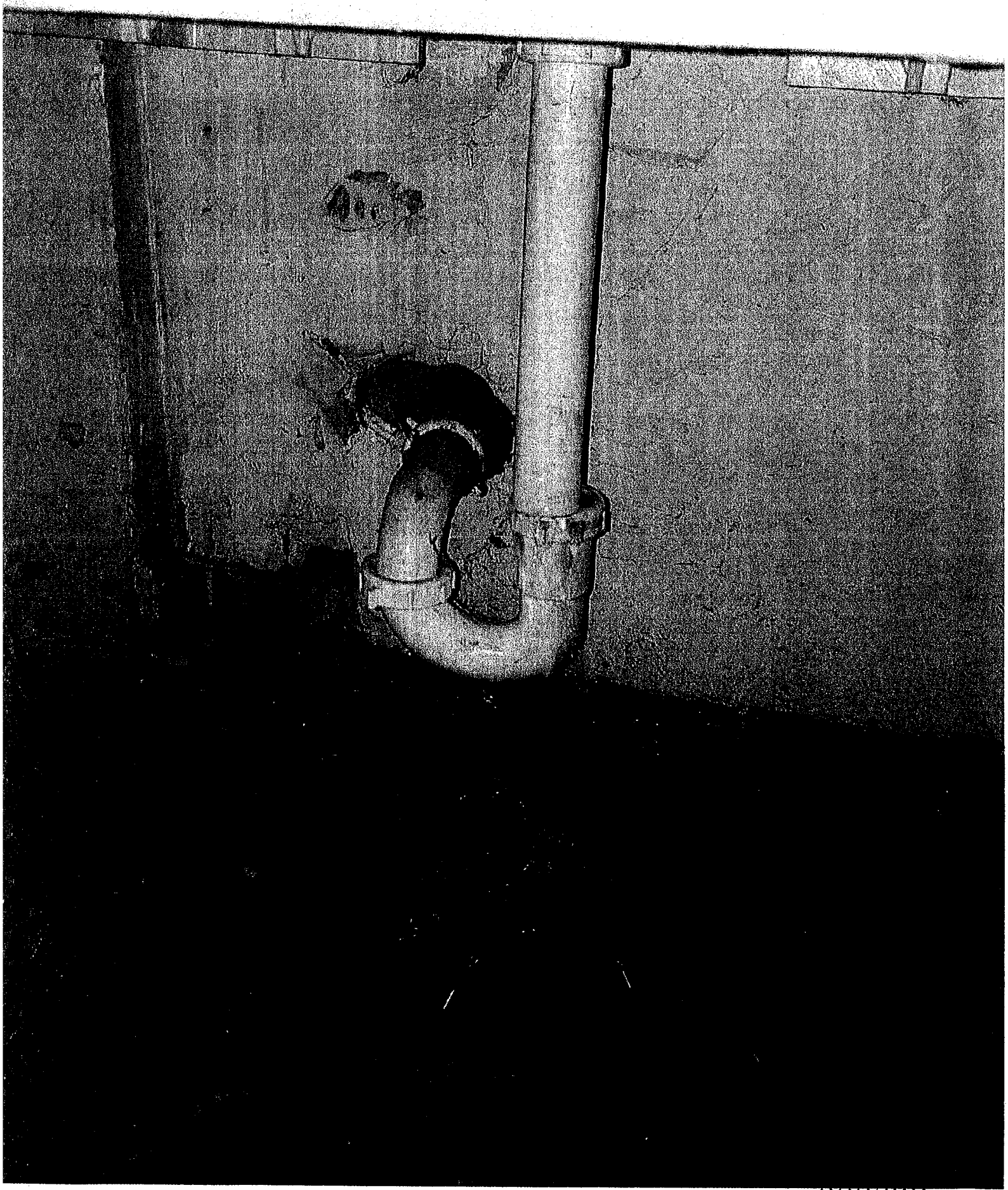

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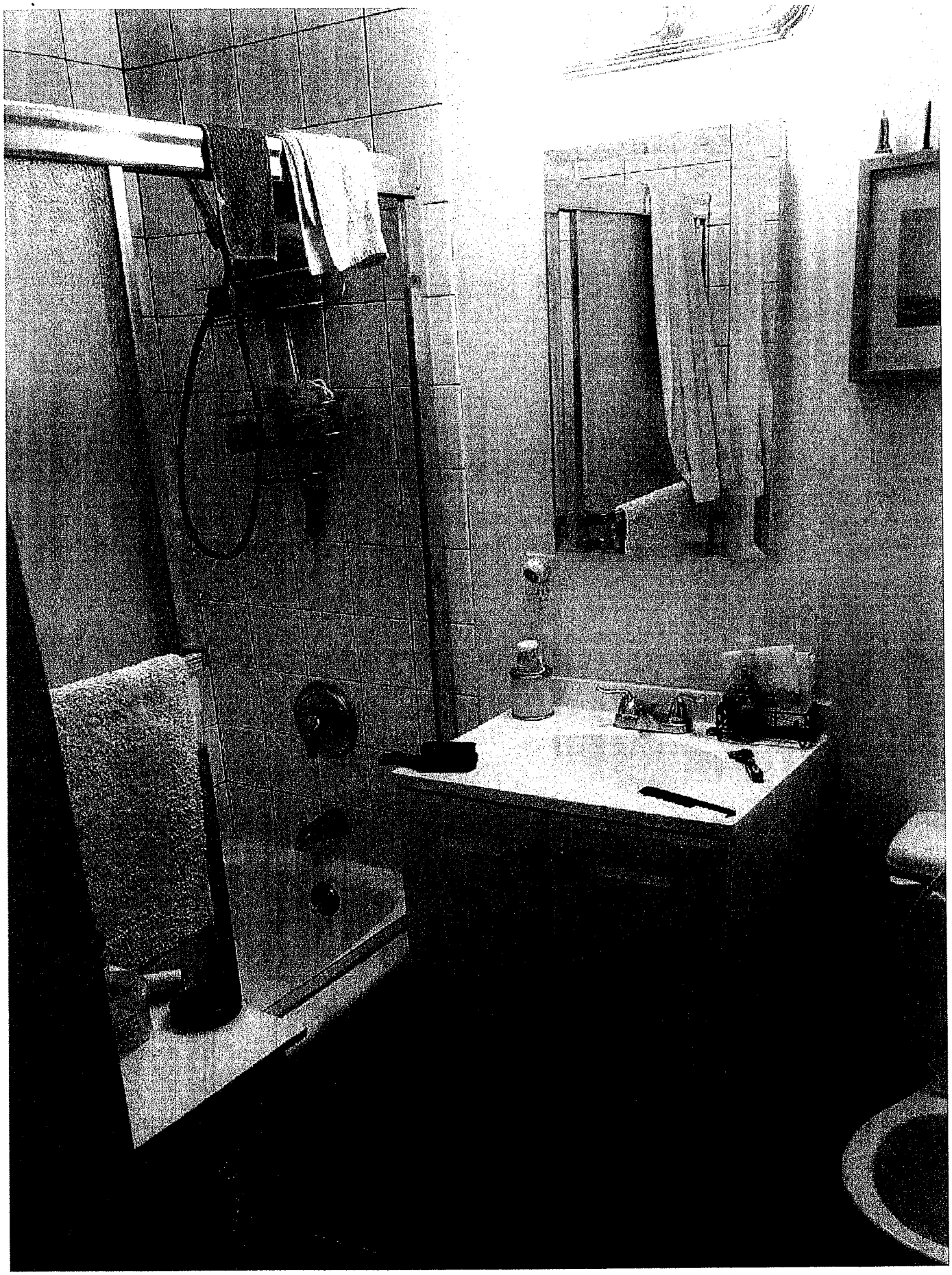

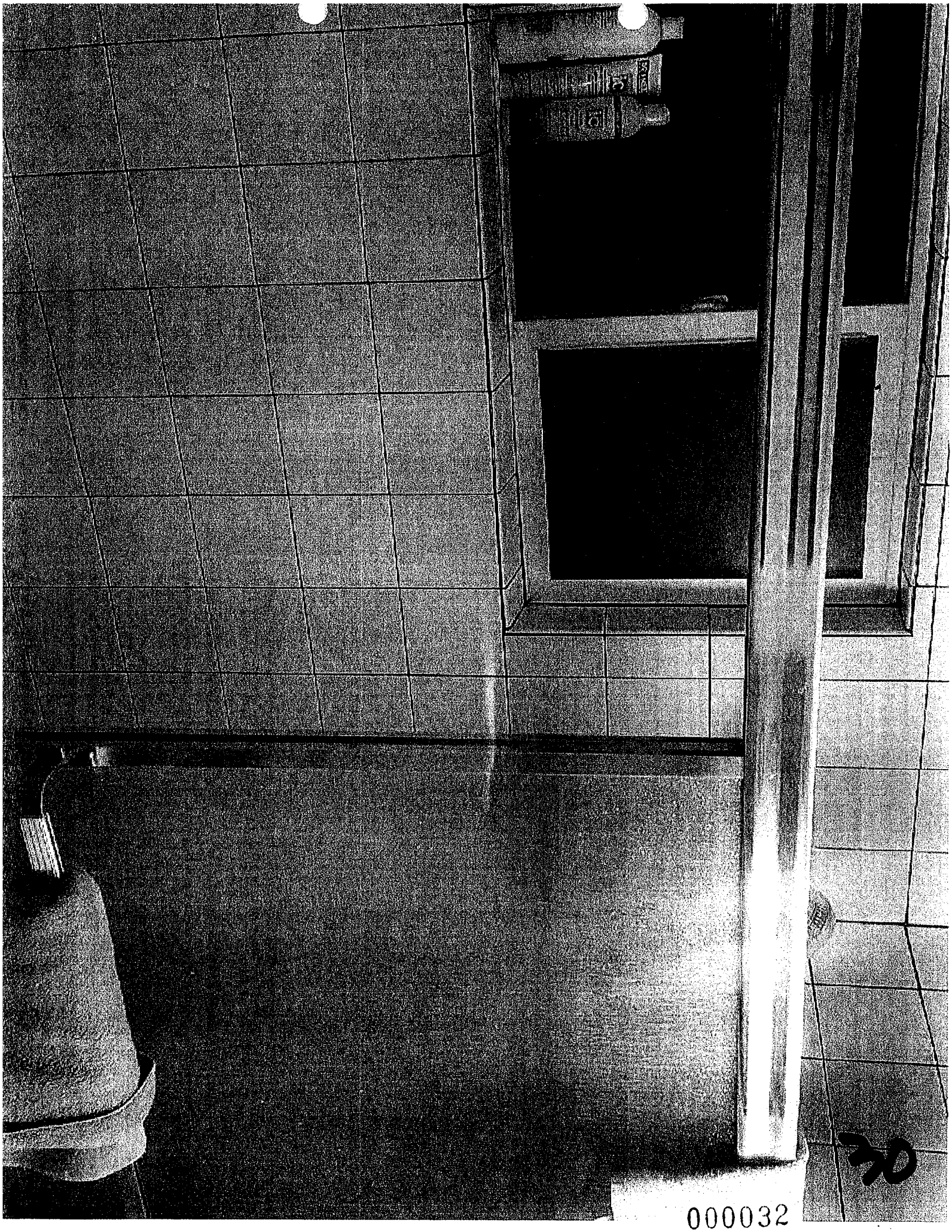

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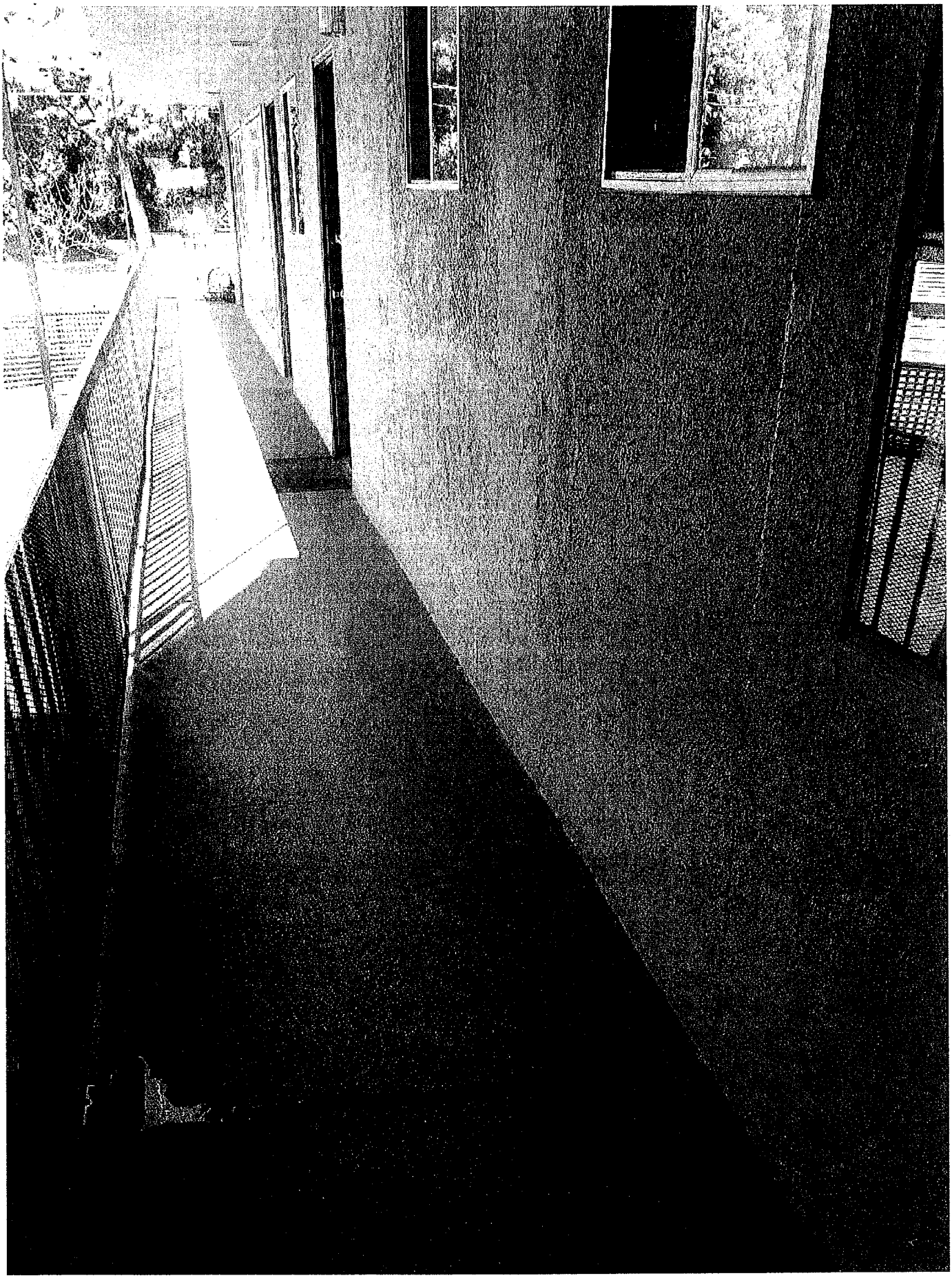

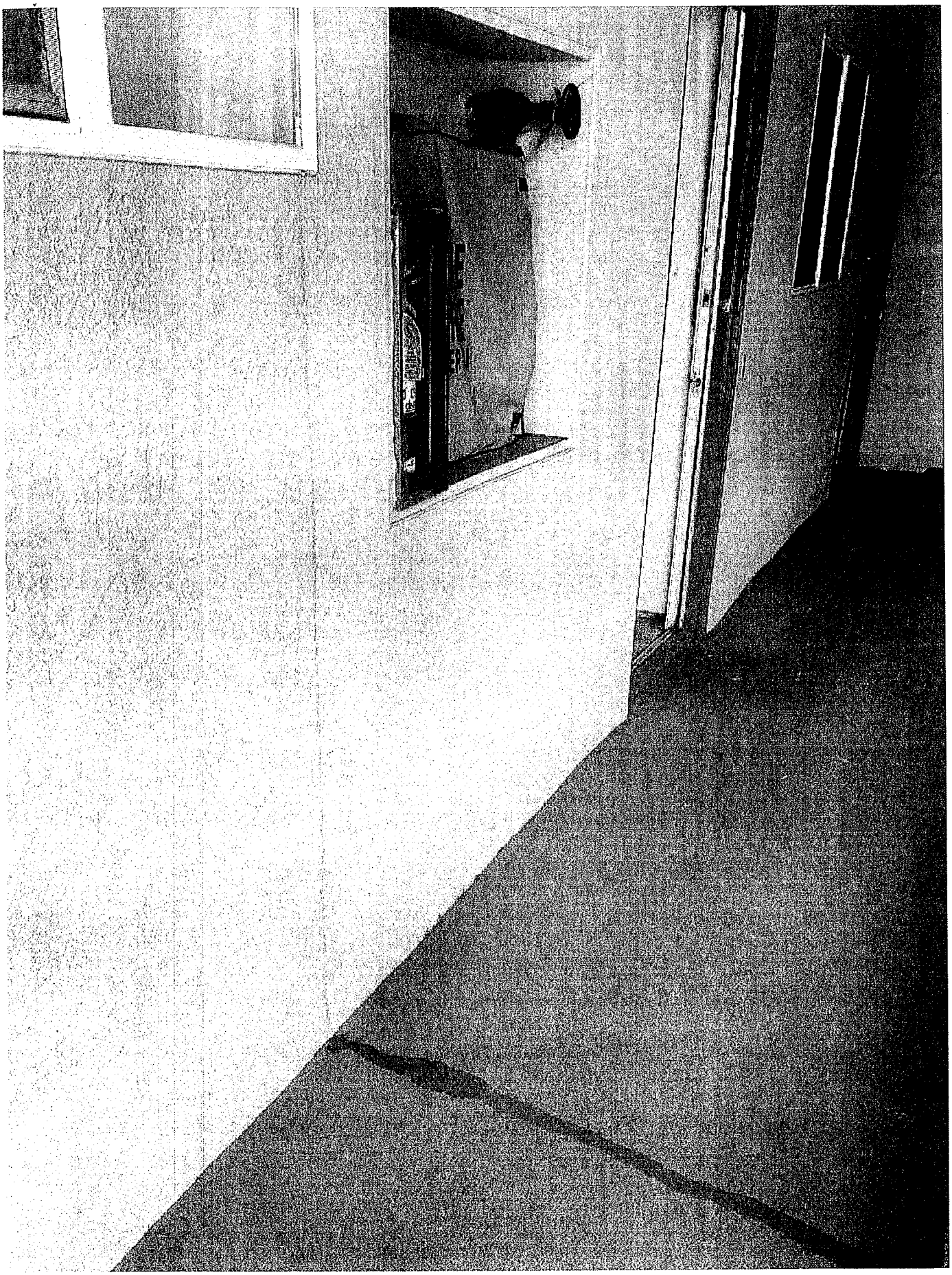

P.O. BOX 70243, OAKLAND, CA 94612-2043 CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: **L15-0065, CNML Crescent Props. LLC v. Tenants**

PROPERTY ADDRESS: **480 Crescent St., Oakland, CA**

DATES OF HEARING: **March 8, 2016 & January 6, 2017**

DATE OF DECISION: **March 28, 2017**

APPEARANCES:[1] **Clifford E. Fried (Attorney for Owner)**
Liz Hart (Owner Representative)
Michael Bykhovsky (Agent for Owner)
Martin Gallagher (Witness for Owner)
Tsegab Assefa (Witness for Owner)
Marla Bill (Tenant, Unit #105)
Angelita Garrison (Tenant, Unit #208)
Isabel B. DeCastro (Tenant, #304)
Chris Rhem (Tenant, Unit #104)
Doris Washington (Tenant, Unit #208)
Eddie Washington (Tenant, Unit #208)
Liz Derias (Tenant, Unit #302)
Gary Reynolds (Tenant, Unit #204)
Octavio Nevarez (Tenant, Unit #207)
Owen Smithyman (Tenant, Unit #107)

SUMMARY OF DECISION

The owner's petition is partly granted.

