

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

**February 8, 2018
7:00 p.m.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
 - A. Appeal Hearing in cases:
 - a. T16-0420; Villaluzo v. The Islanders Associates, LLC.
 - b. T16-0467; Schacher v. McClain
T16-0468; McKinzie v. McClain
T16-0469; Kleinjan v. McClain
T16-0470; Coleman v. McClain
T16-0471; Taylor v. McClain
 - c. T16-0197, T16-0263; Ramirez v. Padilla/ SPJC, LLC
T16-0198, T16-0265; Citalli Vargas v. SPJC, LLC
T16-0199, T16-0264; Gonzalez v. Padilla/ SPJC, LLC
T16-0200, T16-0279; Delia Vargas v. SPJC, LLC
5. SCHEDULING AND REPORTS
6. ADJOURNMENT

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

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OFFICE OF THE CITY CLERK
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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.

CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0420
Case Name: Villaluzo v. The Islanders Associates, LLC.
Property Address: 1228 Fruitvale Avenue, Oakland, CA
Parties: Elvia Villaluzo (Tenant)
Cynthia Lam (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	August 8, 2016
Owner Response filed	September 16, 2016
Hearing Decision issued	February 17, 2017
Landlord Appeal filed	March 13, 2017
Tenant Declaration filed	August 28, 2017

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City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name Cynthia Lam		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 1228 Fruitvale ave Oakland CA 94601			
Appellant's Mailing Address (For receipt of notices) 2532 Santa Clara Ave #320 Alameda CA 94801		Case Number T16-0420 Date of Decision appealed 2/17/17	
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.)

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

**DEFENDANT'S APPEAL OF THE RENT ADJUSTMENT
PROGRAM'S CORRECTED HEARING DECISION**

Case Name: Villaluzo v. The Islands Associates, LLC
Case Number: T16-420
Property Address: 1228 Fruitvale Ave., Oakland, CA
Date of Corrected Decision: February 17, 2017

On or about February 17, 2017, the Rent Adjustment Program of the Department of Housing and Community Development issued its Corrected Hearing Decision ("Decision") in regard to the above referenced matter. The Decision held that a rent was improperly increased and that a number of defects were present in the property located a 1228 Fruitvale Ave., Oakland, CA ("Property") with regard to hot water, flooring, heating, windows, and stove vent exhaust fans resulting in a decrease of housing services.

I. THE DECISION OF THE RENTAL BOARD WAS OVERCALCULATED THE RENTAL OFFSET DUE TO "DECREASED HOUSING SERVICES" BECAUSE THE LANDLORD WAS NOT GIVEN THE OPPORTUNITY TO CURE.

The Rental Board has overestimated the rental offset awarded to the Plaintiff because Plaintiff failed to notify landlord of defects arising on the property during her tenancy and allowing for a reasonable time to cure.

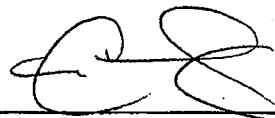
It is an essential prerequisite that a landlord receives actual or construct notice of an alleged uninhabitable condition for an actionable breach of warranty claim. *Peterson v. Super.Ct.* (1995) 10 C4th 1185, 1205-1206. Additionally, with regard to a landlord's obligation to install and maintain specified window locking and security devices, the prerequisite notice is codified: the tenant "shall be responsible" for notifying the landlord of an inoperable window security or locking device in the tenant's unit. And the landlord "shall not be liable" for a failure to install or maintain the prescribed security devices

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landlord, either the current owner or her predecessor, in order to allow the landlord to cure. Plaintiff alleges that at some point three years ago she made an oral complaint to the landlord, the previous owner, regarding hot water issues and issues regarding some dilapidation of the bathroom linoleum floor. The plaintiff failed to follow up on the matter or provide any credible evidence other than her account of a dubious hearsay conversation with the previous owner. Additionally, plaintiff's testimony would suggest that she has not in any way, for three years, and until the new landlord assumed ownership of the Property made any other complaints, including making the new landlord aware of any issues that were outstanding. Plaintiff's assertion is simply not credible in that it is extremely convenient now, considering the previous lack of notice to the landlords. In light of Plaintiff's "vague" testimony regarding her claims regarding the outside stairwell and its date of repair by the previous owner/landlord, the Decision weighs Plaintiff's testimony with excessive deference despite obvious issues of credibility.

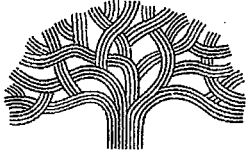
CONCLUSION

Therefore, the Rent Adjustment Program erred in the computation of rent offsets arising from defects in the Property for which Plaintiff should have made reasonable notifications to the landlord and thereby allowing Landlord to cure. Additionally, for failing to make notifications regarding failing window locks, specifically, Plaintiff should have been precluded from any rent offset due to her failure to notify the current landlord. For these reasons and those otherwise specified above, the Rent Adjustment Program has erred in its calculations of rent offsets in its Decision and should recalculate the amounts with deference to the arguments made herein.



Cynthia Lam
For: Defendant, The Islanders Associates, LLC

Supplement



CITY OF OAKLAND

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

For date stamp.

APPEAL

Supplement to 3/17/17

Appellant's Name CYNTHIA LAM		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1228 FRUITVALE AVE. OAKLAND, CA 94601			
Appellant's Mailing Address (For receipt of notices) 2601C BLANDING AVE. #227 ALAMEDA, CA 94501		Case Number T16-0420	Date of Decision appealed 2/17/17
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.

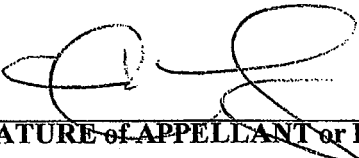
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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: 11.

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 19TH OF JANUARY, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	ELVIA VILLALVAZO
<u>Address</u>	1228 FRUITVALE AVE.
<u>City, State Zip</u>	OAKLAND, CA 94601
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	<u>1/19/18</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

**SUPPLEMENT TO RESPONDENT/LANDLORDS APPEAL OF THE RENT ADJUSTMENT PROGRAM'S
CORRECTED HEARING DECISION**

Case Name: Villaluzo v. The Islanders Associates, LLC
Case No.: T 16 – 0420
Property Address: 1228 Fruitvale Avenue, Oakland, CA
Date of Corrected Decision: February 17, 2017

1. The Corrected Decision awards Petitioner/Tenant rent reductions for various alleged habitability defected for rent paid prior to Respondent/Landlord's ownership of the property.

Respondent/Landlord purchased the property from the former owner on June 28, 2016.

The Decision awards rent reductions for some items going back to February 2014.

Respondent/Landlord was not he owner and did not receive any payments from Petitioner/Tenant until July 2016, and, had no responsibility for effecting repairs to the unit until June 28, 2016.

Petitioner/Tenant's claim for rent reductions for time periods prior to July 2016 is against the former owner and not Respondent/Landlord.

2. Respondent/Landlord has completed all repairs to all defective items, as follows:
 - a. Hot Water, repairs completed January 27, 2017.
 - b. Bathroom Floor, repairs completed January 27, 2017
 - c. Heater, repairs completed January 27, 2017
 - d. Dining room window, repairs completed December 20, 2017
 - e. Carpet repairs completed December 20, 2017
 - f. Stove vent fan, repairs completed January 27, 2017

Accordingly, the monthly rent due, before reduction for repayment for lost services during the period of Respondent/Landlord's ownership, should be restored to the Base Rent amount of \$650.00.

Attached: Picture of window repair

Picture of bathroom repair

Picture of kitchen faucet

Picture of vent hood

The Islanders Associates, LLC, Vendor Expenses for Pablo Santillian

Copy of Appeal, filed March 13, 2017

Dated: January 18, 2017



Cynthia Lam, Respondent/Landlord

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

✓ 50

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name Gynthia Lam		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 1228 Fruitvale ave Oakland CA 94601			
Appellant's Mailing Address (For receipt of notices) 2532 Santa Clara ave #320 Alameda CA 94501		Case Number T16-0420	
		Date of Decision appealed 2/17/17	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

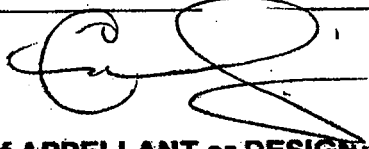
I appeal the decision issued in the case and on the date written above on the following grounds:
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

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

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 3/13/17, 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	Elvia Villaluzo
Address	1228 Fruitvale Ave
City, State Zip	Oakland CA 94601
Name	Laura Shoaps
Address	3400 E. 12th St.
City, State Zip	Oakland CA 94601

	3/17/17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

**DEFENDANT'S APPEAL OF THE RENT ADJUSTMENT
PROGRAM'S CORRECTED HEARING DECISION**

Case Name: Villaluzo v. The Islands Associates, LLC
Case Number: T16-420
Property Address: 1228 Fruitvale Ave., Oakland, CA
Date of Corrected Decision: February 17, 2017

On or about February 17, 2017, the Rent Adjustment Program of the Department of Housing and Community Development issued its Corrected Hearing Decision ("Decision") in regard to the above referenced matter. The Decision held that a rent was improperly increased and that a number of defects were present in the property located at 1228 Fruitvale Ave., Oakland, CA ("Property") with regard to hot water, flooring, heating, windows, and stove vent exhaust fans resulting in a decrease of housing services.

I. THE DECISION OF THE RENTAL BOARD WAS OVERCALCULATED THE RENTAL OFFSET DUE TO "DECREASED HOUSING SERVICES" BECAUSE THE LANDLORD WAS NOT GIVEN THE OPPORTUNITY TO CURE.

The Rental Board has overestimated the rental offset awarded to the Plaintiff because Plaintiff failed to notify landlord of defects arising on the property during her tenancy and allowing for a reasonable time to cure.

It is an essential prerequisite that a landlord receives actual or construct notice of an alleged uninhabitable condition for an actionable breach of warranty claim. *Peterson v. Super.Ct.* (1995) 10 C4th 1185, 1205-1206. Additionally, with regard to a landlord's obligation to install and maintain specified window locking and security devices, the prerequisite notice is codified: the tenant "shall be responsible" for notifying the landlord of an inoperable window security or locking device in the tenant's unit. And the landlord "shall not be liable" for a failure to install or maintain the prescribed security devices

unless he or she fails to correct the violation within a "reasonable time" after she has actual notice of or receives notice of a deficiency. Cal. Civ. Code § 1941.3.

The Findings of Fact of the Decision demonstrate that the Plaintiff failed, by her own admission, to notify the landlord, either the current owner or her predecessor, of the following issues: the heater, the dining room window, the carpet, and the stove vent exhaust fan. Despite not previously reporting the defects arising in the Property to the landlord, the Decision awarded a rental offset for carpet, the heater, and dining room window for a period of three years prior to the Plaintiff's petition. Ordinarily these types of defects should be reported to a landlord allowing for a reasonable time to cure. The plaintiff, however, failed to do so. Accordingly, this award is unusual and excessive for two reasons: 1) the plaintiff failed to give the landlord notice and a reasonable opportunity and time to cure, and 2) the plaintiff has failed to assert how long the defects have been present and the rental board has juxtaposed the maximum offset allowed despite plaintiff's failure to notify. In this instance, the Rental Board's decision strongly appears to be punitive to the defendant rather than intended merely to make the plaintiff whole.