[1] Clifford E. Fried, Marla Bill, Angelita Garrison, Isabel DeCastro, Liz Derias, & Octavio Nevarez appeared only on March 8, 2016. Owen Smithyman appeared only on January 6, 2017.

CONTENTIONS OF PARTIES

The owner filed a petition on October 29, 2015, seeking approval for a rent increase for the subject rental units on the ground of Capital Improvements. The tenants listed above filed responses to the owner's petition.

THE ISSUES

Are rent increases justified by Capital Improvements and, if so, in what amounts?

EVIDENCE

At the Hearing, the parties agreed that the subject building contains 27 rental units.

Capital Improvement Costs – Pre-August 1, 2014: The owner submitted 198 pages of documents. All of the following documents are dated prior to August 1, 2014.[2] These documents are categorized as follows:

Martin Gallagher Construction Inc. (Gallagher) – Common Area Work:

- An invoice for rebuilding exterior stairs and installation of a new structural steel beam and posts in the amount of $34,581.50.[3] Mr. Gallagher further testified that he has been paid for this invoice, and all of his other invoices that were admitted into evidence;
- an invoice for completion of an exterior stairway in the amount of $3,625;[4]
- invoices for installation of security gates in the total amount of $55,000;[5]
- an invoice for exterior painting in the amount of $48,000;[6]
- an invoice for wood siding and stucco work in the amount of $60,000;[7]
- an invoice for installation of a water heater in the amount of $8,300, dated January 27, 2014;[8]
- an invoice for construction in the laundry room in the amount of $7,000.[9]
- an invoice for construction of storage rooms in the amount of $5,200, dated April 3, 2014.[10]

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[2] Exhibit Nos. 1A through 194 were admitted into evidence without objection. At the Hearing on January 6, 2017, the tenants objected to the admission of Exhibit Nos. 195 through 197 – an invoice from and checks to Martin Gallagher Construction – because these documents were not marked as exhibits at the Hearing on March 8, 2016. However, these documents had been submitted 7 days before the original Hearing date, and the objection was overruled and the documents were admitted into evidence.

[3] Exhibit Nos. 2 & 3

[4] Exhibit Nos. 4 & 5

[5] Exhibit Nos. 6,7, & 15

[6] Exhibit Nos. 8 & 9

[7] Exhibit Nos. 10 & 11

[8] Exhibit No. 12. Although no specific proof of payment was submitted for this item, there are a number of checks in various amounts that far exceed the amounts of individual invoices.

[9] Exhibit Nos. 13 & 14

[10] Exhibit No. 16

- an invoice for concrete installation in the driveway in the amount of $4,625.[11]
- an invoice for repair of a leaking pipe and associated work in the amount of $450.[12]
- an invoice for repair of dry rot, installation of GFCI outlets and driveway work, in the total amount of $30, 375.[13] At the Hearing, Mr. Gallagher testified that when he removed old windows, he discovered dry rot, which needed to be repaired.

Unit Specific Work:

Unit # 101: Gallagher – invoices for the cost of 2 windows in the amount of $3,600.[14] Raynard's Appliance Repairs (Raynard's) – an invoice for inspection and minor repair of a refrigerator in the amount of $297.[15] APT Maintenance (APT) – an invoice for patching around a new heater in the amount of $247.[16]

Unit # 102: Gallagher – invoices for the cost of 2 windows in the amount of $3,600.[17]

Unit # 103: Gallagher – invoices for the cost of 4 windows in the amount of $7,200;[18] an invoice for dry rot repair in the amount of $2,271;[19] an invoice for kitchen replacement in the amount of $10,600;[20] an invoice for a new window required by the City in the amount of $1,800;[21] and an invoice for bathroom remodeling in the amount of $9,200.[22]

Unit # 104: Gallagher – invoices for the cost of 4 windows in the amount of $7,200[23] and an invoice for dry rot repair in the amount of $2,271;[24] and an invoice for a new window required by the City in the amount of $1,800.[25]

Unit # 105: Gallagher – invoices for the cost of 4 windows and one door in the amount of $8,600;[26] an invoice for kitchen replacement in the amount of $10,600;[27] an invoice for a new window required by the City in the amount of $1,800;[28] and an invoice for bathroom remodeling in the amount of $9,200.[29]

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[11] Exhibit Nos. 17 & 18
[12] Exhibit Nos. 19 & 20
[13] Exhibit Nos. 19 & 20
[14] Exhibit Nos. 22 & 51
[15] Exhibit No. 175
[16] Exhibit No. 106
[17] Exhibit Nos. 23 & 52
[18] Exhibit Nos. 24 & 53
[19] Exhibit No. 82
[20] Exhibit No. 86
[21] Exhibit No. 89. At the Hearing, Mr. Gallagher testified that the City required new windows in many units where prior window openings were not large enough to allow access by a firefighter who is carrying necessary equipment.
[22] Exhibit No. 90
[23] Exhibit Nos. 25 & 54
[24] Exhibit No. 82
[25] Exhibit No. 89.
[26] Exhibit Nos. 26 & 55
[27] Exhibit No. 86
[28] Exhibit No. 89.
[29] Exhibit No. 90

Unit # 106: Gallagher – invoices for the cost of one window and one door in the amount of $5,600;[30] and an invoice for a new stove in the amount of $950.[31]

Unit # 107: Gallagher – invoices for the cost of 2 windows and one door in the amount of $6,800.[32]

Unit # 108: Gallagher – invoices for the cost of 4 windows in the amount of $8,600.[33]

Gallagher: Five refund checks for $700 each paid to Lapham Company, the owner's property manager.[34]

Unit # 109: Gallagher – invoices for the cost of 3 windows in the amount of $6,800.[35]

Unit # 201: Gallagher – invoices for the cost of 2 windows in the amount of $2,600.[36] APT – an invoice for patching around a new heater in the amount of $247.[37]

Unit # 202: Gallagher – invoices for the cost of 2 windows in the amount of $2,600.[38]

Unit # 203: Gallagher – invoices for the cost of 4 windows in the amount of $7,200;[39] an invoice for dry rot repair in the amount of $2,271;[40] and an invoice for the additional cost of 4 windows in the amount of $1,600.[41] Oak Leaf Painting & Maintenance (Oak Leaf) – an invoice for "surface repair as required . . . cabinet refinishing . . . and painting of surfaces as required" in the amount of $755.[42] At the Hearing, Mr. Gallagher testified that all work by Oak Leaf in individual units was done in anticipation of a new tenancy. The extent of such work depends upon the condition of the apartment.

Unit # 204: Gallagher – invoices for the cost of 4 windows in the amount of $7,200;[43] an invoice for dry rot repair in the amount of $2,271;[44] and an invoice for a new stove in the amount of $950.[45]

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[30] Exhibit Nos. 27, 56 & 121
[31] Exhibit No. 88
[32] Exhibit Nos. 28 & 57
[33] Exhibit Nos. 29 & 61
[34] Exhibit Nos. 30, 32, 59, 62 & 78
[35] Exhibit Nos. 31 & 58
[36] Exhibit Nos. 33 & 63
[37] Exhibit No. 107
[38] Exhibit Nos. 34 & 64
[39] Exhibit Nos. 35 & 65
[40] Exhibit No. 82
[41] Exhibit No. 127
[42] Exhibit No. 97
[43] Exhibit Nos. 36 & 66
[44] Exhibit No. 82
[45] Exhibit No. 87

Unit # 205: Gallagher – invoices for the cost of 3 windows and one door in the amount of $8,600.[46] Raynard's Appliance Repairs (Raynard's) – an invoice for a new heater in the amount of $1,269.[47]

Unit # 206: Gallagher – invoices for the cost of one window and one door in the amount of $5,000;[48] and an invoice for kitchen replacement in the amount of $10,600.[49]

Unit # 207: Gallagher – invoices for the cost of 2 windows and one door in the amount of $6,800.[50]

Unit # 208: Gallagher – invoices for the cost of 4 windows in the amount of $7,200.[51]

Unit # 209: Gallagher – invoices for the cost of 3 windows in the amount of $5,400.[52]

Unit # 301: Gallagher – invoices for the cost of 5 windows; demolition; installation of floor & wall tiles; carpeting; doors and trim; baseboards, shelves & poles; kitchen appliances; kitchen cabinets and countertops, in the amount of $44,000[53]; and a new window required by the City in the amount of $1,800.[54] APT – an invoice for patching around a new heater in the amount of $247,[55]

Unit # 302: Gallagher – invoices for the cost of 3 windows, in the amount of $5,400;[56] and an invoice for a new window required by the City, in the amount of $1,800.[57] Oak Leaf – an invoice for "surface repair as required . . . cabinet refinishing . . . and painting of surfaces as required" in the amount of $1,161.[58]

Unit # 303: Gallagher – invoices for the cost of 4 windows in the amount of $3,600;[59] and an invoice for a new window required by the City in the amount of $1,800.[60]

Unit # 304: Gallagher – invoices for the cost of 4 windows in the amount of $7,200;[61] and an invoice for a new window required by the City in the amount of $1,800.[62]

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[46] Exhibit Nos. 37 & 67. At the Hearing, Mr. Gallagher testified that the invoice contains a clerical error, and that the door listed on this invoice was for Unit No. 205, not Unit 204.
[47] Exhibit No. 102
[48] Exhibit Nos. 38 & 68.
[49] Exhibit No. 86
[50] Exhibit Nos. 39 & 69.
[51] Exhibit Nos. 40 & 70
[52] Exhibit Nos. 41 & 71
[53] Exhibit No. 92
[54] Exhibit No. 89.
[55] Exhibit No. 108
[56] Exhibit Nos. 42 & 72
[57] Exhibit No. 89.
[58] Exhibit No. 98
[59] Exhibit Nos. 43 & 73
[60] Exhibit No. 89.
[61] Exhibit Nos. 44 & 74
[62] Exhibit No. 89.

Unit # 305: Gallagher – invoices for the cost of 3 windows and one door in November 2013, in the amount of $8,600.[63]

Unit # 306: Gallagher – invoices for the cost of 2 windows in the amount of $5,000.[64] Raynard's – Cleaning and minor repairs of a wall heater in the amount of $633.[65]

Unit # 307: Gallagher – invoices for the cost of 2 windows and one door in the amount of $5,600.[66]

Unit # 308: Gallagher – invoices for the cost of 4 windows in the amount of $7,200.[67] Raynard's Appliance Repairs (Raynard's) – an invoice for a new heater in the amount of $1,583.[68]

Unit # 401: Gallagher – invoices for the cost of 7 windows and one door, in the amount of $15,800;[69] an invoice for dry rot repair, in the amount of $4,455;[70] an invoice for replacement of a fence on the roof, in the amount of $2,200;[71] and an invoice for re-sloping the roof landing and installation of a top step, in the amount of $1,100;[72] and an invoice for a new window required by the City in the amount of $1,800.[73]

Oak Leaf Painting & Maintenance: A check to Oakleaf in the amount of $34,521.[74]

APT Maintenance: A check to APT Maintenance in the amount of $30,536.[75]

Lapham Company: Checks to Martin Gallagher Construction dated November 14, 2013 through June 16, 2014, in the amounts of $84,800 (11/14/13), $24,400 (12/10/13), $90,200 (12/10/13), $33,466 (1/16/14), $114,500 (1/30/14), $116,103 (4/15/14), $30,825;[76] and checks to Raynard's dated December 19, 2013 through February 11, 2014, in the amounts of $9,035 (12/19/13),[77] $1,975 (1/27/14),[78] & $6,996 (2/11/14).[79]

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[63] Exhibit Nos. 45 & 75
[64] Exhibit Nos. 46 & 76
[65] Exhibit No. 104
[66] Exhibit Nos. 47 & 77
[67] Exhibit Nos. 48 & 79
[68] Exhibit No. 100
[69] Exhibit Nos. 49 & 80
[70] Exhibit No. 82
[71] Exhibit No. 83
[72] Exhibit No. 84
[73] Exhibit No. 89.
[74] Exhibit No. 99
[75] Exhibit No. 109
[76] Exhibit Nos. 50, 60, 81, 85, 91, 93, 95
[77] Exhibit No. 101
[78] Exhibit No. 103
[79] Exhibit No. 105

Capital Improvement Costs – Post-August 1, 2014:

Gallagher – Common Area Work: An invoice to "clean up all units and remove debris" in November 2014, in the amount of $4,358;[80] an invoice for "toilet service" (port-a-potty) and debris removal in January 2015, in the amount of $1,281;[81] and an invoice for "one year completion Project Management Payout" dated November 1, 2014, in the amount of $122,560.[82] At the Hearing, Mr. Gallagher testified that the project took one and one-half years, during which time he supervised the work of 10 employees. This invoice was for compensation for his time in doing so.

Unit # 101: Gallagher – an invoice for 2 windows in the amount of $800.[83] Raynard's – an invoice for inspection and disposal of a refrigerator in the amount of $297.[84] APD – an invoice for a new refrigerator in the amount of $567.[85]

Unit # 102: Gallagher – an invoice for 2 windows in the amount of $800;[86] and an invoice for installation of new bamboo flooring in the amount of $3,173.[87]

Unit # 103: Gallagher – an invoice for 4 windows in the amount of $1,600.[88]

Unit # 104: Gallagher – an invoice for 4 windows in the amount of $1,600.[89]

Unit # 105: Gallagher – an invoice for 3 windows and a door in the amount of $1,400.[90]

Unit # 106: Gallagher – an invoice for a window and a door in the amount of $600;[91] and an invoice for kitchen and bathroom remodels and installation of hardwood floors, in the amount of $38,050.[92]

Unit # 107: Gallagher – an invoice dated April 3, 2014, for 2 windows and a door in the amount of $1,000.[93] APT – an invoice for a kitchen remodel in March 2015 in the amount of $10,535.[94] APT – an invoice for cleaning and minor repairs in April 2015 in the amount of $5,029.[95] APD – an invoice for a new range, wall heater and dishwasher in February 2015 in the

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[80] Exhibit No. 111
[81] Exhibit No.113
[82] Exhibit No. 195
[83] Exhibit No. 116
[84] Exhibit No. 175
[85] Exhibit No. 180
[86] Exhibit No. 117
[87] Exhibit No. 167
[88] Exhibit No. 118
[89] Exhibit No. 119
[90] Exhibit No. 120
[91] Exhibit No. 121
[92] Exhibit No. 143
[93] Exhibit No. 122
[94] Exhibit No. 177
[95] Exhibit No. 178

amount of $904.[96] Raynard's – an invoice for heater maintenance and appliance installation in March 2015 in the amount of $404.[97]

Unit # 108: Gallagher – an invoice for 4 windows in the amount of $1,800.[98]

Unit # 109: Gallagher – an invoice for 3 windows in the amount of $1,200;[99] and an invoice for kitchen and bathroom remodels and installation of hardwood floors, in the amount of $39,000.[100]

Unit # 201: Gallagher – an invoice for 2 windows in April 2014, in the amount of $800;[101] and an invoice for kitchen and bathroom renovation in September 2014, in the amount of $31,000.[102]

Unit # 202: Gallagher – an invoice for 2 windows in the amount of $800.[103]

Unit # 203: Gallagher – an invoice for 4 windows in the amount of $1,600;[104] an invoice for kitchen and bathroom renovation in the amount of $31,000;[105] and an invoice for additional work in the bathroom in the amount of $2,727.[106]

Unit # 204: Gallagher – an invoice for 4 windows in the amount of $1,600;[107] an invoice for kitchen and bathroom renovation in the amount of $30,500;[108] and an invoice for repair and replacement of a leaky faucet in the amount of $1,207.[109]

Unit # 205: Gallagher – an invoice for 3 windows & one door in the amount of $1,400.[110]

Unit # 206: Gallagher – an invoice for one window & one door in the amount of $600;[111] and an invoice for bathroom and kitchen renovation and paint in the unit in the amount of $30,050.[112]

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[96] Exhibit No. 181
[97] Exhibit No. 183
[98] Exhibit No. 123
[99] Exhibit No. 124
[100] Exhibit No. 144
[101] Exhibit No. 125
[102] Exhibit No. 145
[103] Exhibit No. 126
[104] Exhibit No. 127
[105] Exhibit No. 146
[106] Exhibit No. 154
[107] Exhibit No. 128
[108] Exhibit No. 147
[109] Exhibit No. 160
[110] Exhibit No. 129
[111] Exhibit No. 129
[112] Exhibit No. 131

Unit # 207: Gallagher – an invoice for 2 windows & one door in the amount of $1,000;[113] and an invoice for bathroom and kitchen renovation and paint in the unit in the amount of $31,000;[114] and an invoice for additional work in the bathroom in the amount of $2,727.[115]

Unit # 208: Gallagher – an invoice for 4 windows in the amount of $1,600;[116] and an invoice for installation of new garbage disposal, light repair, lighting the water heater pilot and replacement of door hardware in the amount of $658.[117]

Unit # 209: Gallagher – an invoice for 3 windows in the amount of $1,200.[118] APT – an invoice for installation of an electrical outlet in the amount of $215;[119] an invoice for demolition in preparation for new flooring and bathroom improvements in the amount of $882;[120] and an invoice for kitchen and bathroom remodels in the amount of $22,000.[121] APD – an invoice for a refrigerator, dishwasher, and range hood in the amount of $1,239;[122] an invoice for installation of minor wall heater hardware in the amount of $253.[123]

Unit # 301: Gallagher – an invoice for changing locks, adjusting closet doors, clearing a plumbing backup, and spraying enamel, in the amount of $3,727.[124]

Unit # 302: Gallagher – an invoice for 3 windows in the amount of $1,200.[125]

Unit # 303: Gallagher – an invoice for 4 windows in the amount of $1,600.[126]

Unit # 304: Gallagher – an invoice for 4 windows in the amount of $1,600;[127] and an invoice for bathroom and kitchen renovation and paint in the unit in the amount of $31,000;[128] and an invoice for additional work in the bathroom in the amount of $2,727.[129]

Unit # 305: Gallagher – an invoice for 3 windows and one door in April 2014, in the amount of $1,400;[130] an invoice for bathroom and kitchen renovation and paint in the unit in September 2014, in the amount of $31,000;[131] an invoice for additional work in the bathroom in

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[113] Exhibit No. 132
[114] Exhibit No. 148
[115] Exhibit No. 155
[116] Exhibit No. 133
[117] Exhibit No. 161
[118] Exhibit No. 134
[119] Exhibit No. 185
[120] Exhibit No. 186
[121] Exhibit Nos. 187 - 188
[122] Exhibit No. 192
[123] Exhibit No. 193
[124] Exhibit No. 163
[125] Exhibit No. 135
[126] Exhibit No. 136
[127] Exhibit No. 137
[128] Exhibit No. 149
[129] Exhibit No. 156
[130] Exhibit No. 138
[131] Exhibit No. 146

December 2014, in the amount of $2,727;[132] an invoice for installing new doors and door hardware in January 2015, in the amount of $1,943;[133] an invoice for acoustic ceiling removal and preparing the ceiling for paint in January 2015, in the amount of $5,762;[134] and an invoice for meeting with the building inspector in January 2015, in the amount of $57.[135]

Unit # 306: Gallagher – an invoice for one window and one door in the amount of $600;[136] and an invoice for bathroom and kitchen renovation and paint in the unit in the amount of $31,000.[137] APT – an invoice for "turnover" work, including cleaning and minor repairs in the amount of $1,621.[138]

Unit # 307: Gallagher – an invoice for 3 windows in the amount of $1,200.[139] Appliance Parts Distributor (APD) – an invoice for a new range in the amount of $446.[140]

Unit # 308: Gallagher – an invoice for additional work in the bathroom in the amount of $2,727;[141] and an invoice for bathroom and kitchen renovation and paint in the amount of $31,000; [142] an invoice for acoustic ceiling removal and preparing the ceiling for paint in the amount of $7,385;[143] and installation of new bamboo flooring in the amount of $3,173.[144]

Unit # 401: Gallagher – an invoice for 7 windows and one door in the amount of $3,000.[145]

Lapham Company: Checks to Gallagher dated October 21, 2014, through July 28, 2015, in the amounts of $6,224,[146] $15,070,[147] $43,050,[148] $329,576,[149] $45,770,[150] $6,224,[151] $11,431,[152] $15,070,[153] and $122, 560;[154] checks to APT dated September 4, 2014, through May 22, 2105, in the amounts of $11,176,[155] $52,915,[156] $80,605,[157] and $38,937;[158] checks to

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[132] Exhibit No. 157
[133] Exhibit No. 164
[134] Exhibit No. 165
[135] Exhibit No. 168
[136] Exhibit No. 139
[137] Exhibit No. 151
[138] Exhibit No. 190
[139] Exhibit No. 140
[140] Exhibit No. 173
[141] Exhibit No. 158
[142] Exhibit No. 152
[143] Exhibit No. 169
[144] Exhibit No. 170
[145] Exhibit No. 141
[146] Exhibit No. 112
[147] Exhibit No. 114
[148] Exhibit No. 142
[149] Exhibit No. 153
[150] Exhibit No. 159
[151] Exhibit No. 162
[152] Exhibit No. 166
[153] Exhibit No. 171
[154] Exhibit Nos. 196 - 197
[155] Exhibit No. 174
[156] Exhibit No. 179

Raynard's in March 2015, in the amounts of $2,421[159] and $2324;[160] and checks to APD in March and May 2015, in the amounts of $3,628[161] and $7,632.[162]

Tenant Testimony and Sworn Responses: At the Hearing, tenant Smithyman, who lives in Unit # 107, testified that he moved into his unit in April 2015.

Tenants Jenevieve Francisco and Avetis Chalaganyan, who live in Unit # 201, did not appear on either Hearing date. However, they filed a response to the owner's petition, in which they declared under penalty of perjury that they moved into their unit on October 17, 2014.

Tenants Travis Chrupalo and Edward Camacho, who live in Unit # 301, did not appear on either Hearing date. However, they filed a response to the owner's petition, in which they declared under penalty of perjury that they moved into their unit on February 1, 2015.

Tenants Natalie Burke and Peter Cannady, who live in Unit # 305, did not appear on either Hearing date. However, they filed a response to the owner's petition, in which they declared under penalty of perjury that they moved into their unit on February 1, 2015.

The owner representatives did not disagree with either the testimony or the statements in the responses of these tenants.

Rent Roll: The owner submitted a list of current rents paid by tenants in the building.[163] At the Hearing, this Hearing Officer read the list to the tenants who were present. The tenants who attended the Hearing agreed with the following amounts:

Unit 101 - $950	Unit 205 - $1,850
102 - VACANT	206 - $898
103 – NEW TENANT	207 - $1,250
104 - $1,075	208 - $709
105 - $1,118	209 - $2,020
106 - $903	301 - $2,290
107 - $1,950	302 - $1,510
108 - $893	303 – NEW TENANT
109 - $1,150	304 - $1,544
201 - $1,350	305 - $1,800
202 - $917	306 - $1,890
203 - $1,695	307 - $867
204 - $925	308 - $1,850
	401- $1,468

[157] Exhibit No. 189
[158] Exhibit No. 191
[159] Exhibit No. 176
[160] Exhibit No. 184
[161] Exhibit No. 182
[162] Exhibit No. 194
[163] Exhibit No. 198

Capital Improvement Costs: A rent increase in excess of the C.P.I. Rent Adjustment may be justified by capital improvement costs.[164] Capital improvement costs are those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.[165] A rent increase based upon capital improvements will only be given for those improvements which have been completed and paid for within 24 months prior to the date of the proposed rent increase.[166]

The improvements must primarily benefit the tenant rather than the owner. Items defined as capital improvements will be given a useful life period of 5 years and the total costs shall be amortized over that time period unless the rent increase using this amortization would exceed 10% of the existing rent. Whenever a capital improvement rent increase alone or with any other rent increases would exceed 10% or 30% in 5 years, the excess can only be recovered by extending the amortization period in yearly increments sufficient to cover the excess, and complying with any requirements to notice the tenant of the extended amortization period with the initial capital improvement increase. The dollar amount of the capital improvement rent increase shall be removed from the rent in the sixty-first month or at the end of an extended amortization period.[167]

On August 1, 2014, the Regulations regarding Capital Improvement expenses were amended, in the following ways, for work that was completed and paid for after that date. For work that was completed and paid for prior to August 1, 2014, if the two sets of Regulations conflict, the prior Regulations, sections of which are stated above, apply.

(1) Whenever a capital improvement rent increase alone or with any other rent increases would exceed 10% in one year or 30% in 5 years, the excess can only be recovered by extending the amortization period in yearly increments sufficient to cover the excess, and complying with any requirements to notice the tenant of the extended amortization period with the initial capital improvement increase. The dollar amount of the capital improvement rent increase shall be removed from the rent in the sixty-first month or at the end of an extended amortization period.[168]

(2) Beginning on August 1, 2014, a maximum of 70% of the total cost for a capital improvement may be passed through to the tenant.[169]

(3) "This Ordinance shall not apply to capital improvements on which permits have been taken out, unless no permits are required for any of the work, and substantial work is performed and substantial monies paid or liabilities incurred (other than permit fees)

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[164] O.M.C. Section 8.22.070(C)
[165] Regulations Appendix, Section 10.2.2(5)
[166] Regulations Appendix, Section 10.2.1
[167] Regulations Appendix, Section 10.2.3(2)
[168] Regulations Appendix, Section 10.2.3(2)
[169] Regulations Appendix, Section 10.2.3(3)

before the implementation date of this Ordinance [August 1, 2014] and the Owner reasonably diligently pursues completion of the work."[170]

The changes in the Ordinance apply to both the 70% calculation and the limitation of rent increases to 10% of the current rent. Neither of these limitations applies to a situation in which substantial work was performed and substantial monies paid or liabilities incurred before August 1, 2014.

Units With No Rent Increase: All work was largely completed and paid for by November 1, 2014. State law provides that, with few exceptions – none of which apply here – "an owner of residential real property may establish the initial rent for a dwelling or unit."[171] Therefore, the rents for the following units – where the tenants moved in after that date – will not be increased, since their initial rents were presumably based upon the condition of the building at the time of move-in. The units are as follows: Units 107, 201, 301, and 305. Further, no rent increase is allowed for the following vacant units, and those with "new tenants": Units 102, 103, & 303.

Effective Date of Rent Increases: The owner's petition was filed on October 29, 2015. As an alternative to filing a petition seeking approval for rent increases, the owner could have served rent increase notices upon the tenants. The owner submitted documentation of costs that, if approved, would increase each tenant's rent by more than 10%. Rent increases greater than 10% require at least 60 days' written notice.[172] Therefore, the earliest effective date for rent increases would have been January 1, 2016.

Costs Allowed and Disallowed: Pre - August 1, 2014:

Common Areas: Construction of stairways, security gates, the laundry and storage rooms, exterior painting, wood siding and stucco work, water heater installation, concrete work, dry rot repair, and GFCI outlet installation in the total amount of $256,706 is properly documented. This work meets the standards of the Regulations, and primarily benefits all of the tenants, who live in the subject building. Repair of a pipe is routine maintenance, and the cost is not allowed.

However, the owner submitted documentation showing that payments to Gallagher in the total amount of $199,400[173] were made before January 1, 2014. This was more than 24 months before the earliest effective date of a rent increase. Therefore, it is proper to deduct $199,400 from the total costs, reducing the costs to $57,306. Further, refund checks paid by Gallagher to Lapham Co., which total $3,500, should also be deducted from the costs, resulting in net costs of $53,806. Table "A," attached to this Decision, sets forth the proper calculation for a rent increase based upon this work, being $33.21 per month.

Individual Units: Invoices for some work in individual units are dated before January 1, 2014. However, since there were large payments to Gallagher both before and after January 1, 2014, as itemized above, it is impossible to determine when work in individual units was paid for.

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[170] Ordinance No. 13226
[171] Civil Code Section 1954.53
[172] Civil Code Section 827.
[173] Exhibit Nos. 50, 60, & 81

Therefore, all pre-January 1, 2014 payments were deducted from the common area expenses, and not from expenses in any individual unit.

Unit 101: The cost of new windows and patching the wall around a new heater in the amount of $3,847 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work. Inspection and minor repair to a refrigerator is routine maintenance, and not a capital improvement; the cost is not allowed.

Unit # 102: This unit is vacant and, therefore, the costs are not an issue in this case.

Unit # 103: Since there is a new tenant in this unit, the costs are not an issue in this case.

Unit #104: The cost of new windows and associated dry rot repair in the amount of $11,271 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 105: The cost of new windows and a door, kitchen replacement, and bathroom remodeling in the amount of $30,200 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 106: The cost of a new window, a door, and a stove in the amount of $6,550 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 107: Since the tenants moved in after the work was completed, none of the cost can be passed on to the tenants.

Unit # 108: The cost of 4 new windows in the amount of $8,600 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 109: The cost of 3 new windows in the amount of $6,800 is properly documented and primarily benefits the tenants. The attached Table "A"sets forth the proper calculation for a rent increase based upon this work.

Unit # 201: Since the tenants moved in after the work was completed, none of the cost can be passed on to the tenants.

Unit # 202: The cost of 2 new windows in the amount of $2,600 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 203: The cost of 4 new windows and associated dry rot repair in the amount of $11,071 is properly documented and primarily benefit the tenants. The attached Table "A" sets

forth the proper calculation for a rent increase based upon this work. Minor repairs are routine maintenance, and not a capital improvement; the cost is not allowed.

Unit # 204: The cost of 4 new windows, associated dry rot repair, and a new stove in the amount of $10,421 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 205: The cost of 3 new windows and a new heater in the amount of $9,869 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 206: The cost of a new window, a door, and kitchen replacement in the amount of $11,600 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 207: The cost of 2 new windows and a door, and a stove in the amount of $6,800 is properly documented and primarily benefit the tenants. The attached Table "A sets forth the proper calculation for a rent increase based upon this work.

Unit # 208: The cost of 4 new windows in the amount of $7,200 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 209: The cost of 3 new windows in the amount of $5,400 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 301: Since the tenants moved in after the work was completed, none of the cost can be passed on to the tenants.

Unit # 302: The cost of 4 new windows and associated dry rot repair in the amount of $7,200 is properly documented and primarily benefit the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work. Minor repairs are routine maintenance, and not a capital improvement; the cost is not allowed.

Unit # 303: Since there are new tenants in the unit, none of the capital improvement costs can be passed on to these tenants.

Unit # 304: The cost of 5 new windows in the amount of $9,000 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 305: Since the tenants moved in after the work was completed, none of the cost can be passed on to the tenants.

Unit # 306: The cost of 2 new windows in the amount of $5,000 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work. Minor repairs are routine maintenance, and not a capital improvement; the cost is not allowed.

Unit # 307: The cost of 2 new windows and one door in the amount of $5,600 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 308: The cost of 4 new windows and a new heater in the amount of $8,783 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Unit # 401: The cost of 8 new windows, a door, associated dry rot repair, and fairly major work on the roof, in the amount of $25,355 is properly documented and primarily benefits the tenants. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Costs Allowed and Disallowed: Post - August 1, 2014:

Common Areas: Construction clean-up, a "port-a-potty" and the "project management payout" for supervision of the lengthy project, in the total amount of $128,199 is properly documented. This work meets the standards of the Regulations, and primarily benefits all of the tenants, who live in the subject building. The attached Table "A" sets forth the proper calculation for a rent increase based upon this work.

Individual Units:

Unit # 101: The cost of work on 2 windows and a new refrigerator, in the amount of $1,367, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work. Inspection and disposal of a refrigerator is part of usual maintenance, and the cost is not allowed.

Unit # 104: The cost of work on 4 windows in the amount of $1,600 is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 105: The cost of work on 3 windows and a door in the amount of $1,400 is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 106: The cost of work on a window and a door, kitchen and bathroom remodels and hardwood floor installation in the amount of $38, 650 is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 108: The cost of work on 4 windows in the amount of $1,800 is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 109: The cost of work on 4 windows and kitchen and bathroom remodels in the amount of $40,200 is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 202: The cost of work on 4 windows in the amount of $800 is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 203: The cost of work on 4 windows and kitchen and bathroom renovations, in the amount of $35,327, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 204: The cost of work on 4 windows and kitchen and bathroom renovations, in the amount of $32,100, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work. Repair and replacement of a leaky faucet is regular maintenance and not a capital improvement; that cost is denied.

Unit # 205: The cost of work on 3 windows and one door, in the amount of $1,400, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 206: The cost of work on one window and one door, and kitchen and bathroom renovations in the amount of $30,650, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 207: The cost of work on 2 windows and one door, and kitchen and bathroom renovations in the amount of $34,727, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 208: The cost of work on 4 windows, in the amount of $1,600, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work. Miscellaneous work such as lighting a pilot light and replacement of door hardware is regular maintenance and not a capital improvement; that cost is denied.

Unit # 209: The cost of work on 3 windows, electric outlet installation, kitchen and bathroom remodels, and new appliances, in the amount of $25,536, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work. Installation of minor wall heater hardware is regular maintenance and not a capital improvement; that cost is denied.

Unit # 302: The cost of work on 3 windows, in the amount of $1,200, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 304: The cost of work on 4 windows, painting, and kitchen and bathroom renovations in the amount of $35,327, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 306: The cost of work on one window and one door, and kitchen and bathroom renovations, in the amount of $31,600, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work. Cleaning and minor repairs are regular maintenance; that cost is denied.

Unit # 307: The cost of work on 3 windows and a new range, in the amount of $1,646, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 308: The cost of work for kitchen and bathroom renovations, acoustic ceiling removal, and new flooring in the amount of $44,285, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Unit # 401: The cost of work on 7 windows, in the amount of $3,000, is properly documented and primarily benefits the tenants. The attached Table "B" sets forth the proper calculation for a rent increase based upon this work.

Conclusion: Eligible capital improvement costs were incurred both before and after August 1, 2014. The rules governing these costs are stated above. All costs before August 1, 2014 are to be amortized over 60 months, and passed on to tenants, without regard to the 10% annual limit on rent increases for costs incurred after that date. Post-August 1, 2014 costs are limited to 10% of a tenant's current rent.

The two sections of the Ordinance are properly reconciled by adding to the pre-August 1, 2014 costs an amount not more than 10% of the current rent for any post-August 1, 2014 costs. The proper monthly rent increase for the post-August 1, 2014 costs for each unit is set forth on Table "B." This Table also states the appropriate number of years during which the post-August 2014 costs are amortized. The proper amortization period for each tenant is set forth in the Order below. Each tenant's current rent may be increased by a capital improvement pass-through, as follows:

Unit	Current Rent	Pre-Aug.1, 2014 Costs	Post-Aug. 1, 2014 Costs	New Rent
101	$950	$99.49	$71.34	$1,120.83
102	VACANT	N/A	N/A	N/A
103	NEW TENANT	N/A	N/A	N/A
104	$1,075	$223.22	$74.06	$1,372.28
105	$1,118	$538.70	$71.73	$1,728.43

106	$903	$144.54	$87.30	$1,134.84
107	$1,950	NONE	NONE	$1,950
108	$893	$178.70	$76.39	$1,148.09
109	$1,150	$148.70	$114	$1,412.70
201	$1,350	NONE	NONE	$1,350
202	$917	$78.70	$64.73	$1,060.43
203	$1,695	$219.89	$166.98	$2,081.87
204	$925	$209.05	$89.56	$1,223.61
205	$1,850	$199.85	$71.73	$2,121.58
206	$898	$228.70	$89.78	$1,216.48
207	$1,460	$148.70	$143.92	$1,752.62
208	$709	$155.37	$61.72	$926.09
209	$2,020	$125.37	$196.29	$2,341.66
301	$2,290	NONE	NONE	$2,290
302	$1,510	$155.37	$69.39	$1,734.76
303	NEW TENANT	N/A	N/A	N/A
304	$1,544	$185.37	$146.11	$1,875.48
305	$1,800	NONE	NONE	$1,800
306	$1,890	$118.70	$176.69	$2,185.39
307	$867	$128.70	$74.60	$1,070.30
308	$1,850	$181.75	$178.77	$2,210.52
401	$1,468	$457.95	$90.39	$2,016.34

ORDER

1. Petition L15-0065 is partly granted.

2. Unit 101: A Capital Improvements pass-through is granted as to Unit 101 in the amount of $170.83 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,120.83 per month.

3. Unit 102: No Capital Improvements pass-through is granted as to Unit 102.

4. Unit 103: No Capital Improvements pass-through is granted as to Unit 103.

5. Unit 104: A Capital Improvements pass-through is granted as to Unit 104 in the amount of $297.28 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,372.28 per month.

6. Unit 105: A Capital Improvements pass-through is granted as to Unit 105 in the amount of $610.43 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,728.43 per month.

7. Unit 106: A Capital Improvements pass-through is granted as to Unit 106 in the amount of $144.54 per month, for a period of 60 months. A further Capital Improvements pass-through is

granted as to Unit 106 in the amount of $87.30 per month, for a period of 29 years. The owner may serve a rent increase notice increasing the rent to $1,134.84 per month.

8. Unit 107: No Capital Improvements pass-through is granted as to Unit 107. The rent remains $1,950 per month.

9. Unit 108: A Capital Improvements pass-through is granted as to Unit 108 in the amount of $255.09 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,148.09 per month.

10. Unit 109: A Capital Improvements pass-through is granted as to Unit 109 in the amount of $148.70 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 109 in the amount of $114 per month, for a period of 23 years. The owner may serve a rent increase notice increasing the rent to $1,412.70 per month.

11. Unit 201: No Capital Improvements pass-through is granted as to Unit 201. The rent remains $1,350 per month.

12. Unit 202: A Capital Improvements pass-through is granted as to Unit 202 in the amount of $143.43 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,060.43 per month.

13. Unit 203: A Capital Improvements pass-through is granted as to Unit 203 in the amount of $219.89 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 203 in the amount of $166.98 per month, for a period of 14 years. The owner may serve a rent increase notice increasing the rent to $2,081.87 per month.

14. Unit 204: A Capital Improvements pass-through is granted as to Unit 204 in the amount of $209.05 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 204 in the amount of $89.56 per month, for a period of 24 years. The owner may serve a rent increase notice increasing the rent to $1,223.61 per month.

15. Unit 205: A Capital Improvements pass-through is granted as to Unit 205 in the amount of $271.58 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $2,121.58 per month.

16. Unit 206: A Capital Improvements pass-through is granted as to Unit 206 in the amount of $228.70 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 206 in the amount of $89.78 per month, for a period of 23 years. The owner may serve a rent increase notice increasing the rent to $1,216.48 per month.

17. Unit 207: A Capital Improvements pass-through is granted as to Unit 207 in the amount of $148.70 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 207 in the amount of $143.92 per month, for a period of 16 years. The owner may serve a rent increase notice increasing the rent to $1,752.62 per month.

18. Unit 208: A Capital Improvements pass-through is granted as to Unit 208 in the amount of $ per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 208 in the amount of $61.72 per month, for a period of 6 years. The owner may serve a rent increase notice increasing the rent to $ per month.