The plaintiff has, by her own admission, additionally failed to notify landlord of any defects regarding the locking mechanisms of the dining room window(s). Plaintiff oddly asserts that the windows have not had operating locks or locking mechanisms since she assumed her tenancy of the Property. California Civil Code specifically addresses this issue in §1941.3, whereby a prerequisite notice from the tenant is required regarding defective window and door locks in order to prevail in a successful claim for a landlord's breach of warranty or duty in this regard. Accordingly, the Rental Board's Decision regarding the dining room windows and a rental offset for three years conflicts with the prerequisite notice requirements that are already codified in Cal. Civ. Code § 1941.3.

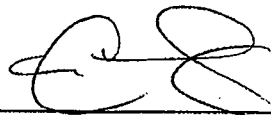
II. THE RENTAL BOARD'S DECISION IS NOT SUPPORTED BY SUBSTANTIAL CREDIBLE EVIDENCE

Plaintiff, in her petition, alleges a variety of defects present on the property, but cannot verify that she has or has not ever made any complaints of these defects to the

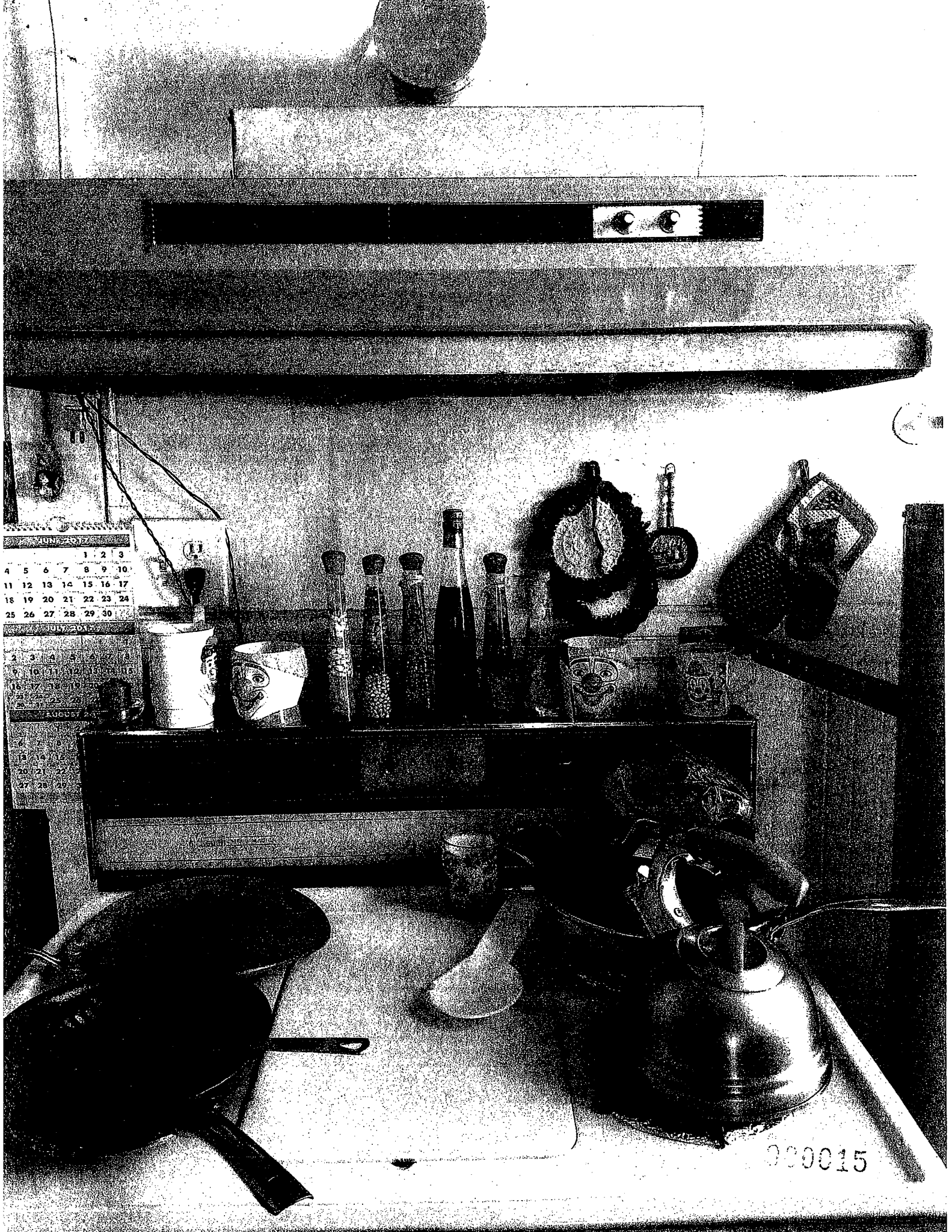
landlord, either the current owner or her predecessor, in order to allow the landlord to cure. Plaintiff alleges that at some point three years ago she made an oral complaint to the landlord, the previous owner, regarding hot water issues and issues regarding some dilapidation of the bathroom linoleum floor. The plaintiff failed to follow up on the matter or provide any credible evidence other than her account of a dubious hearsay conversation with the previous owner. Additionally, plaintiff's testimony would suggest that she has not in any way, for three years, and until the new landlord assumed ownership of the Property made any other complaints, including making the new landlord aware of any issues that were outstanding. Plaintiff's assertion is simply not credible in that it is extremely convenient now, considering the previous lack of notice to the landlords. In light of Plaintiff's "vague" testimony regarding her claims regarding the outside stairwell and its date of repair by the previous owner/landlord, the Decision weighs Plaintiff's testimony with excessive deference despite obvious issues of credibility.

CONCLUSION

Therefore, the Rent Adjustment Program erred in the computation of rent offsets arising from defects in the Property for which Plaintiff should have made reasonable notifications to the landlord and thereby allowing Landlord to cure. Additionally, for failing to make notifications regarding failing window locks, specifically, Plaintiff should have been precluded from any rent offset due to her failure to notify the current landlord. For these reasons and those otherwise specified above, the Rent Adjustment Program has erred in its calculations of rent offsets in its Decision and should recalculate the amounts with deference to the arguments made herein.