19. Unit 209: A Capital Improvements pass-through is granted as to Unit 209 in the amount of $125.37 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 209 in the amount of $196.29 per month, for a period of 9 years. The owner may serve a rent increase notice increasing the rent to $2,341.66 per month.

20. Unit 301: No Capital Improvements pass-through is granted as to Unit 301. The rent remains $2,290 per month.

21. Unit 302: A Capital Improvements pass-through is granted as to Unit 302 in the amount of $224.76 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,734.76 per month.

22. Unit 303: No Capital Improvements pass-through is granted as to Unit 303.

23. Unit 304: A Capital Improvements pass-through is granted as to Unit 304 in the amount of $185.37 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 304 in the amount of $146.11 per month, for a period of 16 years. The owner may serve a rent increase notice increasing the rent to $1,875.48 per month.

24. Unit 305: No Capital Improvements pass-through is granted as to Unit 305. The rent remains $1,595 per month.

25. Unit 306: A Capital Improvements pass-through is granted as to Unit 306 in the amount of $118.70 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 306 in the amount of $176.69 per month, for a period of 12 years. The owner may serve a rent increase notice increasing the rent to $2,185.39 per month.

26. Unit 307: A Capital Improvements pass-through is granted as to Unit 307 in the amount of $203.30 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $1,070.30 per month.

27. Unit 308: A Capital Improvements pass-through is granted as to Unit 308 in the amount of $181.75 per month, for a period of 60 months. A further Capital Improvements pass-through is granted as to Unit 308 in the amount of $178.77 per month, for a period of 16 years. The owner may serve a rent increase notice increasing the rent to $2,210.52 per month.

28. Unit 401: A Capital Improvements pass-through is granted as to Unit 401 in the amount of $548.34 per month, for a period of 60 months. The owner may serve a rent increase notice increasing the rent to $2,016.34 per month.

29. After the rents are increased as stated above, the rent for each unit will be reduced after the time periods, and by the amounts of the capital improvement pass-throughs, stated above.

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

Dated: March 28, 2017

Stephen Kasdin
Hearing Officer
Rent Adjustment Program

CAPITAL IMPROVEMENTS

Effective Date of Increase	1-Jan-16
Number of Residential Units on Property	27

Improvements and repairs benefitting all units

IMPROVEMENT OR REPAIR	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	VALIDITY CHECKS
Gates, Rooms, Painting, etc.	1-Jan-14	$53,806.00	27	$33.21	OK

Improvements and repairs benefitting particular units

IMPROVEMENT OR REPAIR	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	ALLOCATED TO UNITS	VALIDITY CHECKS
Windows & Wall Patching	1-Jan-14	$3,847.00	1	$64.12	101	OK
Windows	1-Jan-14	$11,271.00	1	$187.85	104	OK
Windows, Kitchen & Bathroom	1-Jan-14	$30,200.00	1	$503.33	105	OK
Window, Door & Stove	1-Jan-14	$6,550.00	1	$109.17	106	OK
Windows	1-Jan-14	$8,600.00	1	$143.33	108	OK
Windows	1-Jan-14	$6,800.00	1	$113.33	109	OK
Windows	1-Jan-14	$2,600.00	1	$43.33	202	OK
Windows	1-Jan-14	$11,071.00	1	$184.52	203	OK
Windows	1-Jan-14	$10,421.00	1	$173.68	204	OK
Windows & Heater	1-Jan-14	$9,869.00	1	$164.48	205	OK
Window, Door & Kitchen	1-Jan-14	$11,600.00	1	$193.33	206	OK
Windows, Door & Stove	1-Jan-14	$6,800.00	1	$113.33	207	OK
Windows	1-Jan-14	$7,200.00	1	$120.00	208	OK
Windows	1-Jan-14	$5,400.00	1	$90.00	209	OK
Windows	1-Jan-14	$7,200.00	1	$120.00	302	OK
Windows	1-Jan-14	$9,000.00	1	$150.00	304	OK
Windows	1-Jan-14	$5,000.00	1	$83.33	306	OK
Windows & Door	1-Jan-14	$5,600.00	1	$93.33	307	OK
Windows & Heater	1-Jan-14	$8,783.00	1	$146.38	308	OK
Windows, Door, & Roof	1-Jan-14	$25,355.00	1	$422.58	401	OK

TABLE "A" 000057

City of Oakland Capital Improvements Calculator Worksheet

000058

IMPROVEMENTS BENEFITING ALL UNITS BUILDING WIDE

Effective Date of Rent Increase	1-Dec-15
Number of Residential Units	27

IMPROVEMENT OR REPAIR	DATE COMPLETED	FULL COST	Amortizable Cost (70%)	# of Units		Allowable Cost per Unit (Pre Amortization)	Date Validation (2 years ago max)
Cleanup	1-Nov-14	$4,358.00	$3,050.60	27		$112.99	OK
Toilet Service	1-Jan-15	$1,281.00	$896.70	27		$33.21	OK
Project Management	1-Nov-14	$122,560.00	$85,792.00	27		$3,177.48	OK
Subtotal			$89,739.30			$3,323.68	
Place X in box if property is mixed use.							
Residential square footage							
Other use square footage							
Percent residential use							
Total Cost Per Unit Allocated to Residential Units						$3,323.68	

000059

IMPROVEMENTS LIMITED TO SPECIFIC UNITS

Total Allowable Unit-Specific Pass-through (Column D)	$254,950.50

IMPROVEMENT OR REPAIR	DATE COMPLETED	FULL COST	Amortizable Cost (70%)	# Units	Allowable Cost per Unit (Pre-Amortization)	APPLIES TO UNITS	Date Validation (2 years ago max)
Windows & Refrigerator	1-Nov-14	$1,367.00	$956.90	1	$956.90	101	OK
Windows	1-Nov-14	$1,600.00	$1,120.00	1	$1,120.00	104	OK
Windows & Door	1-Nov-14	$1,400.00	$980.00	1	$980.00	105	OK
Window, kitchen; bath; floors	1-Nov-14	$38,650.00	$27,055.00	1	$27,055.00	106	OK
Windows	1-Nov-14	$1,800.00	$1,260.00	1	$1,260.00	108	OK
Windows; kitchen bath; floor	1-Nov-14	$40,200.00	$28,140.00	1	$28,140.00	109	OK
Windows	1-Nov-14	$800.00	$560.00	1	$560.00	202	OK
Windows; kitchen; bath	1-Nov-14	$35,327.00	$24,728.90	1	$24,728.90	203	OK
Windows; kitchen; bath	1-Nov-14	$32,100.00	$22,470.00	1	$22,470.00	204	OK
Windows & Door	1-Nov-14	$1,400.00	$980.00	1	$980.00	205	OK
Window; kitchen; bath	1-Nov-14	$30,650.00	$21,455.00	1	$21,455.00	206	OK
Windows; kitchen; bath	1-Nov-14	$34,727.00	$24,308.90	1	$24,308.90	207	OK
Windows	1-Nov-14	$1,600.00	$1,120.00	1	$1,120.00	208	OK
Windows; kichen; bath	1-Nov-14	$25,536.00	$17,875.20	1	$17,875.20	209	OK
Windows	1-Nov-14	$1,200.00	$840.00	1	$840.00	302	OK
Windows; kitchen; bath	1-Nov-14	$35,327.00	$24,728.90	1	$24,728.90	304	OK
Windows; kitchen; bath	1-Nov-14	$31,600.00	$22,120.00	1	$22,120.00	306	OK
Windows; range	1-Nov-14	$1,646.00	$1,152.20	1	$1,152.20	307	OK
Kitchen; bath; flooring	1-Nov-14	$44,285.00	$30,999.50	1	$30,999.50	308	OK
Windows & Door	1-Nov-14	$3,000.00	$2,100.00	1	$2,100.00	401	OK
Totals			$254,950.50				

AMORTIZATION

000060

Sum of Unit Specific Costs (Column D below):	$254,950.50

Unit Specific Data Entry is Complete

Unit	Current Rent	Building Wide Pass through	Unit Specific Pass-through	Total Pass through on Unit	Years to Amortize (5 yrs min)	Allowable Increase $	Increase % (must be 10% or less)
101	$950.00	$3,323.68	$956.90	$4,280.58	5	$71.34	7.51%
104	$1,075.00	$3,323.68	$1,120.00	$4,443.68	5	$74.06	6.89%
105	$1,118.00	$3,323.68	$980.00	$4,303.68	5	$71.73	6.42%
106	$903.00	$3,323.68	$27,055.00	$30,378.68	29	$87.30	9.67%
108	$893.00	$3,323.68	$1,260.00	$4,583.68	5	$76.39	8.55%
109	$1,150.00	$3,323.68	$28,140.00	$31,463.68	23	$114.00	9.91%
202	$917.00	$3,323.68	$560.00	$3,883.68	5	$64.73	7.06%
203	$1,695.00	$3,323.68	$24,728.90	$28,052.58	14	$166.98	9.85%
204	$925.00	$3,323.68	$22,470.00	$25,793.68	24	$89.56	9.68%
205	$1,850.00	$3,323.68	$980.00	$4,303.68	5	$71.73	3.88%
206	$898.00	$3,323.68	$21,455.00	$24,778.68	23	$89.78	10.00%
207	$1,460.00	$3,323.68	$24,308.90	$27,632.58	16	$143.92	9.86%
208	$709.00	$3,323.68	$1,120.00	$4,443.68	6	$61.72	8.70%
209	$2,020.00	$3,323.68	$17,875.20	$21,198.88	9	$196.29	9.72%
302	$1,200.00	$3,323.68	$840.00	$4,163.68	5	$69.39	5.78%
304	$1,544.00	$3,323.68	$24,728.90	$28,052.58	16	$146.11	9.46%
306	$1,890.00	$3,323.68	$22,120.00	$25,443.68	12	$176.69	9.35%
307	$867.00	$3,323.68	$1,152.20	$4,475.88	5	$74.60	8.60%
308	$1,850.00	$3,323.68	$30,999.50	$34,323.18	16	$178.77	9.66%
401	$1,468.00	$3,323.68	$2,100.00	$5,423.68	5	$90.39	6.16%
Totals			$254,950.50				

PROOF OF SERVICE

Case Number L15-0065

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:

Tenants
Ahmed Hussein
480 Crescent St #102
Oakland, CA 94610

Angelita Garrison
480 Crescent St #208
Oakland, CA 94610

Brian Capehart
480 Crescent St #109
Oakland, CA 94610

Cara Cuison & Marlon Barns
480 Crescent St #308
Oakland, CA 94610

Chris Rhem
480 Crescent St #104
Oakland, CA 94610

Cynthia DeCastro
480 Crescent St #304
Oakland, CA 94610

Cynthia Yeung
480 Crescent St #209
Oakland, CA 94610

Darren Elston & Lisa Skinner
480 Crescent St #106
Oakland, CA 94610

Owner
CNML Crescent Properties, LLC c/o Mich
2350 Broadway St
San Francisco, CA 94115

Eddie & Doris Washington
480 Crescent St #206
Oakland, CA 94610

Edward Ayala
480 Crescent St #205
Oakland, CA 94610

Elisa Singh & Octavio Nevarez
480 Crescent St #207
Oakland, CA 94610

Elizabeth Derias
480 Crescent St #302
Oakland, CA 94610

Gary & Marla Bill
480 Crescent St #105
Oakland, CA 94610

Gary Reynolds
480 Crescent St #204
Oakland, CA 94610

Georgina Mountain
480 Crescent St #306
Oakland, CA 94610

Jenevieve Francisco & Avetis Chalaganyan
480 Crescent St #201
Oakland, CA 94610

Jun Kim
480 Crescent St #307
Oakland, CA 94610

Kevin Seid
480 Crescent St #202
Oakland, CA 94610

Matthew Winger
480 Crescent St #303
Oakland, CA 94610

Michael Hong
480 Crescent St #108
Oakland, CA 94610

Michelle Prouty
480 Crescent St #101
Oakland, CA 94610

Owen Smithyman and Kerry Hampton
480 Crescent St #107
Oakland, CA 94610

Patrick & Francis Mitchell
480 Crescent St #401
Oakland, CA 94610

Peter Cannady & Natalie Burke
480 Crescent St #305
Oakland, CA 94610

Samantha Forster & Enrique Cordero
480 Crescent St #203
Oakland, CA 94610

Terrence Pack
480 Crescent St #103
Oakland, CA 94610

Travis Chrupalo & Edward Camacho
480 Crescent St #301
Oakland, CA 94610

Owner Representative
Clifford Fried/Liz Hart c/o Fried & Williams LLP
480 Ninth St
Oakland, CA 94607

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 29, 2017 in Oakland, CA.

Esther K. Rush

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

For Date Stamp Only
RENT ADJUSTMENT PROGRAM
2015 DEC 14 PM 1:40

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

CASE NUMBER L15-0065

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	Complete Address (with Zip Code)	Telephone
GARY REYNOLDS	480 Crescent St #204 OAKLAND, CA 94610	Day 415-305-9277 Evening same
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: _____

Rental History

Date you entered into the Rental Agreement for this unit: 27

Date you moved into this unit: 11-1-2002

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

Initial Rent: $ 925 Initial rent included (please check all that apply) ( ) Gas ( ) Electricity (✓) Water (✓) Garbage (✓) Parking ( ) 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 11-15-2015

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 From	Rent Increased To	Did you receive a NOTICE TO TENANTS with the notice of rent increase?
12/2011	1/2012	$ 816.33	$ 935.00	☒ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ No
		$	$	☐ Yes ☐ 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**	

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.

[signature] 12-14-15

Tenant's Signature **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**

* See attached letter

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

- [x] 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** 12/14/18
Tenant's Signature (for Mediation Request	**Date**

Gary Reynolds
480 Crescent Street, #204
Oakland, CA 94610
415-305-9277
gmreynolds10@yhaoo.ocm

December 14, 2015

City of Oakland Rent Adjustment Program
P.O. Box 70243
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612

Reference No. Case Number L15-0065 – Gary Reynolds 480 Crescent Street #204 Oakland CA 94610 vs. CMNL Crescent Properties LLC c/o Michael Bykhovsky

Dear City of Oakland Rent Adjustment Program,

I am writing contesting the petition for propose rent increase/capital improvement submitted by CNML Crescent Properties LLC and Michael Bykhovsky, received via US Postal serviced dated November 12, 2015 from said owner stating, "Sating Landloards (ss) is/are proposing a rent increase alleging that the increase may exceed the maximum general rent increase permitted by Oakland Municipal code Chapter 8.22".

I have lived in this building since 2002 and watched three owners come and go and not one previous owners did anything substantial for this building upkeep and care in thelast six years until the current owner arrived. I didn't ask for a complete bathroom and kitchen remodel with new appliances and to be force to pay toreimbursement to the owner because this is his property. I am grateful the new installed double pane windows installed and I don't have to feel cold air coming through my windows on a cold winter night or rain pouring inside andcausing my mole buildup. All improvements done at the expense of said property is naturally responsibility of the owner and not that of the tenant we can't take it with us when we move.

The improvement done to my place was not warrant, the kitchen just had new appliance installed and all I requested was a counter tops for the kitchen to be replace the one that been here for 50 years. We should be protected from owners like the owner CMNL Crescent Properties LLC c/o Michael Bykhovsky greed. They don't care about the tenants who have been here for up to twenty years or more and should not have to carry the financial burden for the improvements in this building. This cost should be not be passed down to older renters as new renters leave due to higher rents and older renter stay with lower rent in place and protected. The owner is taking advantage of older renter trying to raise our rents after taking ownership.

As tenants I tried to worked hard with the previous owners and got nothing in return and now to be forced to pay for a remodel I never asked for as punishmentin the way of paying capital improvements alone with rent for something desired by all to live in a decent place with reasonable rent. I wonder has the owner though about the senior tenants who have lived in this building for years and what will happen to them when you imposed higher rents adjustment? They will suffer from rent incensements that practically double or triple without any notice and not controlled by City of Oakland Rent Adjustment Program. It only spell out harmful situation for all seniors and families in this building.

I request that the owner show the proof of burden to justify rent increase and to allow this building to remain under the control of the City of Oakland Rent Adjustment Program in the County of Alameda. I am also asking this case be sent to mediation to boardto determine if rent increase is justifiable.

Thank you,

Gary Reynolds

L15-0065 RC/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp: 2015 OCT 29 PM 2:47 **LANDLORD PETITION**

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	Complete Address (with zip code)	Telephone
CNML Crescent Properties LLC c/o Michael Bykhovsky, manager	2350 Broadway St. San Francisco, CA 94115	Day: 510-625-0100
Your Representative's Name	**Complete Address (with zip code)**	**Telephone**
Clifford Fried Liz Hart	c/o Fried & Williams LLP 480 Ninth Street Oakland, CA 94607	Day: 510-625-0100
Property Address (If the property has more than one address, list all addresses)		**Total number of units on property**
480 Crecent Dr. Oakland, CA 94610		27

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	Apartment or Room
If an SFR or condominium, does the unit have a separate deed? (circle one)		Yes	No
I have given a copy of the NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM to the tenants in each unit affected by this petition.		Yes	No
Assessor's Parcel number. (Your Rental Property service Fee account must be current.)		010082304201	
Oakland Business License number. (You must have a current Oakland Business License to operate this property as a rental.)		28038286	

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:**

- [x] Banking (Reg. App. 10.5)
- [ ] Capital Improvements (Reg. App. 10.2)
- [ ] Debt Service Costs (Reg. App. 10.4)
- [ ] Increased Housing Service Costs (Reg. App. 10.1)
- [ ] Uninsured Repair Costs (Reg. App. 10.3)
- [ ] Constitutionally required fair return

For more information phone (510)-238-3721.

1

Rev. 4-2-07

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.** An Excel® spreadsheet for calculating entitlement to a banking increase in most cases is available online at http://www.oaklandnet.com/government/hcd/rentboard/docs/Banking.xls. You may complete and attach the printed spreadsheet or attach a page stating for each affected tenant, The date current tenant moved into the unit they currently occupy and the initial rent.

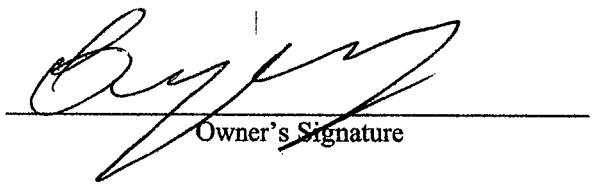
Have you given prior increases to any affected tenant justified by increased housing service costs, debt service or constitutional fair return? Yes ☐ No ☐ If yes, attach a list of the effective date of each such increase, affected unit and amount.

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 must submit organized documentation supporting your claims, including proof of expenditures and proof of payment. An Excel® spreadsheet for calculating entitlement to a cost recovery pass-through for capital improvements in most cases is available online at http://www.oaklandnet.com/government/hcd/rentboard/docs/CapImprov.xls 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.

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 calculating debt service found at: http://www.oaklandnet.com/government/hcd/rentboard/docs/DebtService.xls

Increased Housing Service Costs. You must present organized documentary proof 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://www.oaklandnet.com/government/hcd/rentboard/docs/HsgCosts.xls

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

10/27/2015
Date

Owner's Signature

Date

For more information phone (510)-238-3721.

Rev. 4-2-07

000071

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 Program

If you are interested in submitting your dispute to mediation, please read the following information carefully. To request mediation, all petitioners must sign the form that follows. 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 you and your tenant(s) agree and after both a petition and a response have 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 by a Hearing Officer other than your mediator.

IF YOU WANT TO SUBMIT YOUR CASE TO MEDIATION, PLEASE CHECK THE APPROPRIATE BOX AND SIGN.

☐ 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).

Owner's Signature (for mediation request) — Date: 10/27/2015

Owner's Signature (for mediation request) — Date

For more information phone (510)-238-3721.

Rev. 4-2-07

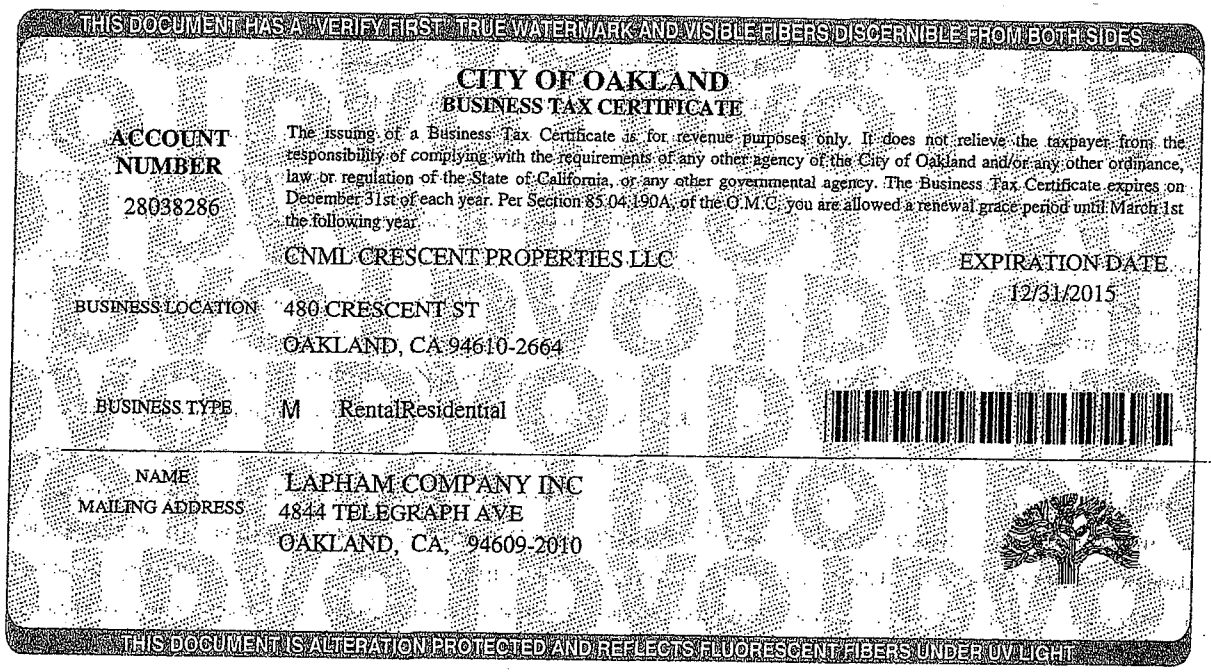
000072

480 Crescent Street Oakland CA 94610
Capital Improvements Petition

Additional evidence documenting the Owner's claims will be provided prior to the date of the hearing.

Tenant Rent Roll
480 Crescent Street, Oakland, CA 94610

UNIT #	TENANT NAME
101	Michelle Prouty
102	Ahmed Hussein
103	Terrence Pack
104	Chris Rhem
105	Gary Bill and Marla Bill
106	Darren Elston and Lisa Skinner
107	Owen Smithyman and Kerry Hampton
108	Michael Hong
109	Brian Capehart
201	Jenevieve Francisco and Avetis Chalaganyan
202	Kevin Seid
203	Samantha Forster and Enrique Cordero
204	Gary Reynolds
205	Edward Ayala
206	Eddie Washington and Doris Washington
207	Elisa Singh and Octavio Nevarez
208	Angelita Garrison
209	Cynthia Yeung
301	Travis Chrupalo and Edward Camacho
302	Elizabeth Derias
303	Matthew Winger
304	Cynthia DeCastro
305	Peter Cannady and Natalie Burke
306	Georgina Mountain
307	Jun Kim
308	Cara Cuison and Marlon Barns
401	Patrick Mitchell & Francis K. Mitchell



THIS DOCUMENT HAS A "VERIFY FIRST" TRUE WATERMARK AND VISIBLE FIBERS DISCERNIBLE FROM BOTH SIDES

CITY OF OAKLAND
BUSINESS TAX CERTIFICATE

ACCOUNT NUMBER
28038286

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. Per Section 85.04.190A, of the O.M.C. you are allowed a renewal grace period until March 1st the following year.

CNML CRESCENT PROPERTIES LLC

EXPIRATION DATE
12/31/2015

BUSINESS LOCATION: 480 CRESCENT ST
OAKLAND, CA 94610-2664

BUSINESS TYPE: M RentalResidential

NAME: LAPHAM COMPANY INC
MAILING ADDRESS: 4844 TELEGRAPH AVE
OAKLAND, CA, 94609-2010

THIS DOCUMENT IS ALTERATION PROTECTED AND REFLECTS FLUORESCENT FIBERS UNDER UV LIGHT

A BUSINESS TAX CERTIFICATE IS REQUI FOR EACH BUSINES LOCATION AND IS NC VALID FOR ANY OTHI ADDRESS.

YOU MAY BE REQUIRI TO OBTAIN A VALID ZONING CLEARANCE OPERATE YOUR BUSINI LEGALLY. RENTA REAL PROPERT EXCLUDED FROM ZO

PUBLIC INFORMATIO ABOVE THIS LINE TO B CONSPICUOUSLY POSTI

CITY OF OAKLAND 2015 BUSINESS TAX DECLARATION (green)

IP424

RECEIVED
DEC 22 2014

BUSINESS TAX RENEWAL
250 Frank H. Ogawa Plaza # 1320
Oakland, CA 94612

2015 RENEWAL TAX

2015 Tax Due: January 1, 2015
Delinquent if paid/postmarked after March 2, 2015

OFFICE USE ONLY

1. ACCOUNT NUMBER: 28038286 2. TAX RATE: $13.95 per $1,000 3. INDUSTRY CODE : M

SECTION I - BUSINESS INFORMATION:

4. Mailing Address

LAPHAM COMPANY INC
JON SHAHOIAN
4844 TELEGRAPH AVE
OAKLAND, CA 94609-2010

CK # 135771

All Businesses and Rentals are subject to the $1.00 State Mandated Fee
Check the following applicable box(es):

☐ 4a. If you are **making changes** to Lines 4-12, see enclosed instructions.

☐ 4b. Claiming a **Small Business Exemption** (total gross receipts must be $2,800 or less & you MUST submit a Form 4506T (http://irs.gov/pub/irs-pdf/f4506t.pdf)
Note: This exemption must be claimed on or before March 2, 2015 to qualify.

☐ 4c. **Discontinued or sold** your business or rental property:
- In 2014 - Complete Section III and return signed declaration, or
- In 2015 - Complete Sections II and III and return signed declaration with 2015 payment due (no proration of tax allowed)

☐ 4d. Requesting **apportionment** of your gross receipts. Complete worksheet in the enclosed instructions (only Industry Codes A, B, C, D, E, F, G, I & T may apply)

5. Business Name: CNML CRESCENT PROPERTIES LLC
6. Business Location: 480 CRESCENT ST OAKLAND, CA 94610-2664
7. Business Phone Number: (510)594-7600
8. Alternate Phone Number: (510)594-7600
9. State Contractor's License Number:
10. Ownership Type: LLC
11. 1st Owner's Name: MICHAEL BYKHOVSKY-MAN
12. 2nd Owner's Name:

SECTION II - CALCULATE THE 2015 TAX DUE. (To calculate the tax, multiply the amount you write on Line 13 by .01395 OR enter $13.95, whichever is greater):

13. 2015 TAX BASE (2014 Gross Receipts):	13. $	363,575.83
14. 2015 TAX DUE (Multiply Line 13 by .01395 OR enter $13.95, whichever is greater):	14. $	5,071.88
15. PENALTY DUE (see box at right if paying after 3/2/2015):	15. $	
16. INTEREST DUE: (see box at right if paying after 3/2/2015):	16. $	
17. PRIOR AMOUNT DUE (current license may not be issued until paid):	17. $	
18. ADD $50 FAILURE TO FILE FEE (see instructions):	18. $	
19. State Mandated Disability Access and Education Revolving Fund	19. $	1.00
20. TOTAL AMOUNT DUE (add Lines 14 - 19) - Do not mail cash.	20. $	5,072.88

PENALTY & INTEREST IS DUE IF PAID AFTER MARCH 2, 2015
Penalty *(on tax)*:
ADD 10% (if paid between 3/3/2015 and 5/1/2015 OR
ADD 25% (if paid after 5/1/2015)
Plus
Interest (on tax + penalty):
ADD 1% per month from 3/3/2015 until paid
Failure to file this declaration may subject you to a $50 Failure to File Fee

See explanation on the reverse side

Please submit 1 one check per declaration, made payable to: "Oakland Business Tax"

SECTION III - HOW TO CLOSE YOUR ACCOUNT: Was this business or rental property sold or the activity permanently discontinued?
To close your account, complete Section II and remit any applicable payment due. Check Box 4c (above) and complete Line 1 or 2 (below)

1. Rental activity was discontinued on: ___/___/___
2. Property was sold or foreclosed on: ___/___/___

To close the account, this declaration must be completed, signed and returned, with any payment that is due, on or before March 2, 2015.

I declare, under penalty of perjury, that all information contained on this declaration is true and correct.

SIGNED: _____ PHONE: _____ DATE: _____

CREDIT CARD INFORMATION: ☐Visa ☐Master Card ☐Discover Expiration Date: ☐☐Month ☐☐Year

a. Credit Card No. ☐☐☐☐ ☐☐☐☐ ☐☐☐☐ ☐☐☐☐

b. Amount Charged to Credit Card: $ _____ c. Cardholder Name: _____

IMPORTANT! Please print all credit card information clearly and completely.
Declined and invalid credit cards may result in a delay in processing your payment.
Penalties and interest will be assessed on all late payments.

d. Signature: _____

Business Tax Office Phone: 510-238-3704

000076 LG

LAPHAM COMPANY 1P
MANAGEMENT TRUST ACCOUNT
4844 Telegraph Avenue
Oakland, CA 94609
510-594-7600

First Republic Bank
Private Banking San Francisco
San Francisco, CA 94111
11-8166/3210

135771

PAY **** FIVE THOUSAND SEVENTY TWO AND 88/100 DOLLARS

DATE 02/13/2015

AMOUNT $5,072.88***

TO THE ORDER OF

Oakland Business Tax
250 Frank H. Ogawa Plaza, Suite #1320
Oakland, CA 94612

MEMO: 28038286

⑈135771⑈ ⑆321081669⑆ 995008399941⑈

(Page 2 of 2)

PAY TO THE ORDER OF
CHASE BANK
FOR DEPOSIT ONLY
ACCOUNT #563314229
City of Oakland - Business Tax

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

04/01/2015
Seq: 2790000043920

The security features listed below exceed industry standards
Security Features Details
Security Screen Absence of
Microprint on Back Signature

*FEDERAL RESERVE BOARD OF GOVERNORS REG CC

000077

CITY OF OAKLAND - 2015 Rent Adjustment Program (RAP)

1P424

RENT ADJUSTMENT RENEWAL
250 FRANK H. OGAWA PLAZA, #1320
OAKLAND, CA 94612

2015 SERVICE FEE DUE: JANUARY 1, 2015
DELINQUENT IF PAID AFTER MARCH 2, 2015

1. ACCOUNT NUMBER: 28038286 **2. PARCEL: 010 082304201**

3. Rental Location: 480 CRESCENT ST

5. Mailing Address:

LAPHAM COMPANY INC
4844 TELEGRAPH AVE
OAKLAND, CA 94609-2010

Check the following box(es):

☐ 4a. If you are making corrections on any of the pre-printed information on Lines 5-7.

☐ 4b. If your property was sold or foreclosed:
* In 2014: complete Line 17 only or,
* In 2015: complete Lines 9-17.

6. Daytime Phone: Ext. 7. Contact Phone: Ext.

8. TOTAL Number of Units per Alameda County Records *(see box at right)*: 27

9. EXEMPTIONS CLAIMED FOR 2015 *(Claim all that apply).*
See instructions on reverse side for full explanation.

	Number of Exempt Units
a. Owner-Occupied Unit:	a.
b. Off the Rental Housing Market *(attach explanation)*:	b.
c. Motel, Hotel or Rooming House:	c.
d. Hospital, Convent or Monastery:	d.
e. Newly-Constructed:	e.
f. Owner-Occupied (three or fewer units):	f.

PAID
FEB 10 2015
CK# 135404

10. TOTAL NUMBER OF EXEMPT UNITS CLAIMED *(add Lines 9a through 9f)*: 10.
You may be required to show proof of exemptions.

11. NET CHARGEABLE UNITS *(Deduct the total exempt units you write on Line 10 from the total units preprinted on Line 8)*: 11. 27

12. FEE DUE (Multiply Net Chargeable Units on Line 11 by $30.00): 12. $810-

13. PENALTY DUE (See box at right if paid after 3/2/2015): 13.

14. INTEREST DUE (See box at right if paid after 3/2/2015): 14.

15. PRIOR AMOUNT DUE: 15. $0.00

16. TOTAL DUE (Add Lines 12-15) – DO NOT mail cash: 16. $810-

Please make your check payable to "City of Oakland – RAP". Do not include this payment with your business tax payment. Thank you.

PENALTY & INTEREST IS DUE IF PAID AFTER MARCH 2, 2015
Penalty (on service fee)
ADD 10% - *if paid between 3/3/2015 and 4/1/2015 OR*
ADD 25% - *If paid between 4/2/2015 and 5/1/2015 OR*
ADD 50% - *if paid on 5/2/2015 or later*
Plus
Interest (on service fee + penalty):
ADD 1% per month
from March 2, 2015 until paid.

17. *Was this rental property sold or the activity permanently discontinued?*

To close your account, complete appropriate items and remit any applicable payment. Check Box 4b (above) and complete items a or b (below):
a. Rental activity was discontinued on: ____/____/____ *b. Property was sold or foreclosed on: ____/____/____*

I declare, under penalty of perjury, that all information contained on this declaration is true and correct.

SIGNED: K Tello **TITLE:** AP **DATE:** 2/5/15

CREDIT CARD INFORMATION: ☐ Visa ☐ MasterCard ☐ Discover Expiration Date: ☐☐ Month ☐☐ Year

a. Credit Card No: ☐☐☐☐ ☐☐☐☐ ☐☐☐☐ ☐☐☐☐

b. Amount Charged to Credit Card:$_____ c. Cardholder Name: _____

IMPORTANT! *Please print all credit card information clearly and completely.*
Declined / invalid credit cards may result in a delay in processing your payment.
Penalties and interest will be assessed on all late payments.

d. Signature: _____

Phone: (510) 238-3704
Website: http://cedaonline.oaklandnet.com/rentadjustmentsite/landlord/index.htm

000078

LAPHAM COMPANY 1P
MANAGEMENT TRUST ACCOUNT
4844 Telegraph Avenue
Oakland, CA 94609
510-594-7600

First Republic Bank
Private Banking San Francisco
San Francisco, CA 94111

11-8166/3210

135404

PAY **** EIGHT HUNDRED TEN AND 00/100 DOLLARS

DATE 02/10/2015

AMOUNT $810.00*****

TO THE ORDER OF

City of Oakland-RAP

MEMO: 28038286

⑈135404⑈ ⑆321081669⑆ 995008399941⑈

(Page 2 of 2)

04/01/2015
Seq: 2790000043930

PAY TO THE ORDER OF
CHASE BANK
FOR DEPOSIT ONLY
ACCOUNT #563341229
City of Oakland - Business Tax

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

000079

CHRONOLOGICAL CASE REPORT

Case No.:	L15-0016
Case Name:	Nand LLC v. Tenants
Property Address:	486 41st Street, Oakland, CA
Parties:	Jonathan Romano (Tenant) Nand LLC (Property Owner)

TENANT APPEAL OF REMAND DECISION:

Activity	Date
Tenant Appeal filed	September 23, 2016
Hearing Decision on Remand issued	September 7, 2016
Appeal Decision issued	August 18, 2016
Hearing Decision issued	September 7, 2015

RECEIVED

SEP 23 2016

OAKLAND RENT ADJUSTMENT

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

APPEAL

Appellant's Name
Jonathan Romano

Landlord ☐ **Tenant** ☑

Property Address (Include Unit Number)
486 - 41st #2 Oakland, Ca. 94609

Appellant's Mailing Address (For receipt of notices)
486 - 41st St #2 Oakland, Ca

Case Number
L15-0018[illegible]6

Date of Decision appealed

Name of Representative (if any)

Representative's Mailing Address (For notices)

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

1. ☐ **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** *You must identify the Ordinance section, regulation or prior Board decision(s) an specify the inconsistency.*

2. ☐ **The decision is inconsistent with decisions issued by other hearing officers.** *You must ident 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 supported by substantial evidence found in the case record. The entire case record is available to the Boa 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 clai** *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 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 h 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 9/20, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	NAND LLC
Address	1563 Solano Ave #433, Berkeley Ca 94707
City, State Zip	Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313, Oakland 94
Name	Michael Shepherd
Address	4100-10 Redwood Rd #155
City, State Zip	Oakland, Ca 94619

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE Jonathan Romano	**DATE** 9/20/16

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.

I was denied a sufficient opportunity to present my claim. I live in a 4 plex, + my apartment was not updated (like the master apt Capt 4). All that was renovated in my apt was a new water heater, new heater + new windows. The building has new windows, new heaters, new roof, new foundation, new hardwood fl new glass sliding door, new dishwasher, new washer + new dryer, new massive deck 363 square feet

I am also a part of the Americans with Disabilities act because I have been HIV poz since May, 1981. 35 yrs. Are there any articles in the Americans with Disabilities Act that will help me stay in my apt?

Jonathan Romano

The Permanente Medical Group, Inc.
280 WEST MacARTHUR BOULEVARD
OAKLAND, CALIFORNIA 94611-5693 · (415) 428-5000

FAIRFIELD
FRESNO
GILROY
HAYWARD
MARTINEZ
MILPITAS
NAPA
OAKLAND
PLEASANTON
REDWOOD CITY
RICHMOND
SACRAMENTO
SAN FRANCISCO
SAN JOSE
SAN RAFAEL
SANTA CLARA
SANTA ROSA
S. SACRAMENTO
SAN FRANCISCO
STOCKTON
SUNNYVALE
VALLEJO
WALNUT CREEK

ROBERT S. KLEIN, M.D.
Physician-in-Chief

PANSY KWONG, M.D.
Assistant Physician-in-Chief

PRESTON MARENG, M.D.
Assistant Physician-in-Chief

THOMAS DeMARTINO
Administrator

They forgot the 2 nd of the 3 most important thing

August 10, 1988

Adult Immunology Clinic
Highland Hospital
1411 East 31st Street
Oakland CA 94601

RE: R O M A N O, Jonathan
MR# 0755710
Your Number 32 223 97 6
Dates attended: 11/60 - 3/88 (Vol. II)

10/30/57 - Born at Kaiser

Dear Sir/Madam:

6/58 - 1966 - Esophageal Dilitation - Akin to rape - 25 times

Significant problems prior to 1985: Hospitalized 9/62 for adenotonsillectomy; secondary diagnosis was congenital esophageal web. He underwent dilatation of the esophagus also. Subsequent upper GI was within normal limits. He was otherwise seen for routine examiantions and minor childhood illness and trauma.

March 1980 treated with several episodes of gonococcal urethritis.

9/80 - Episode of Hepatitis A.

9/80 - Recorded that he led a homosexual life style.

5/81 - Seen with infectious illness, specific type unknown, at which time he was noted to have occipital lymphadenopath, also a few bilateral axillary left inguinal, ? femoral nodes. Impression was Lymphadenopathy, ?etiology. A standard smear revealed 18% atypical lymphs but normal count. Otherwise CBC, urinalysis, chest film, liver function studies and RPR were negative. Heterophile titre, toxoplasm titre -- negative. Also in 1981 it was noted that he was sexually promiscuous. His lymphadenopathy persisted; CMV antibodies outside of reference range. Normal LP 1/2; patient 1/16. Lymphogranulovenereal titre was within the reference range of 1/8.