Cynthia Lam
For: Defendant, The Islanders Associates, LLC

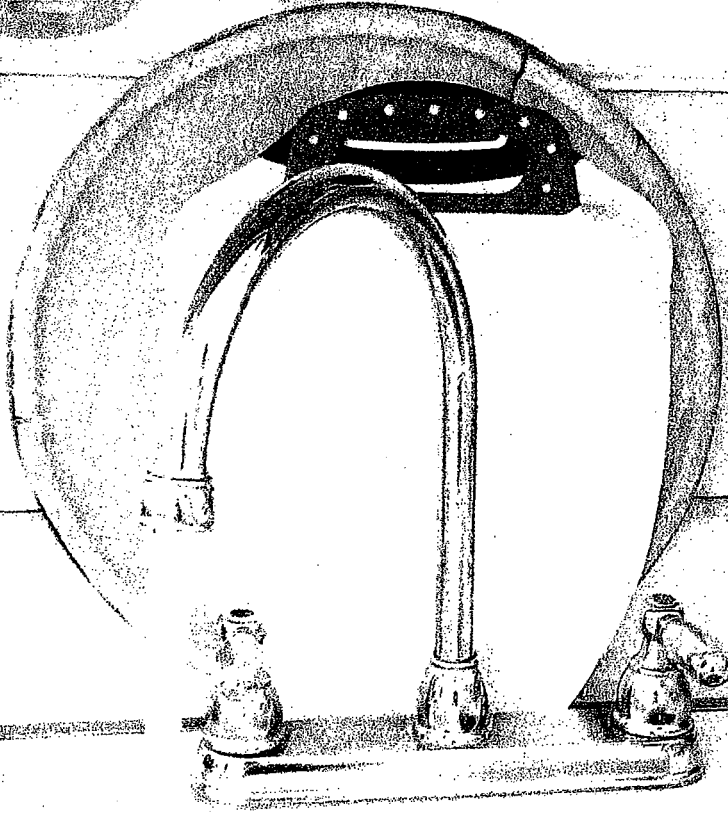


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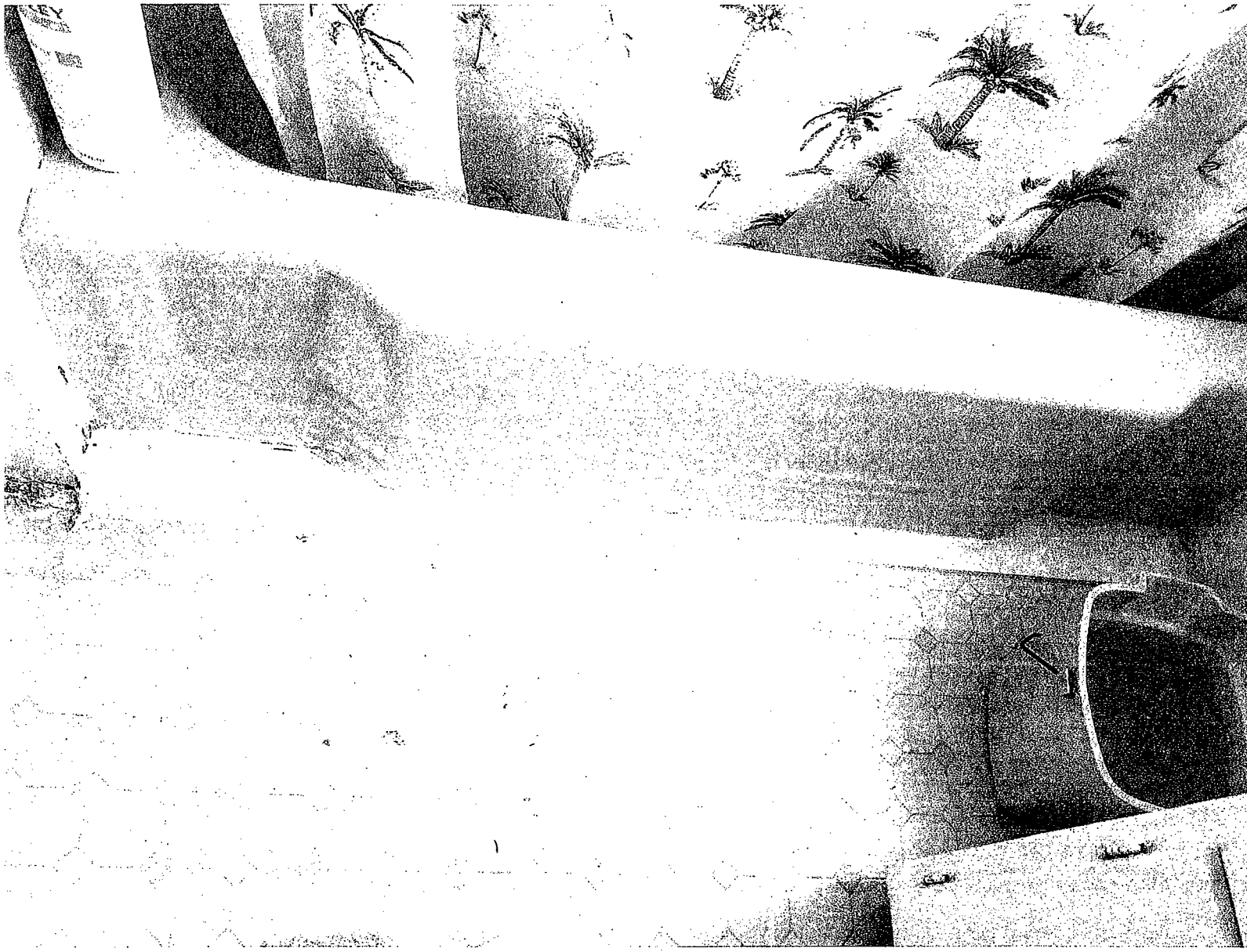
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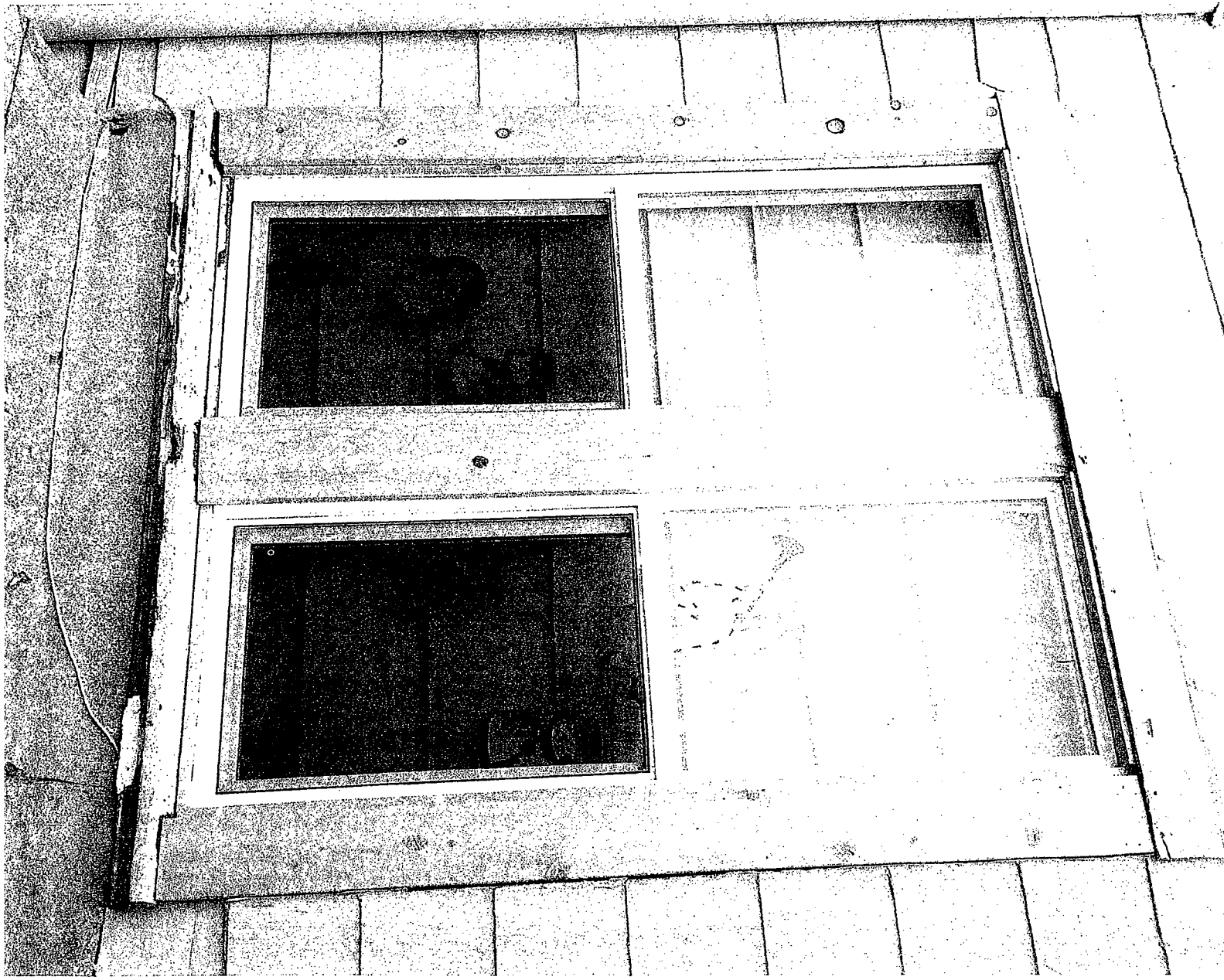
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Elvia Villaluzo
1228 Fruitvale Ave.
Oakland, CA 94601

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 AUG 28 AM 11:36

City of Oakland
Rent Adjustment Program
Housing Assistance Center
250 Frank Ogawa Plaza, 6th Floor
Oakland, CA 94612

**DECLARATION OF ELVIA VILLALUAZO
1228 Fruitvale Ave.
Oakland, CA 94601
RENT ADJUSTMENT CASE No. T16-0420**

The purpose of this declaration is to inform the City of Oakland Rent Adjustment Program about what I think is a violation of the Rent Adjustment Ordinance.

I, Elvia Villaluzo, an adult, 18 years of age or older, declare the following regarding the property manager for my rental unit: Cynthia Lam of The Islanders Associates, LLC (2532 Santa Clara Ave. #320, Alameda, CA 94501).

I write today regarding a rent increase noticed by my property manager, Cynthia Lam of The Islanders Associates, LLC. The rent increase noticed (Notice), at true and correct copy of which is attached to this letter, raises my rent from to \$759. The Notice also improperly demands an additional \$109.07 security deposit.

In 2016 I was granted a rent reduction pursuant to my RAP Petition, Case No. T16-0420. In sum, corrected decision:

- The rent increases I received during my tenancy were invalid;
- Returned my base rent to \$650 per month;
- Awarded me a rent credit for overpayments of rent;
- Awarded me a rent credit for decreased housing services; and
- Ruled that my rent would be \$131.94 from March 2017 through February 2020 until and unless conditions were repaired (as well as provided a schedule for how the rent could be increased as repairs were made).

Cynthia Lam has filed an appeal of the Decision, however the appeal is limited to challenging the reductions awarded based on decreased housing services. In the Conclusion of her Appeal Brief, Cynthia Lam states: "For these reasons and those otherwise specified above, the Rent Adjustment Program has erred in its calculations of rent offsets in its Decision and should recalculate the amounts...."

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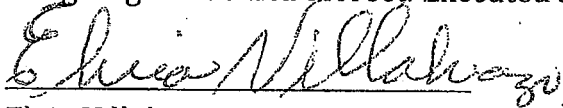
Elvia Villaluzo
1228 Fruitvale Ave.
Oakland, CA 94601

Cynthia Lam does not challenge the Hearing Officer's ruling invalidating the two rent increases in any of the three pages of the Appeal Brief submitted. In other words, the ruling that my base rent is \$650 is a Final Decision.

Nonetheless, in an abundance of caution I have been paying the \$742 for fear that Cynthia Lam would attempt to evict me for non-payment of rent while the Appeal was pending. This in no way waives my right to assert my base rent is \$650.

Accordingly, the rent increase to \$759 is on its face invalid and non-compliant with the Hearing Officer's decision in Case No. T16-0420. In an abundance of caution, I am submitting a petition challenging this rent increase as well as submitting this declaration.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed at Oakland, California on August 24, 2017.



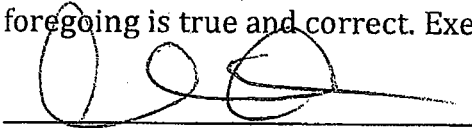
Elvia Villaluzo

DECLARATION AND CERTIFICATION OF TRANSLATION

I, Martina I. Cucullu Lim hereby declare and certify:

1. I am over the age of 18.
2. My place of business is located at 3022 International Blvd. Suite 410, Oakland, California 94601.
3. I am fully fluent and bilingual in English and Spanish (both written and verbal).
4. On or about August 24, 2017 I translated from English to Spanish the Declaration of Elvia Villaluzo regarding a violation of Rent Adjustment Program Case No. T16-0420.
5. On or about August 24, 2017, after translating the Declaration of Elvia Villaluzo regarding a violation of Rent Adjustment Program Case No. T16-0420 for Elvia Villaluzo, I asked her if she understood and agreed with the contents of the Declaration. Elvia Villaluzo stated that she understood and agreed with the contents of the Declaration.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed at Oakland, California on August 24, 2017.



Martina I. Cucullu Lim

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The Islanders Associates, LLC
2532 Santa Clara Ave. #320
Alameda, CA 94501

July 28, 2017

Elvia Villaluzo
1228 Fruitvale Ave.
Oakland, CA 94601

RE: Rent and Deposit Increase Notice

Dear Ms. Villaluzo:

This is to inform you that starting September 1, 2017, your monthly for the premises that you currently occupy, which is located at 1228 Fruitvale Ave, will be increased to \$759.07 per month from \$742.00. In addition, we want to bring up your current deposit of \$650.00 to \$759.07 to reflect the increased rent amount.

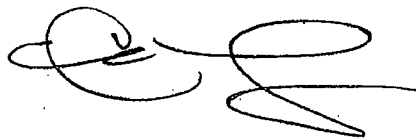
Rent Payment and contact info.

Please remit a total of \$883.14 (~~\$759.07~~ new rent + \$109.07 additional deposit + \$15.00 Rent Program Service Fee) for your September 1, 2017 rent and deposit to:

The Islanders Associates, LLC
2532 Santa Clara Ave. #320
Alameda, CA 94501
510-455-0838
Eastmont09@gmail.com

Please feel free to contact us anytime with any questions or concerns.

Regards,



Cynthia Lam
Property Manager

Enclosed: Notice to Tenants of the Residential Rent Adjustment Program

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

CORRECTED HEARING DECISION

CASE NUMBER: T16-0420, Villaluzo v. The Islanders Associates, LLC

PROPERTY ADDRESS: 1228 Fruitvale Ave., Oakland, CA

DATE OF HEARING: December 2, 2016

DATE OF INSPECTION: January 17, 2017

DATE OF DECISION: January 27, 2017

DATE OF CORECTED DECISION: February 17, 2017

APPEARANCES: Elvia Villaluzo (Tenant)
Cynthia Lam (Owner)
Laura Shoaps (Attorney for Tenant)
Noemi Gonzalez (Interpreter)

INTRODUCTION

A Hearing Decision was issued in this case on January 27, 2016, and was served by mail upon all parties and their representatives. On February 10, 2017, the tenant's attorney filed an Appeal of the Hearing Decision. The basis of the appeal is that the Hearing Decision does not correctly state the tenant's rent history, and that the tenant should be compensated for overpaid rent. Upon review of the recording of the Hearing, it is found that the contention of the tenant's attorney is correct.

This Corrected Hearing Decision is issued to remedy this error. The Hearing Decision dated January 27, 2017 is hereby changed with regard to the tenant's rent history; the tenant is compensated for overpaid rent since she was never provided with the RAP Notice; and the

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amount of restitution for decreased services is changed according to the rent paid during the relevant time periods. The Hearing Decision is otherwise unchanged.