HIV POZ

2/83 - Episode of possible mycoplasma pneumonia; chest film, however, was negative at that time.

Since 1985 he was primarily seen for mild URI.

5/85 - Again noted that he had lymphadenopathy. 5-7mm posterior cervical nodes, 5mm left axillary nodes, 1mm inguinal nodes. He was clinically without other symptoms. He did not meet criteria for lymphadenopathy syndrome.

He was seen subsequently with several months of low fever, sore throat, "mono-like" illness.

7/85-His white count was somewhat decreased at 3700; sed rate was normal. Some increase in his nodes. Posterior cervical nodes 1cm, axillary 1cm, inguinal 5-10mm. He was seen several times with nonspecific minor symptoms. A repeat RPR was nonreactive in April 1986. He was treated for NSU. 9/86 ER visit with psychiatry consult. Impression: Borderline personality disorder with some depressive symptoms. He had been on Xanax and apparently had minor withdrawal symptoms from stopping that medication. He was referred to our Psychiatry Department.

12/86 - Seen with hemorrhoids.

..... /2

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 ON REMAND

CASE NUMBER: **L15-0016, Nand LLC v. Tenants**

PROPERTY ADDRESS: **486 41st St., Oakland, CA**

BACKGROUND AND SUMMARY OF APPEAL DECISION

A Hearing Decision in this case was issued on September 10, 2015, which granted the owner's petition for exemption based on substantial rehabilitation. The tenant, Jonathan Romano, appealed. An appeal hearing was held on June 9, 2016. The Board remanded the Hearing Decision to the Hearing Officer to determine the following: (1) to determine if the building's total square footage includes the deck, and if so, the decision is affirmed; and (2) if the deck was not included in the building's square footage, the hearing officer is directed to re-calculate the square footage to include the deck based on information in the existing record.

The scope of this Remand Hearing Decision is limited to these two issues.

SUMMARY OF DECISION

The Hearing Decision which granted the owner's petition for exemption based on substantial rehabilitation is affirmed, with the deck included in the square footage.

EVIDENCE AND FINDINGS OF FACT

1. Deck Not Included in the Square Footage

The Alameda County Assessor's Office shows the parcel number and the square footage of 3,582. The square footage of 3,582 was used in the calculation and did not include the new deck.

2. Re-calculation to Include the New Deck

The attached Table "A" states that as of May 1, 2015, the average cost of new construction of apartment buildings of more than 2 units, type V – wood frame

construction, is $145.07 per square foot. The Table "A" also states that as of May 1, 2015, the average cost of newly constructed elevated decks and balconies is $44.14 per square foot. The City of Oakland plans shows the new deck is 161 square feet.

To determine if the owner is entitled to the exemption the following calculation is necessary: multiply the square footage (3,582) by $145.07 plus the square footage of the new deck (161) by $44.14 and divide that by 2.

3,582 x $145.07 = $519,640.74
161 x $ 44.14 = $ 7,106.54
Total: $526,747.28 : 2 = $263,373.64

If the owner spent at least $263,373.64 on the construction project, the building is exempt from the Rent Ordinance.

The owner provided proof of payments that she spent at least $319,948.14. Therefore, the building has been "substantially rehabilitated." The rental units in the building are exempt from the Rent Ordinance.

ORDER

1. The Hearing Decision regarding owner's petition L15-0016 is affirmed.

2. The subject property is exempt from the Rent Adjustment Program as a "substantially rehabilitated" building. The subject property is not exempt from Rent Adjustment Service Fee.

3. The Certification of Exemption for the subject building will be issued when this decision becomes final.

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: September 2, 2016

Linda M. Moroz
Hearing Officer
Rent Adjustment Program

City of Oakland
Bureau of Building
Construction Valuation[1]
For Building Permits[4]
Effective May 1, 2015

Planning and Building Department
Dalziel Administration Building
250 Frank Ogawa Plaza - 2nd Floor
Oakland, CA 94612
510-238-3891

		Construction	Level Ground		Hillside Construction[2]		Marshall & Swift April 2015
Occ.	Description[3]	Type	New	Remodel	New	Remodel	Section pg (Class/type)
R3	Single Family Residence	V	$234.17	$121.77	$304.42	$158.30	Section 12 pg 25 (C/e)
	Duplex/Townhouse	V	$193.69	$100.72	$251.79	$130.93	Section 12 pg 25 (C/g)
	Factory/Manufactured home	V	$73.06	$37.99	$94.98	$49.39	Section 63 pg 9 (Exc)
	Finished Habitable Basement Conversion	V	$124.09	$64.52	$161.31	$83.88	Section 12 pg 26 (CDS/g)
	Convert non-habitable to habitable	V	N/A	$48.57	N/A	$63.14	Section 12 pg 26 (CDS/g)
	Partition Walls	V	N/A	$17.23	N/A	$22.39	Section 52 pg 2 (6"wall)
	Foundation Upgrade (l.f.)	V	$107.90	NA	$140.27	NA	Section 51 pg 2 (R/24x72.)
	Patio/Porch Roof	V	$27.76	$14.43	$36.08	$18.76	Section 66 pg 2 (Wood)
	Ground Level Decks	V	$33.80	$17.58	$43.94	$22.85	Section 66 pg 2 (100sf/avg)
	Elevated Decks & Balconies	V	$44.14	$22.95	$57.38	$29.84	Section 66 pg 2 (100sf/+1 story)
U1	Garage	V	$43.30	$22.52	$56.29	$29.27	Section 12 pg 35 (C/a600)
	Carport	V	$28.74	$14.95	$37.37	$19.43	Section 12 pg 35 (D/a4car)
	Retaining wall (s.f.)	III	$35.75	NA	$46.48	NA	Section 55 pg 3 (12"reinf./h)
R2	Apartment (>2 units)	I & II	$191.10	$99.37	$248.43	$129.18	Section 11 pg 18 (B/g)
		III	$149.01	$77.48	$193.71	$100.73	Section 11 pg 18 (Dmill/g)
		V	$145.07	$75.43	$188.59	$98.07	Section 11 pg 18 (D/g)
	Non-Residential Occupancy						
A	Church/Auditorium	I & II	$301.54	$156.80	$392.00	$203.84	Section 16 pg 9 (B/g)
		III	$220.22	$114.51	$286.29	$148.87	Section 16 pg 9 (B/a)
		V	$203.15	$105.64	$264.10	$137.33	Section 16 pg 9 (S/g)
A	Restaurant	I & II	$260.56	$135.49	$338.73	$176.14	Section 13 pg 14 (A-B/g)
		III	$200.51	$104.27	$260.67	$135.55	Section 13 pg 14 (C/g)
		V	$188.49	$98.01	$245.03	$127.42	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	$144.99	$75.39	$188.49	$98.01	Section 13 pg 17 (C/a)
B	Bank	I & II	$258.31	$134.32	$335.80	$174.62	Section 15 pg 21 (B/a)
		III	$206.61	$107.44	$268.59	$139.67	Section 15 pg 21 (C/a)
		V	$194.87	$101.33	$253.33	$131.73	Section 15 pg 21 (D/a)
B	Medical Office	I & II	$289.61	$150.60	$376.50	$195.78	Section 15 pg 22 (A/g)
		III	$281.19	$146.22	$365.55	$190.08	Section 15 pg 22 (B/g)
		V	$227.88	$118.50	$296.24	$154.04	Section 15 pg 22 (C/g)
B	Office	I & II	$191.17	$99.41	$248.51	$129.23	Section 15 pg 17 (B/a)
		III	$137.10	$71.29	$178.23	$92.68	Section 15 pg 17 (C/a)
		V	$130.01	$67.61	$169.02	$87.89	Section 15 pg 17 (D/a)
E	School	I & II	$244.37	$127.07	$317.69	$165.20	Section 18 pg 14 (A-B/g)
		III	$188.85	$98.20	$245.51	$127.66	Section 18 pg 14 (C/g)
		V	$181.97	$94.63	$236.57	$123.01	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	$212.03	$110.26	$275.64	$143.33	Section 14 pg 33 (MSG 527C/e)
		III	$205.70	$106.96	$267.41	$139.05	Section 14 pg 33 (MLG 423C/e)
		V	$197.94	$102.93	$257.32	$133.81	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	$215.02	$111.81	$279.53	$145.35	Section 15 pg 22 (B/a)
		III	$172.71	$89.81	$224.52	$116.75	Section 15 pg 22 (C/a)
		V	$165.20	$85.91	$214.77	$111.68	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	$168.68	$87.71	$219.28	$114.02	Section 13 pg 26 (A/g)
		III	$134.90	$70.15	$175.37	$91.19	Section 13 pg 26 (C/g)
		V	$127.88	$66.50	$166.25	$86.45	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	$180.88	$94.06	$235.15	$122.28	Section 14 pg 15 (B/a)
		III	$141.69	$73.68	$184.19	$95.78	Section 14 pg 15 (C/a)
		V	$126.46	$65.76	$164.40	$85.49	Section 14 pg 15 (D/a)
S	Warehouse	I & II	$112.65	$58.58	$146.44	$76.15	Section 14 pg 26 (A/g)
		III	$105.50	$54.86	$137.14	$71.31	Section 14 pg 26 (B/g)
		V	$103.45	$53.80	$134.49	$69.93	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	$89.44	$46.51	$116.27	$60.46	Section 14 pg 34 (A/g)

[1] Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); includes 1.3 regional multiplier (see Sec. 99 pg 6 April 2015 Marshall & Swift)

[2] Hillside construction = slope >20%; multiply by additional 1.3 multiplier

[3] Remodel Function of New Construction is a 0.52 multiplier.

[4] Separate structures or occupancies valued separately.

[5] Separate fees assessed for E/P/M permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

PROOF OF SERVICE

Case Number L15-0016

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 on Remand 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:

Tenants
Jonathan Romano
486 41st St #2
Oakand, CA 94609

Ryan O. John
486 41st St #3
Oakland, CA 94609

Sam Prestianni
486 41st St #1
Oakland, CA 94609

Tenant
486 41st St #4
Oakland, CA 94609

Owner
NAND, LLC
1563 Solano Ave #433
Berkeley, CA 94707

Tenant Representative
Martina Cucullu Lim
3400 East 12th St
Oakland, CA 94601

Owner Representative
Michael Shepherd
4100-10 Redwood Rd #155
Oakland, CA 94619

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 07, 2016 in Oakland, CA.

Deborah Griffin

CITY OF OAKLAND

P.O. BOX 70243, OAKLAND, CA 94612-2043 TEL(510)238-3721
Housing and Community Development Department FAX (510) 238-6181
Rent Adjustment Program TDD(510)238-3254

Housing, Residential Rent and Relocation Board

APPEAL DECISION

CASE NUMBER: **L15-0016, Nand, LLC v. Tenants**

APPEAL HEARING: **June 9, 2016**

PROPERTY ADDRESS: **486 41st Street, Oakland**

APPEARANCES:	**Martina Cucullu Lim**	**Tenant Appellant Representative**
	Cesely Smith	**Owner Appellee**
	Michael Sheppard	**Owner Appellee Representative**

Procedural Background

A Hearing Decision was issued which granted an owner's petition for exemption from the Rent Ordinance on the basis of substantial rehabilitation.

Grounds for Appeal-Appeal by Tenant

The tenant filed an appeal on October 6, 2015, on the grounds that the Decision is inconsistent with decisions issued by other hearing officers and that the Decision raises a new policy issue that has not been decided by the Board.

Appeal Decision

After the parties' presentations, rebuttal and questions to the parties K.

Friedman moved to affirm the hearing decision based on the Hearing Officer's rationale. R. Chang seconded. The Board voted as follows:

The Board voted as follows:

Aye: K. Friedman, R. Chang
Nay: U. Fernandez, J. Warner, B. Williams, E. Lai
Abstain: 0

The motion failed.

U. Fernandez moved to remand the hearing decision to the Hearing Officer to determine if the building's total square footage includes the deck, and if so, the decision is affirmed. If the deck was not included in the building's square footage, the Hearing Officer is directed to re-calculate the square footage to include the deck based on information in the existing record. If additional information is needed, the Hearing Officer may decide to hold further proceedings to augment the record. E. Lai seconded. The Board voted as follows:

Aye: U. Fernandez, E. Lai, R. Chang, J. Warner, B. Williams
Nay: K. Friedman
Abstained: 0

NOTICE TO PARTIES

Pursuant to Ordinance No(s). 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Code of Civil Procedure, Section 1094.6.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.

_____ _____

CONNIE TAYLOR
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD

DATE

PROOF OF SERVICE

Case Number L15-0016

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.

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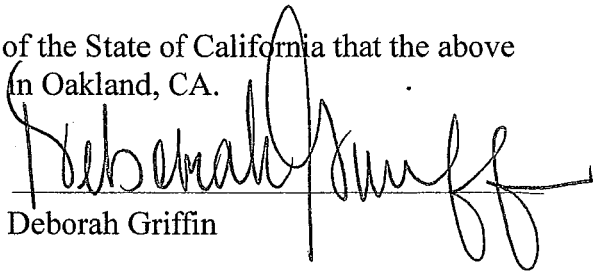
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 18, 2016 in Oakland, CA.



Deborah Griffin

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: **L15-0016, Nand LLC v. Tenants**

PROPERTY ADDRESS: **486 41st St., Oakland, CA**

DATE OF HEARING: **August 24, 2015**

DATE OF DECISION: **September 10, 2015**

APPEARANCES: **Cesely Smith, Owner**
Michael Shepherd, Owner's Attorney
Jonathan Romano, Tenant (Unit #2)
Ana Baires Mira, Attorney for Tenant Mr. Romano
Salvatore Prestianni, Tenant (Unit #1)

SUMMARY OF DECISION

The owner's petition is granted. The subject property is exempt from the Rent Adjustment Program.

CONTENTIONS OF THE PARTIES

The owner filed a petition for Certificate of Exemption on the ground of substantial rehabilitation.

The tenants from units 1 and 2 filed timely responses alleging that the remodeling project did not constitute rehabilitation under the ordinance but was deferred maintenance and cosmetic upgrades that should not qualify as substantial rehabilitation.

ISSUE(S)

1. Has the subject property been substantially rehabilitated to be exempt from the Rent Adjustment Program?

EVIDENCE

Notice to all units

The subject property is a residential building consisting of four (4) units. All four units were notified. Only the tenants in the units 1 and 2 filed written responses and appeared at the hearing.

Square Footage of the Building

The Alameda County Assessor's Office shows the parcel number and the square footage of 3,582. The owner submitted Grant Deed recorded on 2/28/2014 showing Nand, LLC and Cesely Smith as the grantees of the subject property. (These documents were submitted by the owner on 6/23/15; the entire package consisted of 73 pages and admitted in evidence.)

Construction Expenses

After the current owner purchased the subject property, she began construction and remodeling project. The work included foundation, plumbing, heating, re-roofing, painting, replacement of windows, replacement of the back staircase and a new deck. All four units have new kitchen cabinets, countertops, and sinks. Two units have remodeled bathrooms.

The owner submitted payments made to various contractors for the construction costs broken down as follows:

Foundation. The work included demolition of the old foundation, framing and pouring of the new foundation, support of the building and seismic retrofitting; the payments included labor, material, engineering plans fee and building permit fees. The owner submitted a copy of the Agreement between Owner and Contractor Armando Sanchez Construction Inc., and copies of the checks, payable to Sanchez Construction as follows:

- Check #108 for $1,000.00
- Check #109 for $4,300.00
- Check #761701724 for $10,000.00
- Check #3859786 for $10,000.00
- Check #746500079 for $22,000.00
- Check#746500110 for $11,350.00
- Check #761702521 for $8,000.00

The payments made to Armando Sanchez total $66,650.

Heating. The work, done by Lacayo Plumbing and Heating, included new heating system, removing existing heaters and installation of efficient furnaces in the crawl space.

- Check #76702522 for $1,960.00

- Check #761702566 for $6,000.00
- Check #921500844 for $5,000.00
- Check #112 for $8,200.00

The payments made to Lacayo totaled $21,160.00.

Re-roofing. The work included tearing off and installing a new plywood decking and new roofing system. The owner submitted a copy of the invoice stamped as Paid showing zero balance and payment made in the amount of $26,250.00 to Lovett & Lovett Roofing Co. Inc. Copies of three on-line banking receipts of payments were submitted in the amounts of $15,950.00, $8,000.00, and $2,300.00.

General remodeling. The work included interior remodeling of kitchens, including cabinets, sinks, appliances, counters, plumbing, replacement of windows and back staircase, building a deck, new electrical to allow installation of additional fixtures for common areas and outside lighting. The project description, the contractor Yazolino Brothers Construction, scope of work and project estimate and schedule of payments were submitted together with copies of progress payments made as follows:

-Check #850600108 for $1,000.00
- Check #111 for $30,000.00
- Check #113 for $30,000.00
- Check #115 for $30,000.00
- Check #116 for $20,000.00
- Check #118 for $40,000.00
- Check #122 for $14,000.00
- Check #120 for $4,763.00
- Check #123 for $12,500.00
- Check #129 for $10,000.00

The payments made to Yazolino Brothers totaled $192,273.00.

Sewer lateral: The owner submitted copies of two payments payable to Armando Sanchez for the replacement of sewer lateral (check #921500843 for $10,365.14) and a sidewalk repair connected to the sewer lateral replacement (check #110 for $3,250.00). The payments total $13,615.14.

The total amount paid for the entire rehabilitation project is $319,948.14. There was no evidence presented that the work was not done, the owner did not pay for the construction project or received any type of reimbursement. There was no evidence presented that any of the work was deferred maintenance or cosmetic upgrade.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Substantial Rehabilitation

O.M.C. 8.22.030(A)(6) states that dwelling units located in "substantially rehabilitated buildings" are not "covered units" under the Rent Adjustment Ordinance.

a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.

b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.[1]

The most recent table issued on May 1, 2015, by the Building Services agency, attached as Table "A," refers to a dollar amount per square foot. Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project. While the construction occurred prior to May 1, 2015 (in 2014 and completed in early 2015), this Table will be used for calculation because it is closer to time of construction than the former Table that was used, which was dated August 1, 2009, and assessed $127.00 per square foot.

Calculation

The attached Table "A" states that as of May 1, 2015, the average cost of new construction of apartment buildings of more than 2 units, type V – wood frame construction, is $145.07 per square foot.

To determine if the owner is entitled to the exemption the following calculation is necessary: multiply the square footage (3,582) by $145.07 and divide that by 2. Therefore, if the owner spent at least $259,829.37 on the construction project, the building is exempt from the Rent Ordinance.

The owner provided proof of payments that she spent at least $319,948.14. Therefore, the building has been "substantially rehabilitated." The rental units in the building are exempt from the Rent Ordinance.

ORDER

1. The petition L15-0016 is granted.

2. The subject property is a "substantially rehabilitated" building.

3. A certificate of exemption for the subject building will be issued when this Decision becomes final.

[1] O.M.C. Section 8.22.030(B)(2)

4. The owner must continue to pay the Rent Adjustment Service Fee as the units are not exempt from Oakland's Just Cause for Eviction Ordinance (See O.M.C. §8.22.500).

5. 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: September 10, 2015

Linda M. Moroz
Hearing Officer
Rent Adjustment Program

ITEM 11

City of Oakland
Bureau of Building
Construction Valuation[1]
For Building Permits[4]
Effective May 1, 2015

Planning and Building Department
Dalziel Administration Building
250 Frank Ogawa Plaza - 2nd Floor
Oakland, CA 94612
510-238-3891

		Construction	Level Ground		Hillside Construction[2]		Marshall & Swift April 2015
Occ.	Description[3]	Type	New	Remodel	New	Remodel	Section pg (Class/type)
R3	Single Family Residence	V	$234.17	$121.77	$304.42	$158.30	Section 12 pg 25 (C/e)
	Duplex/Townhouse	V	$193.69	$100.72	$251.79	$130.93	Section 12 pg 25 (C/g)
	Factory/Manufactured home	V	$73.06	$37.99	$94.98	$49.39	Section 63 pg 9 (Exc)
	Finished Habitable Basement Conversion	V	$124.09	$64.52	$161.31	$83.88	Section 12 pg 26 (CDS/g)
	Convert non-habitable to habitable	V	N/A	$48.57	N/A	$63.14	Section 12 pg 26 (CDS/g)
	Partition Walls	V	N/A	$17.23	N/A	$22.39	Section 52 pg 2 (6"wall)
	Foundation Upgrade (l.f.)	V	$107.90	NA	$140.27	NA	Section 51 pg 2 (R/24x72.)
	Patio/Porch Roof	V	$27.76	$14.43	$36.08	$18.76	Section 66 pg 2 (Wood)
	Ground Level Decks	V	$33.80	$17.58	$43.94	$22.85	Section 66 pg 2 (100sf/avg)
	Elevated Decks & Balconies	V	$44.14	$22.95	$57.38	$29.84	Section 66 pg 2 (100sf/+1 story)
U1	Garage	V	$43.30	$22.52	$56.29	$29.27	Section 12 pg 35 (C/a600)
	Carport	V	$28.74	$14.95	$37.37	$19.43	Section 12 pg 35 (D/a4car)
	Retaining wall (s.f.)	III	$35.75	NA	$46.48	NA	Section 55 pg 3 (12"reinf./h)
R2	Apartment (>2 units)	I & II	$191.10	$99.37	$248.43	$129.18	Section 11 pg 18 (B/g)
		III	$149.01	$77.48	$193.71	$100.73	Section 11 pg 18 (Dmill/g)
		V	$145.07	$75.43	$188.59	$98.07	Section 11 pg 18 (D/g)
	Non-Residential Occupancy						
A	Church/Auditorium	I & II	$301.54	$156.80	$392.00	$203.84	Section 16 pg 9 (B/g)
		III	$220.22	$114.51	$286.29	$148.87	Section 16 pg 9 (B/a)
		V	$203.15	$105.64	$264.10	$137.33	Section 16 pg 9 (S/g)
A	Restaurant	I & II	$260.56	$135.49	$338.73	$176.14	Section 13 pg 14 (A-B/g)
		III	$200.51	$104.27	$260.67	$135.55	Section 13 pg 14 (C/g)
		V	$188.49	$98.01	$245.03	$127.42	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	$144.99	$75.39	$188.49	$98.01	Section 13 pg 17 (C/a)
B	Bank	I & II	$258.31	$134.32	$335.80	$174.62	Section 15 pg 21 (B/a)
		III	$206.61	$107.44	$268.59	$139.67	Section 15 pg 21 (C/a)
		V	$194.87	$101.33	$253.33	$131.73	Section 15 pg 21 (D/a)
B	Medical Office	I & II	$289.61	$150.60	$376.50	$195.78	Section 15 pg 22 (A/g)
		III	$281.19	$146.22	$365.55	$190.08	Section 15 pg 22 (B/g)
		V	$227.88	$118.50	$296.24	$154.04	Section 15 pg 22 (C/g)
B	Office	I & II	$191.17	$99.41	$248.51	$129.23	Section 15 pg 17 (B/a)
		III	$137.10	$71.29	$178.23	$92.68	Section 15 pg 17 (C/a)
		V	$130.01	$67.61	$169.02	$87.89	Section 15 pg 17 (D/a)
E	School	I & II	$244.37	$127.07	$317.69	$165.20	Section 18 pg 14 (A-B/g)
		III	$188.85	$98.20	$245.51	$127.66	Section 18 pg 14 (C/g)
		V	$181.97	$94.63	$236.57	$123.01	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	$212.03	$110.26	$275.64	$143.33	Section 14 pg 33 (MSG 527C/e)
		III	$205.70	$106.96	$267.41	$139.05	Section 14 pg 33 (MLG 423C/e)
		V	$197.94	$102.93	$257.32	$133.81	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	$215.02	$111.81	$279.53	$145.35	Section 15 pg 22 (B/a)
		III	$172.71	$89.81	$224.52	$116.75	Section 15 pg 22 (C/a)
		V	$165.20	$85.91	$214.77	$111.68	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	$168.68	$87.71	$219.28	$114.02	Section 13 pg 26 (A/g)
		III	$134.90	$70.15	$175.37	$91.19	Section 13 pg 26 (C/g)
		V	$127.88	$66.50	$166.25	$86.45	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	$180.88	$94.06	$235.15	$122.28	Section 14 pg 15 (B/a)
		III	$141.69	$73.68	$184.19	$95.78	Section 14 pg 15 (C/a)
		V	$126.46	$65.76	$164.40	$85.49	Section 14 pg 15 (D/a)
S	Warehouse	I & II	$112.65	$58.58	$146.44	$76.15	Section 14 pg 26 (A/g)
		III	$105.50	$54.86	$137.14	$71.31	Section 14 pg 26 (B/g)
		V	$103.45	$53.80	$134.49	$69.93	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	$89.44	$46.51	$116.27	$60.46	Section 14 pg 34 (A/g)

[1] Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); includes 1.3 regional multiplier (see Sec. 99 pg 6 April 2015 Marshall & Swift)

[2] Hillside construction = slope >20%; multiply by additional 1.3 multiplier

[3] Remodel Function of New Construction is a 0.52 multiplier.

[4] Separate structures or occupancies valued separately.

[5] Separate fees assessed for E/P/M permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

PROOF OF SERVICE

Case Number L15-0016

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:

Tenants

Jonathan Romano
486 41st St #2
Oakland, CA 94609

Ryan O. John /Tenant
486 41st St #3
Oakland, CA 94609

Sam Prestianni
486 41st St #1
Oakland, CA 94609

Tenant
486 41st St #4
Oakland, CA 94609

Tenant Representative

Ana Baires Mira
3022 International Blvd #410
Oakland, CA 94601

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 September 16, 2015 in Oakland, CA.

L. Moroz

Linda M. Moroz
Oakland Rent Adjustment Program

PROOF OF SERVICE

Case Number L15-0016

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
NAND, LLC
1563 Solano Ave #433
Berkeley, CA 94707

Owner Representative
Michael Shepherd
4100-10 Redwood Rd #155
Oakland, CA 94619

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 16, 2015 in Oakland, CA.

Linda M. Moroz
Oakland Rent Adjustment Program

for Date Stamp Only

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2015 MAR 16 PM 1:10

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

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

CASE NUMBER L15-0016

TENANT RESPONSE TO CLAIM OF PERMANENT EXEMPTION

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

Your Name	Complete Address (with Zip Code)	Telephone
Jonathan Ramano	486-41st St #2 Oakland Ca. 94609	(510) 658-2437
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: 4

The unit I rent is: a house ☐ an apartment ☑ a condo ☐

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit: Jan - 1981

Are you current on your rent? Yes ☑ No ☐ Lawfully Withholding Rent ☐

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, 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 right to exemption for the unit. Explain below why your landlord's claim that your unit is exempt is incorrect.

Please list the date you first received the Notice to Tenants March 9th 2015

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.

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[1] **http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html**
[1] **http://www.oaklandnet.com/government/hcd/rentboard/rules.html**

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.

Jonathan Romano — 3/16/15

Tenant's Signature **Date**

Tenant's Signature **Date**

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

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.

Upon information and belief, I understand that the owner has not made sufficient renovations, nor incurred sufficient expenses related to work on those renovations. Moreover, upon information and belief, the nature of the renovations conducted cannot constitute rehabilitation under the Ordinance.

Jonathan Romano

DIS-00116 RCIT BWV1

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

For date stamp.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2015 FEB 23 PM 2:48

LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION
(OMC §8.22.030.B)

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 claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name	Complete Address (with zip code)	Telephone
NAND, LLC / CESELY SMITH	1563 Solano Ave #433 BERKELEY, CA 94707	Day: 510.882.3041
Your Representative's Name	Complete Address (with zip code)	Telephone Day:
Property Address: 486 41st Street, 94609		Total number of units in bldg or parcel: 1

Type of units (circle one)	Single Family Residence (SFR)	Condominium	Apartment or Room
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No
Assessor's Parcel No. 012-1010-048-00			

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt.

Section 3. Claim(s) of Exemption: A Certificate of Exemption may be granted **only** for dwelling units that are **permanently** exempt from the Rent Adjustment Ordinance.

New Construction: This may apply to individual units. The unit was newly constructed and a certification of occupancy was issued for it on or after January 1, 1983.

Substantial Rehabilitation: This applies only to entire buildings. An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), 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 a notice of rent increase under 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 current 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?
8. When did the tenant move into the unit?

I (We) petition for exemption on the following grounds (Check all that apply):

Section 4. Verification Each petitioner must sign this section.

- ☐ New Construction
- ☒ Substantial Rehabilitation
- ☐ Single Family Residence or Condominium (Costa-Hawkins)

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

Owner's Signature — Date: 2/23/15

Owner's Signature — Date

Important Information

Burden of Proof The burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

File Review Your tenant(s) will be given the opportunity 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 tenant's response time before scheduling a file review.

Landlord Petition For Certificate of Exemption for
NAND, LLC / Cesely Smith

Section 2. Tenants

486 41st Street
Oakland, CA 94609

Unit 1 - Sam Prestianni
Unit 2 - Jonathan Romano
Unit 3 - Ryan O. John

CITY OF OAKLAND

OFFICE OF THE CITY ATTORNEY

SUPPLEMENTAL REPORT

To: Chairperson Jessie Warner and Members of the Housing Residential Rent and Relocation Board

FROM: Barbara J. Parker
City Attorney

DATE: September 6, 2017

SUBJECT: Revisions to Proposed Tenant Protection Ordinance Regulations

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At the July 13 meeting, the Board considered Tenant Protection Ordinance Regulations ("Regulations") brought forward by staff. During the Board's discussion of the proposed amendments to the Regulations, the Board advised that it would like to clarify the definitions in the Regulations. We also have received comments from the East Bay Rental Housing Association (EBRHA) and the Jobs and Housing Coalition (JHC).

This supplemental report identifies the revisions to the definition of "bad faith" in the Regulations that we made in response to the Board's discussion and comments from stakeholders.[1] Specifically, we revised the definition of "bad faith" to more closely align with a

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[1] Stakeholders and the Board also raised questions about notice to the landlord of issues in tenants' units. Oakland Municipal Code § 8.22.650(B) requires notice as a prerequisite to a private lawsuit:

> Before a Tenant may file a civil suit alleging a violation of 8.22.640.A.1., 2., 3., 10., 11., 12, or 13., the affected Tenant must first notify the Owner or his or her designated agent regarding the problem. If the allegation is a violation of 8.22.640.A.1., 2., 3.,11., or 12, the Tenant must allow 15 days for the Owner to correct the problem, unless the Owner notifies the Tenant that the repairs will take more than 15 days and provides for a reasonable time period for completion. If the repair takes more than 15 days, the Tenant may file the civil suit if the Owner does not take reasonable steps to commence addressing the problem or the Owner does not follow through to complete the repairs with reasonable diligence.

"gross negligence" standard[2] to read as follows:

> Bad Faith for purposes of the TPO refers to willful, reckless, or grossly negligent conduct in disregard for legal requirements or in a manner indifferent to the rights of or impact on Tenants. The scope and effect of the conduct will be taken into account in determining whether it is in Bad Faith.

Under Oakland Municipal Code Section 8.22.670, enhanced penalties in the form of treble damages[3] are available for mental or emotional distress inflicted in "knowing violation or in reckless disregard of the TPO." This heightened standard means that regulations enacting a baseline standard of care at or above the level of recklessness would be inconsistent with the statutory scheme of the TPO. Accordingly, staff has provided a more inclusive definition.

We ask that the Rent Board consider and adopt these proposed regulations as revised in Exhibit A.

Very truly yours,

BARBARA J. PARKER
City Attorney

Assigned Attorneys
Richard Illgen
Kent Qian

---

[2] The second clause, "conduct in a manner indifferent to the rights of or impact on tenants", is also a gross negligence standard. *See* Cal. Code Regs., tit. 22, § 71811 ("Gross negligence means the failure of a person to exercise any care, or the exercise of so little care that it is apparent that the person is indifferent to the consequences of his or her conduct and to the welfare of others.").

[3] In adjudicating TPO actions, a court "may not award both punitive damages and treble damages." (O.M.C. § 8.22.670(B)(2).) Given the City's limited capacity to bring TPO cases, effective enforcement of the Ordinance largely depends on tenant initiative. However, in landlord-tenant actions, violations "are likely to involve small amounts of money that may not justify the costs of litigation—especially in the case of suits brought by the very type of tenant this ordinance is especially intended to protect ... If civil remedies are to be meaningful, they must provide sufficient financial incentive to justify bringing the suit. The award of treble damages very clearly serves such a purpose." (*Kelly v. Yee* (1989) 213 Cal.App.3d 336, 341 (recognizing the necessity of treble damages to enforcement of San Francisco's Rent Stabilization Ordinance).)

Exhibit A

REGULATIONS FOR THE TENANT PROTECTION ORDINANCE (CODIFIED IN THE OAKLAND MUNICIPAL CODE at 8.22.600, *et seq.*)

Introduction.

The following regulations address portions of the Tenant Protection Ordinance ("TPO"). The following regulations comprise the entire set of regulations the Housing, Residential Rent and Relocation Board ("Rent Board") adopted for the TPO. The numbering system follows the codified version of the Tenant Protection Ordinance.

8.22.640 – Tenant Harassment

8.22.640A.

Bad Faith for purposes of the TPO refers to willful, reckless, or grossly negligent conduct in disregard for legal requirements or in a manner indifferent to the rights of or impact on Tenants. The scope and effect of the conduct will be taken into account in determining whether it is in Bad Faith.

8.22.670 – Civil Remedies

8.22.670A.2.

A pattern and practice for purposes of this Section refers to more than one violation of O.M.C. 8.22.640 against the same Tenant or one violation of O.M.C. 8.22.640 against more than one Tenant.

CITY OF OAKLAND

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

RESOLUTION

RESOLUTION NO. R17-002

RESOLUTION ADOPTING REGULATIONS FOR THE TENANT PROTECTION ORDINANCE (O.M.C. 8.22.600, et seq.) TO CLARIFY THE TERMS "BAD FAITH" AND "PATTERN AND PRACTICE" AS USED IN THAT ORDINANCE

WHEREAS, in November 2015, the Oakland City Council enacted the Tenant Protection Ordinance ("TPO") (O.M.C. 8.22.600, et seq.);

WHEREAS, the purpose of the TPO is to deter property owners from engaging in certain, enumerated behaviors that the Ordinance characterizes as harassment and to provide penalties for violations;

WHEREAS, the TPO authorizes the City Attorney to bring civil actions against property owners the City Attorney believes are violating the ordinance; and

WHEREAS, the City Attorney brought litigation against property owners for TPO violations; and

WHEREAS, in TPO litigation, some property owners defended using definitions of the "bad faith" requirement for determining a TPO violation that differed from the City's concept of bad faith; and

WHEREAS, in TPO litigation, some property owners contested the City's definition of the "pattern and practice" threshold for the City Attorney to bring a TPO action against a property owner; and

WHEREAS, clarifying the concepts of bad faith and pattern and practice through TPO regulations would benefit property owners in complying with the TPO, tenants in recognizing violations, and the City Attorney to clarify when that office can bring TPO litigation; now, therefore, be it

RESOLVED: That the Housing, Residential Rent and Relocation Board enacts the regulations to clarify the terms "bad faith" and "pattern and practice" in the TPO as set out in Exhibit A; and be it

FURTHER RESOLVED: That the TPO regulations herein enacted shall take effect immediately upon passage of the resolution.

APPROVED BY THE FOLLOWING VOTE

AYES: CHANG, COOK, FRIEDMAN, MESAROS, SANDOVAL, STONE, AND CHAIRPERSON WARNER

NOES:

ABSENT:

ABSTENTION:

_____
Date:

ATTEST_____
JESSIE WARNER
Chairperson of the Housing, Residential
Rent and Relocation Board

#2183621v2

Attachment A – Tenant Protection Ordinance

Article V. - Tenant Protection Ordinance

8.22.600 - Tenant protection ordinance.

This ordinance shall be known as the "Tenant Protection Ordinance" ("TPO").

(Ord. No. 13265, § 1, 11-5-2014)

8.22.610 - Findings and purpose.

A. There is a very significant demand for rental housing in Oakland leading to rising rents, caused in part by the spillover of increasingly expensive housing costs in San Francisco.

B. Rents in Oakland increased twelve percent (12%) in 2012 and 15% in 2013 (Source: East Bay Express, February 12-18, 2014, "The Rise of the New Land Lords," sourcing Oakland Department of Housing and Community Development). As noted by a February 8, 2014 Oakland Tribune article ("High prices sending Bay Area renters and homebuyers to outlying communities"), "Squeezed by astronomical home prices and rents that are almost as unaffordable, a growing number of Bay Area residents are pulling up stakes and trading long commutes for cheaper housing."

C. According to Oakland Department of Housing and Community Development citing to Zillow Real Estate Research, the estimated rent for all homes in Oakland for June 2014 two thousand one hundred twenty-four dollars ($2,124.00) is nearly eleven percent (11%) higher than that for the same month last year ($1,918.00), and rents have risen every month except for one (1) since January 2013 (18 months total). If current patterns persist, the estimated rent for all homes in June 2015 will be two thousand three hundred eighty-six dollars ($2,386.00). By comparison, the estimated median rent for all Oakland homes for June 2012 was $1,818.00, a thirty-one percent (31%) increase in only thirty-six (36) months.

D. On September 12, 2014, the San Francisco Examiner reported that "San Francisco and Oakland have the distinction of having some of the highest rental rate increases in the nation for the month of August," with Oakland's rents increasing fourteen and four-tenths percent (14.4%) since last year, according to data collected by Trulia.

E. The rising market demand for rental housing in Oakland creates an incentive for some landlords to engage in harassing behavior or fail to make repairs to pressure existing tenants in rent controlled units to move so that rents can be raised. Existing remedies, such as petitioning the Rent Adjustment Program to restore a rental rate or order repairs, or employing an attorney at great cost to file a lawsuit to enforce state law of lease provisions, are insufficient deterrents to engaging in the illegal conduct in the first place.

F. The imbalance between supply and demand creates an imbalance of bargaining power between landlords and tenants, which has resulted in many tenants, especially those not in rent controlled units, being unwilling or unable to assert their legal rights, which is detrimental to the health, safety and general welfare of Oakland because the stability, security and quality of housing opportunities are reduced.

G. The Rent Adjustment Program office of the City of Oakland has conservatively estimated receiving one hundred (100) to two hundred (200) complaints each month from tenants claiming landlord harassment, many of which are completely outside the jurisdiction of the Rent Adjustment Program.

H. Numerous press articles have reported on the rise of tenant harassment throughout the Bay Area.

I. Data from organizations providing services to low-income renters in Oakland, including East Bay Community Law Center and Centro Legal de la Raza, indicate that some of their clients live in housing with habitability problems and experience landlord harassment.