This Corrected Hearing Decision is an entirely new Decision. There is a new time limit for the appeal of the corrected Hearing Decision, as set forth below.

SUMMARY OF DECISION

The tenant's petition is partly granted.

CONTENTIONS OF THE PARTIES

The tenant filed a petition on August 8, 2016, which alleges that a current proposed rent increase from \$700 to \$742 per month, and a rent increase in the year 2013, from \$650 to \$700 per month, exceed the CPI Adjustment and are unjustified or is greater than 10%; that she has never received the form Notice to Tenants (RAP Notice); that at present there exists a health, safety, fire or building code violation in her unit; and that his/her housing services have been decreased, as follows:

- Little hot water
- Bathroom floor
- Heater does not work
- Outside stairway
- Dining room window
- Carpet
- Stove vent fan

The owner filed a response to the petition, which states that the tenant was given the RAP Notice on July 13, 2016; that the contested current rent increase is justified by Banking; and denies that the tenant's housing services have decreased.

THE ISSUES

- (1) When, if ever, did the tenant receive the RAP Notice?
- (2) Is a rent increase justified by Banking and, if so, in what amount?
- (3) Has the tenant overpaid rent?
- (4) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

RAP Notice: At the Hearing, the tenant testified that she has never received the RAP Notice. The owner testified that she gave the Notice to the tenant in July 2016. The owner further testified that the prior owner told her that he had given the tenant a RAP Notice. The owner's response states that she purchased the subject building on July 1, 2016. When asked by this Hearing Officer if there was a reason why the prior owner was not at the Hearing, the owner

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replied that she had left a voicemail message for the prior owner, but that the prior owner did not return her call.

Rent History: The tenant testified that she paid rent of \$650 per month from the time she moved into her apartment in the year 2001 until August 2014, when the rent was increased to \$700 per month. The tenant submitted a copy of a money order payable to the prior owner, Andre Reynier, dated August 1, 2014, in the amount of \$700.¹ The tenant further testified that she began paying rent of \$742 per month in September 2016, and continued paying this amount through the date of the Hearing. The owner did not present any evidence to the contrary. It is assumed that the tenant continued to pay rent of \$742 for the month of February 2017.

Decreased Housing Services:

Hot Water: At the Hearing, the tenant testified that there is no hot water in her bathroom sink, and little in either the kitchen sink or the bathtub. She told the prior owner about these problems 2 or 3 years ago, but nothing was done. The tenant further testified that there has been no inspection by a City Inspector.

On January 17, 2017, the tenant's unit was inspected by Barbara Cohen, a Hearing Officer with the Rent Adjustment Program, in the presence of the tenant, the owner's agent, and the tenant's attorney. Following her inspection, Ms. Cohen prepared a Declaration, a copy of which is attached as Attachment "A."

This Declaration states, in part: "In the kitchen I turned on the kitchen sink hot water knob at the kitchen faucet. There was obvious low pressure in the hot water line and at first the water was cold. After almost three minutes the water was warm. Even after running for many minutes, the water never got hot. In contrast, the cold water pressure was strong. . . . When I left the premises the water coming from the kitchen faucet, when only the hot water was turned on, was barely a trickle and was warm but not hot. . . ."

"In the bathroom sink, the hot water did not work at all. When I turned the hot water knob nothing came out of the faucet. The cold water knob worked and had adequate water pressure. . . . In the bathtub, the hot water was operable. There was sufficient pressure and the water was hot."

Bathroom Floor: The tenant testified that the linoleum next to the bathtub is raised. She reported this to the prior owner at around the same time as she told him about the hot water problem. However, nothing has been done. The tenant submitted a photograph that she took in or about October 2016.² This photograph reflects a deteriorated area of linoleum near the corner of the tub and the wall, as well as a gap between the caulking and linoleum running several feet along the side of the tub. Ms. Cohen writes: "In the bathroom, the linoleum flooring adjacent to the bathtub was peeling off the floor. This is a tripping hazard. The flooring is also peeling and ripping in places."

¹ Exhibit No. 1. The owner objected to the admission of this document into evidence because it is "irrelevant." The objection was overruled, and the document was admitted into evidence.

² Exhibit No. 3. This Exhibit, and the remaining Exhibits to which reference is made in this Decision, were admitted into evidence without objection.

Heater: The tenant testified that the heating appliance in her unit has not worked for several years. However, she never informed either the prior or the current owner before filing her petition. Ms. Cohen states: "In the hallway there is a thermostat. I turned the thermostat on. I was shown the furnace, which is in a closet in the hallway. The furnace did not turn on when the thermostat was adjusted. I checked again after ten minutes and the furnace was still not operating and was cold."

Outside Stairway: The tenant testified that the outdoor stairway on the subject building was repaired approximately 2 years ago.

Dining Room Window: The tenant testified that the dining room window does not lock; she uses a stick to prevent it from being opened. However, this was the condition when the tenant moved into the unit, and she has never complained about this to either owner before filing her petition. Ms. Cohen writes: "In the dining room, there are two windows adjacent to each other. Both of the windows were locked with pieces of wood the tenant had placed in the window frames. I removed the wood and opened the left side window and was only able to open it on an angle. The window would not slide in a vertical position. The window immediately got stuck in an open position and I could not close it. Neither of the windows had working locking mechanisms."

Carpet: The tenant testified that she believes the carpet to be 30 years old. When the tenant moved in, the prior owner told her that it would be replaced, but it never was. The tenant submitted a photograph that she took in October 2016.³ This photo reflects a gap of approximately one to two inches along the seam between 2 sections of carpeting of more than one foot in length. Ms. Cohen states: "At the top of the stairs, there is a bedroom adjacent to the landing. The landing, the hallway and the bedroom floor are all covered with the same carpet. At the threshold of that bedroom the carpet is ripped. There is a gap of about two inches where the carpet is shredded. On both sides of the gap the carpet can easily lift up from the floor. This is a tripping hazard."

Stove Vent Fan: The tenant testified that the fan does not work well. It was in the same condition when she moved in, and she has never notified either owner.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice: The file contains a Proof of Service signed by an employee of the Rent Adjustment Program which states that a copy of the tenant's petition was mailed to the owner on August 17, 2016. The petition states that the tenant has never received the RAP Notice. Therefore, the owner – who has the burden of proof on this question – knew more than 3 months before the Hearing that this was a contested issue in the case.

The California Evidence Code is instructive: "If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence,

³ Exhibit No. 5.

the evidence offered should be viewed with distrust.”⁴ Further, the applicable rules of evidence are stated in Government Code Section 11513:⁵

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs . . .

The hearsay testimony regarding what the prior owner may have told the current owner falls far short of this standard. Whether one believes the testimony of the tenant or the owner, it is found that the tenant did not receive the RAP Notice before July 2016.

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy⁶ and together with any notice of rent increase or change in terms of a tenancy.⁷ A tenant petition must be filed within 90 days of the date of service of a rent increase notice or the date the tenant first receives the RAP Notice, whichever is later.⁸

Since the tenant did not receive the RAP Notice until July 2016, her petition was filed within the time limit to challenge both rent increases. Therefore, the rent increase from \$650 to \$700 in August 2014, and the increase from \$700 to \$742, effective on September 1, 2016, are both invalid. Before considering rent overpayments, and the tenant’s claims of decreased housing services, the rent is \$650 per month. Further, because the tenant filed her petition less than 90 days after she first received the RAP Notice, she overpaid rent, as set forth on the Table below.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁹ and may be corrected by a rent adjustment.¹⁰ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant’s unit. Further, an owner must have actual or constructive notice of a problem, and a reasonable opportunity to make needed repairs, before a claim of decreased housing services will be granted.

There is also a time limit for claiming decreased housing services. A tenant petition must be filed within 90 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.¹¹ The tenant’s petition was filed less than 90 days after she first received the RAP Notice. Therefore, she can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years.¹²

⁴ Evidence Code, Section 412

⁵ Regulations, Section 8.22.110(E)(4)

⁶ O.M.C. Section 8.22.060(A)

⁷ O.M.C. Section 8.22.070(H)(1)(A)

⁸ O.M.C. Section 8.22.090 (A)(2)

⁹ O.M.C. Section 8.22.070(F)

¹⁰ O.M.C. Section 8.22.110(E)

¹¹ O.M.C. Section 8.22.090(A)(2)

¹² Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

Hot Water: Hot water in kitchen and bathroom sinks is a basic housing service, and is a specific requirement of the City Building Maintenance Code.¹³ Without hot water, it is virtually impossible to properly wash dishes and utensils or to maintain personal hygiene without using the shower. It is found that this condition was reported to the prior owner 3 years ago, and that it has existed and reduced the package of housing services by 10% for the past 3 years. Because of the current decrease in housing services, the rent is reduced by 10%, being \$65 per month. This rent decrease will remain in effect until there is an adequate hot water supply in both the kitchen and bathroom, and verified to be adequate by a plumbing contractor, as specified in the Order below. Further, as set forth on the following Table, the tenant overpaid rent since February 2014.

Bathroom Floor: The condition of the floor is not only a tripping hazard, but additionally allows water to enter the subfloor, and makes it impossible to properly clean the floor. It is found that this condition would have been obvious during a reasonable inspection, and that it has existed and reduced the package of housing services by 5% for the past 3 years. Because of the current decrease in housing services, the rent is reduced by 5%, being \$32.50 per month. This rent decrease will remain in effect until the bathroom linoleum is repaired or replaced, as specified in the Order below. Further, as set forth on the following Table, the tenant overpaid rent since February 2014.

Heater: This is not a condition that would be obvious during an inspection, and the tenant never reported this problem to an owner. However, the owner was mailed a copy of the tenant's petition and attached claims of decreased housing services on August 17, 2016. The owner should have reasonably inspected, and repaired or replaced the heater, no later than October 1, 2016. Heat is a basic housing service, and the owner's failure to provide adequate heat reduced the package of housing services by 10%. Because of the current decrease in housing services, the rent is reduced by 10%, being \$65 per month. This rent decrease will remain in effect until the heater is repaired or replaced, as specified in the Order below. Further, as set forth on the following Table, the tenant overpaid rent since October 1, 2016.

Outside Stairway: The tenant's testimony regarding when the stairway was repaired was vague. Since the stairway was repaired at least 2 years ago, the tenant has not sustained her burden of proof. The claim is denied.

Dining Room Windows: A reasonable inspection would have disclosed that the windows do not lock, and are held closed by sticks. This is an unsafe condition for occupants, and violates the Building Maintenance Code.¹⁴ The fact that the windows were in the same condition at the start of the tenancy is irrelevant. This has reduced the package of housing services by 3% for the past 3 years. Because of the current decrease in housing services, the rent is reduced by 3%, being \$19.50 per month. This rent decrease will remain in effect until the windows are repaired or replaced, with lawful locking mechanisms, and are able to open and close as designed, as specified in the Order below. Further, as set forth on the following Table, the tenant overpaid rent since February 2014.

¹³ O.M.C. Section 15.08.230(D)

¹⁴ O.M.C. Section 15.08.240.

Carpet: This is an obvious tripping hazard, which would have been obvious during a reasonable inspection. This condition has existed and reduced the package of housing services by 5% for the past 3 years. Because of the current decrease in housing services, the rent is reduced by 5%, being \$32.50 per month. This rent decrease will remain in effect until the torn section of carpeting is repaired or replaced, as specified in the Order below. Further, as set forth on the following Table, the tenant overpaid rent since February 2014.

Stove Vent Fan: Since the condition was the same at the start of the tenancy, and does not affect habitability, the tenant's housing services have not decreased; the claim is denied.

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Hot Water	1-Feb-14	31-Jul-14	\$650	10%	\$ 65.00	6	\$ 390.00
Hot Water	1-Aug-14	31-Aug-16	\$700	10%	\$ 70.00	25	\$ 1,750.00
Hot Water	1-Sep-16	28-Feb-17	\$742	10%	\$ 74.20	6	\$ 445.20
Bathroom Floor	1-Feb-14	31-Jul-14	\$650	5%	\$ 32.50	6	\$ 195.00
Bathroom Floor	1-Aug-14	31-Aug-16	\$700	5%	\$ 35.00	25	\$ 875.00
Bathroom Floor	1-Sep-16	28-Feb-17	\$742	5%	\$ 37.10	6	\$ 222.60
Heater	1-Feb-14	31-Jul-14	\$650	10%	\$ 65.00	6	\$ 390.00
Heater	1-Aug-14	31-Aug-16	\$700	10%	\$ 70.00	25	\$ 1,750.00
Heater	1-Sep-16	28-Feb-17	\$742	10%	\$ 74.20	6	\$ 445.20
Windows	1-Feb-14	31-Jul-14	\$650	5%	\$ 32.50	6	\$ 195.00
Windows	1-Aug-14	31-Aug-16	\$700	5%	\$ 35.00	25	\$ 875.00
Windows	1-Sep-16	28-Feb-17	\$742	5%	\$ 37.10	6	\$ 222.60
Carpet	1-Feb-14	31-Jul-14	\$650	5%	\$ 32.50	6	\$ 195.00
Carpet	1-Aug-14	31-Aug-16	\$700	5%	\$ 35.00	25	\$ 875.00
Carpet	1-Sep-16	28-Feb-17	\$742	5%	\$ 37.10	6	\$ 222.60
TOTAL LOST SERVICES							\$ 9,048.20

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Aug-14	31-Aug-16	\$700	\$650	\$50	25	\$ 1,250.00
1-Sep-16	28-Feb-17	\$ 742.00	\$650	\$ 92	6	\$ 552.00
TOTAL OVERPAID RENT						\$ 1,802.00

RESTITUTION

	MONTHLY RENT	\$650
	TOTAL TO BE REPAYED TO TENANT	\$ 10,850.20
	TOTAL AS PERCENT OF MONTHLY RENT	1669%
AMORTIZED OVER	36 MONTHS BY HRG. OFFICER IS	\$ 301.39

Conclusion: The Base Rent is \$650 per month. Due to ongoing decreased housing services, the rent is reduced by 33% (\$216.67) to \$433.33. Further, due to past decreased housing services and rent overpayments due to lack of a RAP Notice, as set forth on the Table above, the tenant overpaid rent in the amount of \$10,850.20. Normally, rent overpayments of 100% or more of the rent amount are repaid over a period of 12 months.¹⁵ However, this is a very large amount of money compared with the rent and, therefore, the rent is temporarily reduced over a period of 36 months. The rent is reduced by \$301.39 per month, to \$131.94 per month, beginning with the rent payment in March 2017 and ending with the rent payment in February 2020.

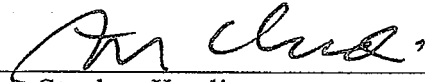
ORDER

1. Petition T16-0420 is partly granted.
2. The Base Rent is \$650 per month.
3. Because of an ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$433.33 per month.
4. Because of rent overpayments and past decreased housing services, the tenant has overpaid rent in the amount of \$9,996.33. This overpayment is adjusted by a rent reduction for 36 months.
5. The rent is reduced by \$301.39 per month, to \$131.94 per month, beginning with the rent payment in March 2017 and ending with the rent payment in February 2020.
6. In March 2020, the rent will increase to \$433.33 per month, unless repairs are made, and rent increase notices served on the tenant, as stated below.
7. When there is an adequate hot water supply in both the kitchen and bathroom, as verified by a plumbing contractor, the owner may increase the rent by \$65 per month, after giving proper notice in accordance with Civil Code Section 827.
8. When the bathroom linoleum is repaired or replaced, the owner may increase the rent by \$32.50 per month, after giving proper notice in accordance with Civil Code Section 827.
9. When the heater is repaired or replaced, the owner may increase the rent by \$65 per month, after giving proper notice in accordance with Civil Code Section 827.
10. When the windows are repaired or replaced, with lawful locking mechanisms, and are able to open and close as designed, the owner may increase the rent by \$19.50 per month, after giving proper notice in accordance with Civil Code Section 827.
11. When the torn section of carpeting is repaired or replaced, the owner may increase the rent by \$32.50 per month, after giving proper notice in accordance with Civil Code Section 827.

¹⁵ Regulations, Section 8.22.110(F)

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

Dated: February 17, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

T16-0420 BC/MS

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. <div style="text-align: center;"> RECEIVED AUG - 8 2016 OAKLAND RENT ADJUSTMENT </div>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Elvia Villaluzo	Rental Address (with zip code) 1228 Fruitvale Ave Oakland CA 94601	Telephone (510) 532-2484
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Cynthia Lam c/o The Islanders Associates LLC	Mailing Address (with zip code) 2532 Santa Clara Ave, #320 Alameda, CA 94501	Telephone (510) 455-0838

Number of units on the property: 8

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

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

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

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

Date you moved into the Unit: 2001 Initial Rent: \$ 650 /month

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

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
2013	2013	\$ 650	\$ 700	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7/13/2016	9/1/2016	\$ 700	\$ 742	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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

Elicia Villalva
Tenant's Signature

7/21/2016
Date

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

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

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

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

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

Elicia Villalva
Tenant's Signature

7/21/2016
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Tenant Petitioner
 Elvia Villaluzo
 1228 Fruitvale Ave
 Oakland, CA 94601

Addendum A-Decrease in Services

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
1. No hot water in the bathroom sink and very little hot water in the kitchen	Summer 2014	I verbally notified the owner in summer 2014 and he said he was going to fix it but never did.	NA	5%
2. Bathroom floor is raised and this is dangerous.	Since move in	The owner knew this was a problem since I moved in because he looked through the apartment with me.	NA	10%
3. The heater does not work.	Approx November 2012	I am notifying the owners through this petition.	NA	10%
4. The stairs leading up to my apartment were loose and dangerous for many years.	Since approx. 2004	Notified owner verbally in approximately 2012.	Summer 2014	10%
5. The window in the dining room does not close.	Since I moved in	Notified owner verbally when I moved in.	NA	10%
6. The carpet throughout the apartment is very old and dirty and affects my allergies.	Since I moved in	The owner told me he was going to change this when I moved in but nothing has been done.	NA	5%
7. The fan in the hood above the stove doesn't work	Since move in	I am notifying the owner through this petition.	NA	5%

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

For filing stamp.
 RECEIVED
 CITY OF OAKLAND
 RENT ADJUSTMENT PROGRAM
 2016 SEP 16 AM 9:13

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

CASE NUMBER T - T16 0470 BC/MS **OWNER RESPONSE**

Please print legibly.

Your Name <i>Cynthia Lam</i>	Complete Address (with zip code) <i>2532 Santa Clara Ave #370 Alameda CA 94501</i>	Phone: <i>510 455 0838</i> Email: <i>eastmont09@gmail.com</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <i>Eina Villa Luzo</i>	Complete Address (with zip code) <i>1228 Fruitvale Ave. Oakland CA 94601</i>	

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

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

There are 2 residential units in the subject building. I acquired the building on 7/01/16

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 2001

The tenant's initial rent including all services provided was \$ 650 / month.

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

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
7/13/14	9/1/16	\$ 700	\$ 742	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases_)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/1/14	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

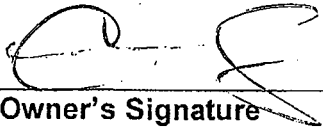
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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


Owner's Signature

9/15/16
Date

VII. MEDIATION AVAILABLE

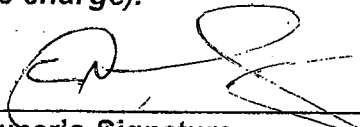
Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

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

Mediation will be scheduled only if both parties request it -- after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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


Owner's Signature

9/15/16
Date

CHRONOLOGICAL CASE REPORT

Case Nos. and Name: T16-0467; Schacher v. McClain
T16-0468; McKinzie v. McClain
T16-0469; Kleinjan v. McClain
T16-0470; Coleman v. McClain
T16-0471; Taylor v. McClain

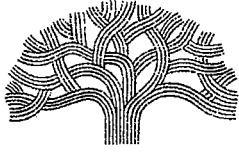
Property Address: 3500 35th Avenue, Oakland, CA

Parties: Susan G Schacher (Tenant)
Roshida McKinzie (Tenant)
Joyce Kleinjan (Tenant)
Sonya M. Coleman (Tenant)
Carol Taylor (Tenant)
Ann McClain (Property Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenants Petition filed	August 31, 2016
Owner Responses filed	October 3, 2016
Hearing Decision issued	February 23, 2017
Tenant Appeal filed	March 10, 2017
Owner Response filed	March 27, 2017

2017 MAR 10 PM 3:45

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp.
	<u>APPEAL</u>	

Appellant's Name JAMES E VANN		<input type="checkbox"/> Owner	<input checked="" type="checkbox"/> Tenant REPRESENTATIVE
Property Address (Include Unit Number) 3500 - 35th AVE. APT # 3			
Appellant's Mailing Address (For receipt of notices) 251 WAYNE AVE OAKLAND, CA 94606		Case Number TIG-0467 thru TIG-0471	
		Date of Decision appealed 23 FEBRUARY 2017	
Name of Representative (if any) FOR: SHAN SCHUCHTER (#27); SONJA COLEMAN (#14) TORICE KLEIN TAP (#36); CAROL TAYLOR (#38) KASHIPA MCKENZIE (#31)		Representative's Mailing Address (For notices) ABOVE	

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.

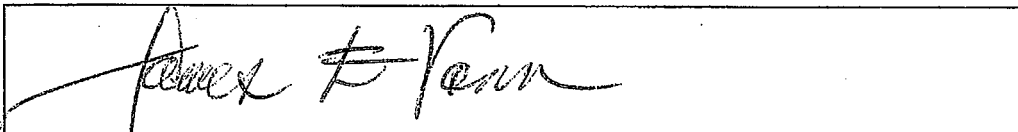
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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: 3.