J. Of the approximately four hundred eighty (480) Oakland tenants who received legal services at Centro Legal de la Raza during fiscal year 2014 (July 1, 2013 through June 30, 2014), approximately forty percent (40%) faced harassment by their landlords. The forms of harassment varied, but included one or more of the following in each case:

1. Interrupting, terminating, failing to provide or threatening to interrupt, terminate or fail to provide housing services required by contract or by State, County or municipal housing, health or safety laws;
2. Failing to perform required repairs and/or maintenance or threatening to fail to do so;
3. Failing to exercise due diligence In completing repairs and maintenance once undertaken or failing to follow appropriate industry repair, containment or remediation protocols designed to minimize exposure to noise, dust, lead paint, mold, asbestos, or other building materials with potentially harmful health impacts;
4. Abusing the owner's right of access into a rental housing unit as that right is provided by law;
5. Unlawfully removing from the rental unit personal property, furnishings, or any other items without the prior written consent of the tenant;
6. Influencing, or attempting to influence, a tenant to vacate a rental unit through fraud, intimidation or coeroion;
7. Attempting to coerce a tenant to vacate with offer(s) of payments to vacate which ate accompanied with threats or intimidation;
8. Threatening the tenant, by word or gesture, with physical harm;
9. Substantially and directly interfering with a Tenant's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;
10. Fraudulently refusing to accept or acknowledge receipt of a Tenant's lawful rent payment.

K. A majority of Oakland residents are renters. The rental housing units in the City of Oakland include many subject to rent stabilization and some that are not. The cities of San Francisco, Santa Monica, West Hollywood, and East Palo Alto have each passed ordinances prohibiting various forms of harassment by landlords and their agents against tenants.

L. The City Council of Oakland recognizes that displacement of tenants is a major concern and is interested in putting forth policies that help to maintain the ability of people in all income categories to live in our city. The increased housing pressures for residents across a range of lower and middle income levels warrants improved rent stabilization and tenant protection policies. The City Council finds that reasonable regulation of aspects of the landlord-tenant relationship is necessary in order to foster constructive communication, maintain an adequate supply of a variety of rental housing options, and protect health, safety, and the general welfare of the public.

M. The purpose of this policy is to deter harassing behavior by landlords, to encourage landlords to follow the law and uphold their responsibility to provide habitable rental properties, and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords.

(Ord. No. 13265, § 1, 11-5-2014)

8.22.620 - Definitions.

"Health Facility" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Owner" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Owner of Record" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Rent" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Rent Board" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Rental Agreement" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Rental Unit" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Tenant" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

"Skilled Nursing Facility" has the same meaning as in the Just Cause for Eviction Ordinance (O.M.C. 8.22.340).

(Ord. No. 13265, § 1, 11-5-2014)

8.22.630 - Applicability and exemptions.

A. The TPO shall apply to all Rental Units where there is a Rental Agreement between an Owner and one or more Tenants, unless exempted herein. The application of the TPO includes units that may not be covered under the Rent Adjustment Ordinance (O.M.C. 8.22.100, et seq.) or the Just Cause for Eviction Ordinance (O.M.C. 8.22.300, et seq.)

B. Exemptions.

1. Exemption for nonprofit owned rental housing. Any Rental Unit owned by (a) a corporation or organization exempt pursuant to United States Internal Revenue Code §501(c)(3) or any successor legislation exempting charitable organizations from federal income tax, (b) a limited partnership where the managing general partner is a corporation or organization exempt pursuant to United States Internal Revenue Code §501(c)(3) or any successor legislation exempting charitable organizations from federal income tax, or (c) a limited partnership where the managing general partner is a limited liability company whose sole members are corporations or organizations exempt pursuant to United States Internal Revenue Code §501(c)(3) or any successor legislation exempting charitable organizations from federal income tax shall have an exemption from the TPO's civil enforcement pursuant to this article.
2. Rental Units in any Hospital, Skilled Nursing Facility, or Health Facility.
3. Rental Units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception and is licensed for such purpose where such license is required.
4. Rental Units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception and is licensed for such purpose where such license is required.
5. Rental Units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code (CCC) by CCC § 1940(b) (transient occupancy in hotels/motels).
6. A rental unit in a residential property that is divided into a maximum of three (3) units, one of which is occupied by the owner of record as his or her principal residence for a period of no less than twelve (12) months. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.

7. A rental unit in a newly constructed residential property that has a certificate of occupancy issued after the effective date of O.M.C. 8.22.600, *et seq.* For the purposes of this exemption, "newly constructed" means all units on the parcel were built from the ground up under the same certificate of occupancy and not converted from property previously used for non-residential purposes. In the event the property is not issued a certificate of occupancy, then the exemption starts on the date that the last building related permit is finalized, if after the effective date of O.M.C. 8.22.600, *et seq.* This exemption is a limited duration exemption and expires fifteen (15) years from the date the exemption commences.

(Ord. No. 13265, § 1, 11-5-2014)

8.22.640 - Tenant harassment.

A. No Owner or such Owner's agent, contractor, subcontractor, or employee, shall do any of the following, in bad faith.

1. Interrupt, terminate, or fail to provide housing services required by contract or by State, County or municipal housing, health or safety laws, or threaten to do so;
2. Fail to perform repairs and maintenance required by contract or by State, County or municipal housing, health or safety laws, or threaten to do so;
3. Fail to exercise due diligence in completing repairs and maintenance once undertaken or fail to follow appropriate industry repair, containment or remediation protocols designed to minimize exposure to noise, dust, lead paint, mold, asbestos, or other building materials with potentially harmful health impacts;
4. Abuse the Owner's right of access into a rental housing unit as that right is provided by law;
5. Remove from the Rental Unit personal property, furnishings, or any other items without the prior written consent of the Tenant, except when done pursuant to the procedure set forth in Civil Code section 1980, et seq. (disposition of Tenant's property after termination of tenancy).
6. Influence or attempt to influence a Tenant to vacate a Rental Unit through fraud, intimidation or coercion, which shall include threatening to report a Tenant to U.S. Immigration and Customs Enforcement, though that prohibition shall not be construed as preventing communication with U.S. Immigration and Customs Enforcement regarding an alleged violation;
7. Offer payments to a Tenant to vacate more than once in six (6) months, after the Tenant has notified the Owner in writing the Tenant does not desire to receive further offers of payments to vacate;
8. Attempt to coerce a Tenant to vacate with offer(s) of payments to vacate which are accompanied with threats or intimidation. This shall not include settlement offers made in good faith and not accompanied with threats or intimidation in pending eviction actions;
9. Threaten the tenant, by word or gesture, with physical harm;
10. Substantially and directly interfere with a Tenant's right to quiet use and enjoyment of a rental housing unit as that right is defined by California law;
11. Refuse to accept or acknowledge receipt of a Tenant's lawful rent payment, except as such refusal may be permitted by state law after a notice to quit has been served on the Tenant and the time period for performance pursuant to the notice has expired;
12. Refuse to cash a rent check for over thirty (30) days unless a written receipt for payment has been provided to the Tenant, except as such refusal may be permitted by state law after a notice to quit has been served on the Tenant and the time period for performance pursuant to the notice has exptred;
13. Interfere with a Tenant's right to privacy;

14. Request information that violates a Tenant's right to privacy, including but not limited to residence or citizenship status or social security number, except as required by law or, in the case of a social security number, for the purpose of obtaining information for the qualifications for a tenancy, or not release such information except as required or authorized by law;

15. Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of such dwelling unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy;

16. Removing a housing service for the purpose of causing the Tenant to vacate the Rental Unit. For example, taking away a parking space knowing that a Tenant cannot find alternative parking and must move.

B. Retaliation Prohibited. Retaliation against a Tenant because of the Tenant's exercise of rights under the TPO is prohibited. Retaliation claims may only be brought in court and may not be addressed administratively. A court may consider the protections afforded by the TPO in evaluating a claim of retaliation.

C. Evictions. Nothing in the TPO shall be construed as to prevent an Owner from lawfully evicting a Tenant pursuant to state law or Oakland's Just Cause for Eviction Ordinance. (O.M.C. 8.22.300, et seq.).

D. Rent Adjustments. Nothing in the TPO shall be construed as to prevent an Owner from lawfully increasing a Tenant's rent pursuant to state law or Oakland's Rent Adjustment Ordinance (O.M.C. 8.22.100, et seq.), and such increases shall not be deemed violations of Section 8.22.640 of the TPO.

E. Notice to Tenants.

1. Commencement.

a. For Rental Units covered by the Rent Adjustment Ordinance the Notice at Commencement of Tenancy required by O.M.C. 8.22.06 shall include a reference to the TPO.

b. For all Rental Units that are not covered by the Rent Adjustment Ordinance, Owners are required to provide a notice regarding the TPO to all Tenants using the required form prescribed by the City staff.

2. Common area. If Rental Units subject to this ordinance are located in a building with an interior common area that all of the building's Tenants have access to, the Owner must post a notice in at least one (1) such common area in the building via a form prescribed by the City staff.

F. Repairs and maintenance. Nothing in the TPO shall be construed as requiring different timelines or standards for repairs or maintenance, as required by contract or State, County or municipal housing, health, and safety laws, or according to appropriate industry protocols.

(Ord. No. 13391, § 1, 9-20-2016; Ord. No. 13265, § 1, 11-5-2014)

8.22.650 - General remedies.

A. Violations of the TPO. Violations of section 8.22.640 may be enforced by civil remedies as set forth in this section or as otherwise specifically set out in this O.M.C article.

B. Notice requirement for Tenants. Before a Tenant may file an a civil suit alleging a violation of subsection 8.22.640.A.1., 2., 3., 10., 11., 12, or 13., the affected Tenant must first notify the Owner or his or her designated agent regarding the problem. If the allegation is a violation of subsections 8.22.640.A.1., 2., 3.,11., or 12, the Tenant must allow fifteen (15) days for the Owner to correct the problem, unless the Owner notifies the Tenant that the repairs will take more than fifteen (15) days and provides for a reasonable time period for completion. If the repair takes more than fifteen (15)

days, the Tenant may file the civil suit if the Owner does not take reasonable steps to commence addressing the problem or the Owner does not follow through to complete the repairs with reasonable diligence.

C. In addition to the remedies provided in the TPO, a violator is liable for such costs, expenses, and disbursements paid or incurred by the City in abatement and prosecution of the violation.

D. The remedies available in the TPO are not exclusive and may be used cumulatively with any other remedies in this chapter or at law.

(Ord. No. 13265, § 1, 11-5-2014)

8.22.660 - Reserved.

8.22.670 - Civil remedies.

A. General Civil Remedies.

1. Enforcement by Aggrieved-Tenant. An aggrieved Tenant may bring a civil action for injunctive relief or damages, or both, for any violation of 8.22.540.

2. Enforcement by City Attorney. The City Attorney may enforce the TPO through civil action for injunctive relief or damages, or both, for when the party against whom enforcement is sought has a pattern and practice of violating the TPO. The City Attorney may also request that an administrative citation or civil penalty be issued by the City. The City Attorney has the sole discretion to determine the cases appropriate for enforcement by the City Attorney's Office.

B. Treble and Exemplary Damages.

1. Any person who violates, aids, or incites another person to violate subsection 8.22.640.A or E. is liable in a court action for each and every such offense for money damages of not less than three times actual damages suffered by an aggrieved Tenant (including damages for mental or emotional distress), or for minimum damages in the sum of one thousand dollars ($1,000.00), whichever is greater, and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be trebled if the trier of fact finds that the Owner acted in knowing violation of or in reckless disregard of the TPO.

2. A court may award punitive damages in a proper case as set out in Civil Code Section 3294 and pursuant to the standards set forth in that Code Section or any successor thereto, but may not award both punitive damages and treble damages.

C. Injunctive Relief. Any person who commits an act, proposes to commit an act, or engages in any pattern and practice which violates the TPO may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this subsection may be brought by any aggrieved Tenant, by the City Attorney (for a pattern and practice only), or by an aggrieved Tenant who will fairly and adequately represent the interest of the protected class.

D. Attorney's Fees and Costs

1. Action by City Attorney. In any administrative, civil, or special proceeding brought pursuant to the TPO, the City may, at the initiation of the proceeding, seek an award of attorney's fees. If the City seeks an award of attorney's fees, the award shall be made to the prevailing party. Provided however, that no award may be made to a prevailing party that exceeds the amount of reasonable attorney's fees incurred by the City in the action or proceeding. Court costs may be awarded to a prevailing party pursuant to state law.

2. Action by Tenant. In any civil action brought pursuant to the TPO, the prevailing Tenant is entitled to recover the Tenant's reasonable attorney's fees. A defendant Owner may recover reasonable attorney's fees if the complaint brought by the Tenant was devoid of merit and brought in bad faith. Court costs may be awarded to a prevailing party pursuant to state law.

3. Costs of Investigation. In the event the City Attorney brings an administrative, civil, or special proceeding pursuant to the TPO, the City Attorney may recover its costs of investigation.

(Ord. No. 13265, § 1, 11-5-2014)

8.22.680 - Miscellaneous.

A. Regulations and Forms. The Rent Board has the authority to make such regulations to implement this O.M.C. Chapter 8.22 Article V as are not inconsistent with the TPO, provided, however, that if the Rent Board has not issued initial regulations within such time as the City Council may proscribe, the City Administrator is authorized to make interim regulations.

Within ninety (90) days of the effective date of the TPO, the City Administrator shall develop forms to implement subsection 8.22.640.E. Any changes to the initial forms shall be effective thirty (30) days after they are made available to the public at the Rent Adjustment Program offices, unless the City Administrator makes a finding that an earlier or later date is necessary. All Forms required by the TPO are vital communication documents and shall be translated and distributed in accordance with the Equal Access to Services Ordinance, O.M.C Chapter 2.30.

B. Non-waiverability. Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of the TPO is waived or modified, is against public policy and void.

(Ord. No. 13265, § 1, 11-5-2014)

CITY OF OAKLAND

REPORT

To: Housing Residential Rent and Relocation Board
ATTN: Jessie Warner, Chairperson
FROM: Richard Illgen and Kent Qian, Deputy City Attorney
Barbara Parker, City Attorney
DATE: July 5, 2017

RE: Proposed Tenant Protection Ordinance Regulations

The City Attorney requests that the Board consider adoption of regulations designed to clarify the TPO's "bad faith" standard and the extent of the City Attorney's enforcement authority under the Ordinance. The proposed regulations are set out in the attached resolution.

On November 5, 2014, the Oakland City Council enacted the Tenant Protection Ordinance (TPO) (Attachment A). The TPO prohibits property owners from engaging in certain, enumerated behaviors that the Ordinance characterizes as harassment and provides penalties for violations. The Council's express intent in enacting the TPO was "to deter harassing behavior by landlords, to encourage landlords to follow the law and uphold their responsibility to provide habitable rental properties, and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords." O.M.C. 8.22.610M. Under O.M.C. 8.22.680A, the City Council empowered the Board to adopt regulations for the TPO without return to the Council.

Private plaintiffs and the City Attorney's Office have brought multiple enforcement actions against abusive property owners under the TPO. These actions have demonstrated the Ordinance's effectiveness in vindicating tenants' rights and punishing and deterring harassing behavior by property owners, but have also underscored the need for regulations that clearly define the City Attorney's enforcement authority. During the course of litigation to enforce the ordinance, defendant property owners contesting various matters including:

- What constitutes "bad faith" under the ordinance for purposes of determining the nature of conduct that violates the ordinance (O.M.C. 8.22.640A); and
- What constitutes a "pattern and practice" for determining when the City Attorney has standing to bring TPO litigation against a property owner (O.M.C. 8.22.670A.2)

Although the City Attorney's Office was successful in the litigation, clarifying these two definitions through regulations is important in avoiding future litigation again contesting these issues, so to further streamline litigation and make it clearer to the parties and courts as to what these concepts mean in the context of the TPO.

Bad Faith. The TPO provides: "No Owner or such Owner's agent, contractor, subcontractor, or employee, shall do any of the following, in bad faith." O.M.C. 8.22.640A . Therefore, as part of determining when a property owner is violating the TPO is showing that the property owner's conduct was in bad faith. Clarifying bad faith will assist in complying with and enforcing the TPO. The essence of the proposed regulation to define bad faith is:

Bad faith for purposes of the TPO represents conduct in disregard for legal requirements or in a manner indifferent to the rights of Tenants. Bad faith is an objective standard and can be inferred from the totality of the circumstances.

Pattern and practice. The TPO gives the City Attorney the authority to enforce it through civil litigation when there is a "pattern and practice" of TPO violations by a property owner. Because concept of pattern and practice is used in other litigation contexts with different constructions, it is important to clarify what it means in the TPO. Thus, the proposed regulation to define pattern and practice reads:

A pattern and practice for purposes of this Section refers to multiple violations of O.M.C. 8.22.640 against the same Tenant or one violation of O.M.C. 8.22.640 against multiple Tenants.

Conclusion

We ask that the Rent Board consider and adopt these proposed regulations.

EBRHA
EAST BAY RENTAL
HOUSING ASSOCIATION

3664 Grand Ave • Suite B
Oakland, CA 94610
P 510.893.9873 • F 510.893.2906
www.ebrha.com • news@ebrha.com

July 20, 2017

EBRHA Comments and Proposals: Proposed TPO Regulations

Thank you for the opportunity to comment on the Proposed TPO Regulations before the July 20, 2017 RAP meeting.

Background:

The TPO was first designed to thwart Rental owners who were attempting to evict residents through harassment. The proposed amendments appear to be changing the ordinance to a tool the City can use to harass Rental owners.

CHANGING DEFINITIONS:

The TPO proposes enforcement against owners operating in 'Bad Faith' but fails to define it. This is not a failure but a reflection of the fact that THE LAW ALREADY DEFINES BAD FAITH. The TPO does state that 'harassing behavior' is actually what they are trying to deter.

According to Black's Law Dictionary, Bad Faith is defined as: "The opposite of "good faith," generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive." Emphasis added.

The City Attorney's redefinition removes the "intent" necessary to have Bad Faith and would characterize ANY failure to meet every standard as acting in Bad Faith. If this re-definition is allowed, a Rental Owner would be acting in bad faith if it was shown he failed to perform repairs and maintenance even if he was not notified by the tenant of the need for said repairs.

According to Black's Law Dictionary, Pattern is defined as: "A recurring characteristic that helps in the identification of any problem. It might also act as an indicator of how that problem might behave in the future."

The City Attorney's redefinition removes the element of "time" necessary to be characterized as a pattern and would change the definition so that any two violations, even if simultaneous, would be considered a pattern. Clearly that is not the true definition of a Pattern & Practice.

These proposed changes are an over-reach and would lead the City down the wrong path. In addition, the background statement provided admits that the City Attorney HAS BEEN SUCCESSFUL in litigation to enforce the ordinance, providing clear evidence that NO FURTHER REGULATIONS OR DEFINITIONS are needed. This

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EBRHA
EAST BAY RENTAL
HOUSING ASSOCIATION

3664 Grand Ave • Suite B
Oakland, CA 94610
P 510.893.9873 • F 510.893.2906
www.ebrha.com • news@ebrha.com

argues again that the current proposals are simply 'piling on' and unnecessary regulations for political purposes only and to generate more cases for tenant attorneys.

CONCLUSION:

We respectfully request the Rent Board reject both of these one-sided, outrageous, and unfair attacks on established legal definitions and on law-abiding small owners. They must be rejected.

Instead, we propose clear, concise procedures for guaranteeing an Owner the right to first be informed by a tenant IN WRITING of any complaint or violation; the right to be proven served such notices; that the Owner be guaranteed a length of time appropriate to the type of violation and an appropriate length of time to correct it, before any City enforcement action may be started. Further, upon any enforcement action by the City, an Owner must be guaranteed the same due process to be informed officially, to allow time to correct, and a fair opportunity to comply.

These are not unique, but widely accepted rights in Code Enforcement and all other forms of City enforcement. Rental Owners must not be deprived of these same rights afforded any other citizen or business owner.

Thank you,

Wayne C. Rowland

Wayne C. Rowland

EBRHA Board President

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