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 10 March, 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	ANNE MCCLAIN
Address	3500-3516 AVE, #3
City, State Zip	OAKLAND, CALIF 94619
Name	
Address	
City, State Zip	

	10 March 2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

Statement of Appeal

To

The Board of the Rent Adjustment Program

I, James E Vann, Tenant Representative for, and on consent of the listed tenants of 3500 – 35th Avenue, appeal the Hearing Decision, dated February 2017, for the following cases:

T16-0467 Schacher v McClain

T16-0468 McKenzie v McClain

T16-0469 Kleinjan v McClain

T16-0470 Coleman v McClain

T16-0471 Taylor v McClain

This is an appeal of two determinations of the Hearing Decision, which we assert do not conform to the Rent Ordinance and Regulations, specifically respecting:

- (1) Pigeon Control:
- (2) Interior Design Consultation

Pigeon Control: The Hearing Decision states: "Being able to walk in and out of the building without bringing pigeon excrement into your unit is a health benefit to the tenants. Additionally, the tenants' bathroom windows open into the air wells, and this area was full of pigeon excrement before the owner did this work. Arguing that they [tenants] are not benefitted by keeping pigeon excrement off their windows is ludicrous. This cost is allowed."

Tenants object to the Hearing Officer's decision for at least the following reasons:

1. The H.O. is using reasoning from a prior decision (T15-0344, et al), which allowed a cost for pigeon control at the "sidewalks and on the stairs to the building." In the T-15 decision, tenants did not object to this cost.
2. In this case, the owner is claiming costs for work within the roof to deter pigeons from the interior "air wells," which provide ventilation to the bathrooms of tenants. There is no evidence or relation of tenants "walking through excrement as at the entry" and bringing excrement into the bathrooms.
3. Under California law, the "implied warranty of habitability," makes the landlord legally responsible for repairing conditions that seriously affect the habitability of the units and ensure the health and safety of the tenants.
4. Keeping the air wells free of pigeons and excrement is "deferred maintenance" and is the responsibility of the owner.
5. Installing screening to for pigeon control does not significantly extend the useful life of the property and does not "primarily benefit the tenants," therefore the repairs for "pigeon control" do not qualify as a "capital improvement" under the rent law, and should not be passed to the tenants.

Interior Design Consultation: The Hearing Decision states: “[The owner] hired *Roger’s Unlimited* to provide consultation as to the color selection for the paint job and to help her chose a carpet.” ... The tenants contested these costs and argued that having someone help the owner pick out paint and carpets does not extend the useful life of the improvements and is not a benefit to the tenants” ... Also, “the tenants did not object to the contest this cost [of carpets or of installation]”

Tenants object to the Hearing Officer’s decision for at least the following reasons:

1. The owner is free to seek the advice or opinions of numerous sources. Ultimately it is the owner’s sole decision in making decisions on color and carpet selection. However, nowhere is it a requirement that an owner must seek the verbal opinion of others. Nor were the tenants – who must live with the owner’s decision -- asked their opinion of color or carpet choices.
2. The source sought by the owner may have given its subjective opinion – which anyone could do. However, the source did not provide a “professional service” necessary to the repair work, unlike that required of an architect or landscape architect to provide required plans, or of the contractor, who carries out the legally permitted work of building. Providing an opinion is only that. Also, no evidence was presented of the owner entering into a contract with the source to provide “required” advice or opinions necessary to the issuance of the building permit.
3. Providing advice to the owner does not meet any of the qualifications for a “capital improvement.”
 - (a) does not materially add to the value of the property;
 - (b) does not appreciably prolong the useful life or adapt [the building] to new building codes;
 - (c) does not “primarily benefit the tenants rather than the landlord.
4. Seeking opinions or advice is an action an owner is free to take, but is not a required action. The advice may or may not have been helpful to the owner, but in any condition, such opinion does not significantly extend the useful life of the property and does not “primarily” benefit the tenants, therefore the opinion of the source does not qualify as a “capital improvement” under the rent law, and should not be passed on to the tenants. .

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.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- 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.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

2017 MAR 27 PM 2:43

Ann McClain
3500 35th Avenue, LLC
3500 35th Avenue, Apt #3
Oakland, CA 94619

March 27, 2017

City of Oakland
Rent Adjustment Program
PO Box 70243
Oakland, CA 94612-0243

Re: Appeal filed for cases T16-0467 through T16-0471

The tenants' representative Mr. Vann is appealing two capital improvements: Pigeon Control and Interior Design Consultation, a rent increase of \$1.51 per month for 5 of my tenants. In 2015, my tenants filed a petition against a capital improvement in cases #T15-0344 et al. That case also involved capital improvement work involving pigeon control and the design consultation services of Rogers Unlimited for paint and color consultation. In those 2015 cases, Mr. Vann objected to these two capital improvements. At the petition hearing, the hearing officer informed Mr. Vann that she disagreed with his objection to these expenses being counted as capital improvements. She passed the pigeon control and Rogers Unlimited consultation through as capital improvements. Mr. Vann did not appeal either of these except on the basis that he thought I should not have received a 100% grandfathering credit, but rather a 70% credit. Therefore, Mr. Vann was not objecting to the pigeon control or Rogers Unlimited consultation capital improvement costs in his appeal.

About a year later, I did some new capital improvements (those related to cases T16-0467 through T16-0471). This time, only 5 of the tenants in my 24-unit building petitioned. In respect to the pigeon control and Rogers Unlimited bills, Mr. Vann stated that he felt neither should be considered capital improvements. Again, just as in the T15 cases, the hearing officer informed him that she did not agree with his arguments. In fact, to use her own words with respect to the pigeon control, she was "incredulous" at his arguments. With respect to Rogers Unlimited, it was her opinion that professional consultation was important to a good outcome of the project. She found both charges to qualify as capital improvements.

So here we have a case where essentially the same services were performed as in 2015. The hearing officer decisions at the petition hearing level were the same in both years' cases. Mr. Vann's appeal for the 2015 cases made no objection to the pigeon control or design consultation, but for whatever reason, he has decided to object to the same types of services in his appeal for these T16 cases.

Now I would like respond to Mr. Vann's appeal arguments. Please refer to Mr. Vann's appeal statement. My numbering below corresponds to the numbering in his appeal.

Pigeon Control

1. Mr. Vann is correct in stating that in a decision for prior cases T15-0344 et al., the Hearing Officer found in my favor, which allowed a cost for pigeon control at the sidewalk and front entry stairs to the building. The tenants did not object to this cost. This case involves air wells, rear exits, rear stairways and landings, and interior hallways.
2. The costs for the pigeon control work included netting for the air wells to preclude pigeons from entering (the air wells, and tenant apartments through their open bathroom windows), and to preclude cooing noise outside their apartments. Mr. Vann fails to state that the costs also included the attachment of stainless steel prongs to areas outside the rear stairwells and rear exit doors. Pigeon excrement was not only in the air wells, but also on the rear stairs and landings. Additionally, there was testimony as to one of the appellants (Sonya Coleman) reporting finding a pigeon in the hallway on the third floor. I also stated that one of my managers had found pigeons inside the building, on both the second and third floor hallways. I remember saying during the hearing, "Thank goodness this matter was taken care of before the new carpeting was installed." Mr. Vann has conveniently excluded large portions of the testimony in his appeal statement.
- 3&4. This was a capital improvement. It was not a repair, nor was it deferred maintenance. The problem was attended to as soon as I became aware of it. This capital improvement is no different than the earlier T15-0344 et al cases, in which the tenants did not object to the pigeon control, and the hearing officer ruled it a capital improvement which addressed a health and safety issue. (The pigeon control in 2015 involved pigeon droppings at the front of the building.)
5. Installing netting over the air wells and attaching prongs over the rear stairs and landings definitely extends the useful life of the property. Pigeon excrement eats away paint and stains carpeting. The project benefits the tenants because it corrected an unsanitary situation and health hazard for my tenants, as well as removing noise and pest problems.

Rogers Unlimited

1. The painting and carpeting expenses totaled \$49,849.57 a major capital improvement expense. It is more than reasonable, as concurred by the Hearing Officer, that a professional consultant service was utilized. Mr. Rogers is a professional design consultant who has worked with architects, contractors, builders, and private individuals. Mr. Vann erroneously states that I did not ask the

tenants their opinion on paint color or carpet choices. This is untrue. In fact, I asked one of the appellants to this case her opinion of the carpet sample. She thought it was terrific. I might add that the improvements made to the building have been to refurbish and restore it in 1928 vintage fashion. My tenants are not trained in historical/period design, Mr. Rogers is.

2. I found Mr. Vann's argument insulting in terms of Mr. Rogers' provision of service, as Mr. Rogers' services are not something which "anyone could do". Although plans were not required for this particular project, Mr. Rogers has worked with countless contractors, builders, and architects providing required plans. I find it insulting that Mr. Vann refers to Mr. Rogers as providing *only* an opinion. The work performed by Mr. Rogers did not require a contract, so the lack of a contract mentioned by Mr. Vann is irrelevant.
3.
 - a) I have spent considerable time and effort bringing back the building to respect its 1928 vintage. Selecting appropriate paint and carpeting *does* add materially to the value of the property. Also, my property has recently been recommended for an award from the Oakland Heritage Alliance due to my adherence to historical preservation.
 - b) Mr. Rogers is well versed in quality of paint and carpeting. He selects products that will prolong the useful life of the property.
 - c) Mr. Rogers services primarily benefit the tenants because they live at the building. I have received only positive comments from the tenants regarding the capital improvements.
4. See 1-3 above.

Ann McClain



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0467, Schacher v. McClain
T16-0468, McKinzie v. McClain
T16-0469, Kleinjan v. McClain
T16-0470, Coleman v. McClain
T16-0471, Taylor v. McClain

PROPERTY ADDRESS: 3500 35th Avenue, Oakland, CA

DATES OF HEARING: December 14, 2016; February 9, 2017

DATE OF DECISION: February 23, 2017

APPEARANCES: James Vann Tenant Representative
Susan Schacher Tenant (Apartment 27)
Joyce Kleinjan Tenant (Apartment 36)
Ann McClain Owner

SUMMARY OF DECISION

The tenants' petitions contesting the rent increase are granted in part. The legal rents for the tenants' units are set forth in the Order below.

CONTENTIONS OF THE PARTIES

Tenants Susan Schacher (Apartment # 27), Joyce Kleinjan (Apartment # 36), Sonya Coleman (Apartment # 34), and Carol Taylor (Apartment # 38), each filed petitions contesting rent increases on the ground that the increases exceed the Consumer Price Index (CPI) Adjustment, are unjustified or are greater than 10%.

Tenant Rashida McKinzie (Apartment # 31), filed a petition contesting a rent increase from \$787.16 to \$908.26 and claiming that no form notice of the Rent Program (*RAP Notice*) was given to her at least six months before the effective date of the rent increase she is contesting and that she wishes to contest an exemption from the Rent Adjustment Program (RAP). She also claimed that she was being charged for services originally provided by the owner and

that she has lost services or the conditions to her unit had changed. At the Hearing, Ms. McKinzie dismissed her claims of decreased services.

The owner filed timely responses to all the petitions, claiming that the rent increases were based on capital improvements and banking.

THE ISSUES

- (1) Were the tenants served with the *RAP Notice* and the *Enhanced Notice to Tenants for Capital Improvements* as required?
- (2) Is the owner entitled to a rent increase on the basis of capital improvements? If yes, in what amount?
- (3) Is the owner entitled to a rent increase on the basis of banking? If yes, in what amount?
- (4) Has any tenant overpaid or underpaid rent?

EVIDENCE

Rent History, Rent Increase Notices, the *RAP Notice* and the *Enhanced Notice*:

Tenant Schacher: The tenant's petition states that she was served with a rent increase notice on July 13, 2016, purporting to increase her rent to \$863.31 a month, effective September 1, 2016. The tenant testified that she was served with a *RAP Notice* and an *Enhanced Notice to Tenants for Capital Improvements* with the rent increase notice.

The owner produced a copy of the rent increase notice.¹ This notice states that the tenant's base rent from 2014 is \$688.65 (inclusive of storage and parking.) The parties agree that this is the tenant's base rent. The tenant has a prior capital improvement pass-through from case T15-0354 of \$135.66, effective August 1, 2015 for a total legal rent of \$825.41. Since September 1, 2016, the tenant has been paying monthly rent of \$838.08. This rental payment is based on the base rent of \$688.65, the prior \$135.66 capital improvement pass-through, plus the 2% CPI of \$13.77.

Tenant McKinzie: At the Hearing, the tenant was represented by James Vann. The tenant's petition states that she was served with a rent increase notice on July 13, 2016, purporting to increase her rent from \$787.16 to \$908.26 a month, effective September 1, 2016. A *RAP Notice* was included with the rent increase.

The owner produced a copy of the rent increase notice.² This notice states that the tenant's base rent from 2014 is \$774 (inclusive of storage.) The parties agree that this is the tenant's base rent. The tenant has a prior capital improvement pass-through from case T15-0345 of \$94.98, effective August 1, 2015, for a total legal rent of \$868.98. Since September 1, 2016, the tenant has been paying monthly rent of \$884.46. This rental payment is based on the base rent of \$774, the prior \$94.98 capital improvement pass-through, plus the 2% CPI of \$15.48.

¹ Exhibit 1, page 46

² Exhibit 1, page 50

Tenant Kleinjan: The tenant's petition states that she was served with a rent increase notice on July 14, 2016, purporting to increase her rent to \$859.84 a month, effective September 1, 2016. A *RAP Notice* was included with the rent increase.

The owner produced a copy of the rent increase notice.³ This notice states that the tenant's base rent from 2014 is \$709.45 (inclusive of storage and parking.) The parties agree that this is the tenant's base rent. The tenant has a prior capital improvement pass-through of \$111.04 from case T15-0358, effective August 1, 2015, for a total legal rent of \$820.49. Since September 1, 2016, the tenant has been paying \$834.68. This rental payment is based on the base rent of \$709.45, the prior \$111.04 capital improvement pass-through, plus the 2% CPI of \$14.19.

Tenant Coleman: At the Hearing, the tenant was represented by James Vann. The tenant's petition states that she was served with a rent increase notice on July 14, 2016, purporting to increase her rent to \$917.56 a month, effective September 1, 2016. A *RAP Notice* was included with the rent increase.

The owner produced a copy of the rent increase notice.⁴ This notice states that the tenant's base rent from 2014 is \$762. The parties agree that this is the tenant's base rent. According to the rent increase notice, the tenant has a prior capital improvement pass-through from August of 2013 for \$14.00 a month. She also has a prior capital improvement pass-through from case T15-0357 of \$102.49, effective August of 2015 for a total legal rent of \$878.49. Since September 1, 2016, the tenant has been paying the rent increase to \$917.56.

Tenant Taylor: At the Hearing, the tenant was represented by James Vann. The tenant's petition states that she was served with a rent increase notice on July 14, 2016, purporting to increase her rent to \$851.18 a month, effective September 1, 2016. A *RAP Notice* was included with the rent increase.

The owner produced a copy of the rent increase notice.⁵ This notice states that the tenant's base rent from 2014 is \$716.73 (inclusive of parking and storage). The parties agree that this is the tenant's base rent. The tenant has a prior capital improvement pass-through from case T15-0359 of \$94.98, effective August of 2015, for a total legal rent of \$812.21. Since September 1, 2016, the tenant has been paying the rent increase to \$851.18.

As to all tenants:

The owner testified that the *Enhanced Notice to Tenants* was served as required. There was no contradictory testimony from the tenants. Official Notice is taken that an *Enhanced Notice to Tenants* as to all tenants was served on the RAP on July 19, 2016.

³ Exhibit 1, page 54

⁴ Exhibit 1, page 58

⁵ Exhibit 1, page 59

Official Notice is taken of case *Barbalat v. McClain*, T15-0344 et al. a prior case between these parties. This case was affirmed on appeal on October 13, 2016, and the appeal decision was mailed to all parties on December 13, 2016. At the Hearing held on February 9, 2017, the parties stipulated that the tenants who owed back rent pursuant to the prior cases had paid their back rent.

In the prior case of *Barbalat v. McClain* T15-0344 et al. it was determined that all the tenants received the *RAP Notice* at least six months prior to the rent increase at issue in that case.

Capital Improvements: The owner testified that she did a substantial amount of work on the property.

Building Wide Improvements:

Painting: The owner produced invoices from *Vlaho's Painting Company* which documents that interior painting was done on the building. The invoices were for \$18,320, \$1,200 and \$16,500 for a total cost of \$36,020. The first invoice included a \$600 charge for the entrance doors to particular units and the owner did not include that in the requested common area increase. The total the owner included for common area capital improvements for this work was \$35,420. The owner produced proof of payment. The tenants did not contest this cost.

Additionally, the owner bought services from Michelle Charles to do furniture removal, curtain removal and art removal in preparation for the painting. The owner provided an invoice and proof of payment of \$148.63⁶. The tenants did not contest this cost.

Pigeon Control: McClain testified that after doing some work to keep pigeons away from her property in 2015, they returned and were perching on the air wells and air well parapets, defecating into the air wells and walking into the building on the second and third floors through the open doors at the end of the hallways. Each tenant has a bathroom window that opens onto the air wells. There is no ventilation in the bathrooms other than the windows, and the tenants should open the windows to keep the moisture under control in their units. None of the units have bathroom fans.

The owner provided photographs of a substantial amount of pigeon excrement in the air wells of the building.⁷ In order to discourage the pigeons, she hired *Birds Away*, which installed netting over the air wells as well as stainless steel prongs on the pipes outside the rear exit doors.⁸ The cost was \$1,200. The owner provided proof of payment for this costs.⁹

The tenant's contested this work claiming that it did not benefit the tenants because this work was done in the air wells. They claimed that this work benefitted the owner's property and not the tenants and that if there is a health problem associated with the pigeons it is the

⁶ Exhibit 1, pp 26-28

⁷ Exhibit 1, page 19

⁸ See *Birds Away* invoice, Exhibit 1, page 17

⁹ Exhibit 1, page 18

owner's responsibility to provide habitable living spaces so this cost should not be passed on to the tenants.

Interior Design Consultation: McClain testified that she hired *Roger's Unlimited* to provide consultation as to the color selection for the paint job and to help her chose a carpet. Because the building is from 1928, she wanted the carpet selection to match the style and age of the building as well as wear well. The designer went to several carpet stores to pick out samples and then met with the owner to decide what sample best met the needs of the building. Additionally, he picked several colors of paint, applied a few of them to the wall, and Ms. McClain picked the color that worked best. The invoices showed costs of \$1,362.50 and \$550 (for a total of \$1,912.50) and proof of payment was provided.¹⁰

The tenants contested these costs and argued that having someone help the owner pick out paint and carpets does not extend the useful life of the improvement and is not a benefit to the tenants.

Carpet: The owner provided an invoice and proof of payment for the new carpet that was installed in the common areas.¹¹ The cost was \$14,130.94. The tenants did not contest this cost.

In order to install the carpet, the owner had the subfloor prepped for the installation. This cost \$150. The owner provided an invoice and proof of payment.¹² The tenants did not contest this cost.

Gate Closer: The owner testified that there is a locking gate that leads to a side entry door on the side of the building that is used by the vast majority of the tenants. It is used as often as the front door, if not more regularly. The side door that this door leads to is left open during the day (for ventilation) so it is important that the side gate locks. At some point the automatic gate closing device stopped working properly and was not closing all the way. Her manager brought it to her attention and she contacted *Bailey Fence*. Before being notified about it, the owner had been using this side entrance on a regular basis and had not noticed anything wrong with it. She contacted the fence company within two weeks of being told that there was a problem with the gate closer. *Bailey Fence* charged \$777.00 to provide a new gate closer. The owner provided an invoice and proof of payment.¹³ The workers from *Bailey Fence* told Ms. McClain that the gate closer was not repairable.

The tenants objected to this expense by claiming it was deferred maintenance and that security costs are part of the owner's duty to provide habitable premises. Ms. Schacher testified that she did not see that the gate closer was broken, only that it was slowing down.

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¹⁰ Exhibit 1, pages 22-25

¹¹ Exhibit 1, pages 32-37

¹² Exhibit 1, pages 29-31

¹³ Exhibit 1, pages 38-40

Unit specific Capital Improvements:

The owner provided evidence that she had the front doors painted on units 1, 2, 6, 27, 36 and 38 at a cost of \$100 each for a total cost of \$600. She provided an invoice and proof of payment.¹⁴ The tenants do not object to this cost.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The RAP Notice and Enhanced Notices:

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy¹⁵ and together with any notice of rent increase or change in the terms of a tenancy.¹⁶ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first RAP Notice is given.¹⁷ The owner has the burden of proving that the RAP Notice was served.¹⁸

The prior decision in case T15-0354 et al, determined that each of the contesting tenants first received the *RAP Notice* at least six months before the rent increase in that case. Additionally, the tenants were provided with a *RAP Notice* with the rent increases in question.

Additionally, the Rent Adjustment Ordinance requires that an owner who gives a rent increase on the basis of capital improvements must provide an "*Enhanced Notice*" with the rent increase and then file a copy of the *Enhanced Notice* with the Rent Adjustment Program within 10 days of the date the rent increase notice is served. Official Notice is taken that an *Enhanced Notice* for each tenant involved in this case was filed with the RAP office on July 19, 2016.

Capital Improvements:

The Ordinance: A rent increase in excess of the C.P.I. Rent Adjustment may be justified by capital improvement costs.¹⁹ Capital improvement costs are those improvements which materially add to the value of the property and appreciably prolong its useful life.²⁰ The improvements must primarily benefit the tenants rather than the owner. Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.²¹

An owner has discretion to make such improvements, and does not need the consent or approval of tenants. Additionally, the improvements must have been completed and paid for

¹⁴ Exhibit 1, pages 7-8

¹⁵ O.M.C. § 8.22.060(A)

¹⁶ O.M.C. § 8.22.070(H)(1)(A)

¹⁷ O.M.C. § 8.22.060 (C)

¹⁸ Housing, Residential, Rent and Relocation Board Decision in *Thompson et al v. Peper*, T05-0317

¹⁹ O.M.C. Section 8.22.070(C)

²⁰ Old Regulations Appendix, §§ 10.2 through 10.2.3

²¹ Old Regulations Appendix, §10.2.2(5)

within 24 months prior to the date of the proposed rent increase.²² An owner has the burden of proving every element of her case by a preponderance of the evidence.

When an owner seeks a capital improvement pass-through the owner is only entitled to pass-through 70% of the costs of the improvements. Additionally, the owner is limited to those expenses claimed on the *Enhanced Notice*.

Common Area Improvements

Painting: With respect to the painting costs, the owner is allowed \$35,568.63 for the combined charges from *Vlahos Painting* and *Michelle Charles*.

Pigeon Control: The owner is allowed a pass through of \$1,200. The tenants' contention that the work done does not benefit them is not persuasive. Being able to walk in and out of the building without bringing pigeon excrement into your unit is a health benefit to the tenants. Additionally, the tenants' bathroom windows open out into the air wells, and this area was full of pigeon excrement before the owner did this work. Arguing that they are not benefitted by keeping pigeon excrement off their windows is ludicrous. This cost is allowed.

Interior Design Consultation: The owner sought a consultation with a specialist to help her choose appropriate carpet styles and paint colors to match her building. This is a reasonable cost associated with the painting and the carpet, both of which "materially add to the value of the property and appreciably prolong its useful life...". O.M.C. Regulations, Appendix A, § 10.2. The total cost of \$1,912.50 is allowed.

Carpet: The costs to install the carpet \$14,280.94 (\$14,130.94 + \$150) is allowed. These costs add to the value of the property and prolong its useful life.

Gate Closer: The gate closer was a necessary expense because the previous gate closer was not working anymore. However, this expense is closer to day to day maintenance of the property than it is a capital improvement. An owner has to maintain the perimeter of the building and provide a safe environment for the tenants. The Regulations state:

"In some cases, it is difficult to separate costs between rental units; common vs. Rental areas; commercial vs. residential areas; or housing service costs vs. capital improvements. In these cases, the Hearing Officer will make a determination on a case-by case basis." O.M.C. Regulations, Appendix A, § 10.2.4.

In this case, it is determined that the replacement of the gate closure is a housing service cost. This cost is not allowed.

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²² Regulations Appendix, § 10.2.1

Unit Specific Improvements

The owner painted the front doors on individual apartments.²³ These costs are allowable as noted on the chart below.

Tenant	Apartment #	Painting Cost
Schacher	Apartment 27	\$100
Kleinjan	Apartment 36	\$100
Taylor	Apartment 38	\$100

The Worksheet

The owner submitted satisfactory evidence of payment for the work mentioned above. Attached to this Hearing Decision as Exhibit "A" is a capital improvement worksheet which lists the costs allowed. This Table sets forth the proper calculation for a rent increase based upon the capital improvements expenses, being \$25.75 per month for tenants McKinzie and Coleman (common area only) and \$26.92 per month for common area and unit specific charges for tenant Schacher, Kleinjan and Taylor.

Banking:

If an owner chooses to not increase the rent, or increase it less than the annual CPI adjustments permitted by the Ordinance, the owner is allowed to bank the unused increases, subject to certain limitations.²⁴ However, the total rent increase imposed in any one rent increase may not exceed a total of three times the then allowable CPI increase and cannot be greater than 10%.²⁵ In no event may any banked CPI Rent Adjustments be implemented more than ten years after it accrues.²⁶

Generally, facts needed to calculate banked increases are: (1) The date of the start of tenancy or eleven years before the effective date of the increase at issue, whichever is later; (2) the lawful base rent in effect on said date; (3) The lawful rent in effect immediately before the effective date of the current proposed rent increase; and (4) the date(s) and amount(s) of any intervening changes to the base rent between dates (1) and (3).

However, in this case, the owner is seeking to take a "banked" increase not given in 2015 because at that time she was giving a capital improvement increase and could not additionally give the CPI increase. In each case, the owner is entitled to use the 1.7% banked CPI increase from 2015 providing that doing so does not cause the tenant's rent increase to exceed 10%.

²³ Some of the tenants who live in the apartments listed in the Evidence section did not contest the rent increase. This section only lists the costs for those who contested.

²⁴ O.M.C. § 8.22.070

²⁵ Regulations Appendix, §10.5.1

²⁶ Regulations Appendix, §10.5.3

As to tenant Schacher, the owner is entitled to a banked rent increase of \$11.71. As to tenant McKinzie, the owner is entitled to a banked rent increase of \$13.16. As to tenant Kleinjan, the owner is entitled to a banked rent increase of \$12.06. As to tenant Coleman, the owner is entitled to a banked rent increase of \$12.95. As to tenant Taylor, the owner is entitled to a banked rent increase of \$12.18.

Allowable Rent (Including Overpayments and Underpayments):

Tenant Schacher: Susan Schacher's prior base rent was \$688.65 (inclusive of storage and parking.) The tenant has a prior capital improvement pass-through from case T15-0354 of \$135.66, effective August 1, 2015, for a total prior legal rent of \$824.31.

The owner is entitled to a banked rent increase as to Ms. Schacher of \$11.71, bringing her current base rent to \$700.36, effective September 1, 2016. She is also entitled to a new capital improvement pass-through of \$26.91, effective September 1, 2016. The tenant's total current legal rent, inclusive of both capital improvement pass-throughs equals \$862.93.

Since September 1, 2016, the tenant has been paying monthly rent of \$838.08. This is an underpayment of \$24.85 a month for 6 months, or a total underpayment of \$149.10. An underpayment of this size is adjusted over a three month period; so the rent increase is an additional \$49.70 a month. For now, this \$49.70 is added to the current legal rent of \$862.93 for a total of \$912.63. From March 2017 through May 2017, Ms. Schacher's rent will be \$912.63. Her rent will revert to the current legal rent in June of 2017.

On August 1, 2020, tenant Schacher's rent will be reduced by the prior capital improvement pass-through of \$135.66. On September 1, 2021, tenant Schacher's rent will be reduced by the new capital improvement pass-through of \$26.91.

Tenant McKinzie: Rashida McKinzie's prior base rent was \$774 (inclusive of storage.) The tenant has a prior capital improvement pass-through from case T15-0345 of \$94.98, effective August 1, 2015, for a total prior legal rent of \$868.98.

The owner is entitled to a banked rent increase as to Ms. McKinzie of \$13.16, bringing her current base rent to \$787.16, effective September 1, 2016. She is also entitled to a new capital improvement pass-through of \$25.75, effective September 1, 2016. The tenant's total current legal rent, inclusive of both capital improvement pass-throughs equals \$907.89.

Since September 1, 2016, the tenant has been paying monthly rent of \$884.46. This is an underpayment of \$23.43 a month for 6 months, or a total underpayment of \$140.58. An underpayment of this size is adjusted over a three month period; so the rent increase is an additional \$46.86 a month. For now, this \$46.86 is added to the current legal rent of \$907.89 for a total of \$954.75. From March 2017 through May 2017, Ms. McKinzie's rent will be \$954.75. Her rent will revert to the current legal rent in June of 2017.

On August 1, 2020, tenant McKinzie's rent will be reduced by the prior capital improvement pass-through of \$94.98. On September 1, 2021, tenant McKinzie's rent will be reduced by the new capital improvement pass-through of \$25.75.

Tenant Kleinjan: Tenant Kleinjan's prior base rent was \$709.45, (inclusive of storage and parking.) The tenant has a prior capital improvement pass through from case T15-O358, in the amount of \$111.04, for a total prior legal rent of \$820.49.

The owner is entitled to a banked rent increase as to Ms. Kleinjan of \$12.06, bringing her current base rent to \$721.51, effective September 1, 2016. She is also entitled to a new capital improvement pass-through of \$26.91, effective September 1, 2016. The tenant's total current legal rent, inclusive of both capital improvement pass-throughs equals \$859.46.

Since September 1, 2016, the tenant has been paying monthly rent of \$834.68. This is an underpayment of \$24.78 a month for 6 months, or a total underpayment of \$148.68. An underpayment of this size is adjusted over a three month period; so the rent increase is an additional \$49.56 a month. For now, this \$49.56 is added to the current legal rent of \$859.46 for a total of \$909.02. From March 2017 through May 2017, Ms. Kleinjan's rent will be \$909.02. Her rent will revert to the current legal rent in June of 2017.

On August 1, 2020, tenant Kleinjan's rent will be reduced by the prior capital improvement pass-through of \$111.04. On September 1, 2021, tenant Kleinjan's rent will be reduced by the new capital improvement pass-through of \$26.91.

Tenant Coleman: Tenant Sonya Coleman's prior base rent was \$762. The tenant has two prior capital improvement pass throughs--one from August of 2013 in the amount of \$14.00 and one from case T15-0357, in the amount of \$102.49 effective August 1, 2015, for a total prior legal rent of \$878.49.

The owner is entitled to a banked rent increase as to Ms. Coleman of \$12.95, bringing her current base rent to \$774.95, effective September 1, 2016. She is also entitled to a new capital improvement pass-through of \$25.75, effective September 1, 2016. The tenant's total current legal rent, inclusive of all three capital improvement pass-throughs equals \$917.19.

Since September 1, 2016, the tenant has been paying monthly rent of \$917.56. This is an overpayment of \$.37 a month for 6 months, or a total overpayment of \$2.22. An overpayment of this size is adjusted over a one month period; so the rent decrease is \$.22 for one month. For now, this \$2.22 is subtracted from the current legal rent of \$917.19 for a total of \$914.97. For the month of March 2017, Ms. Coleman's rent will be \$914.97. Her rent will revert to the current legal rent in April of 2017.

On August 1, 2018, tenant Coleman's rent will be reduced by the first prior capital improvement pass-through of \$14.00. On August 1, 2020, tenant Kleinjan's rent will be reduced by the second prior capital improvement pass-through of \$102.49. On September 1, 2021, tenant Coleman's rent will be reduced by the new capital improvement pass-through of \$25.75.

Tenant Taylor: Tenant Taylor's prior base rent was \$716.73, (inclusive of storage and parking.) The tenant has a prior capital improvement pass through from case T15-0359, in the amount of \$94.98, for a total prior legal rent of \$811.71.

The owner is entitled to a banked rent increase as to Ms. Taylor of \$12.18, bringing her current base rent to \$728.91, effective September 1, 2016. She is also entitled to a new capital improvement pass-through of \$26.91, effective September 1, 2016. The tenant's total current legal rent, inclusive of both capital improvement pass-throughs equals \$850.80.

Since September 1, 2016, the tenant has been paying monthly rent of \$851.18. This is an overpayment of \$.38 a month for 6 months, or a total underpayment of \$2.28. An overpayment of this size is adjusted over a one month period; so the rent decrease is \$2.28 for one month. For now, this \$2.28 is subtracted from the current legal rent of \$850.80 for a total of \$848.52. For the month of March 2017, Ms. Taylor's rent will be \$848.52. Her rent will revert to the current legal rent in April of 2017.

On August 1, 2020, tenant Taylor's rent will be reduced by the prior capital improvement pass-through of \$94.98. On September 1, 2021, tenant Taylor's rent will be reduced by the new capital improvement pass-through of \$26.91.

ORDER

1. Tenant Petitions T16-0467, Schacher v. McClain; T16-0468, McKinzie v. McClain; T16-0469, Kleinjan v. McClain; T16-0470, Coleman v. McClain; and T16-0471, Taylor v. McClain are granted in part.
2. The owner is granted a banked rent increase as to tenant Schacher in the amount of \$11.71, bringing her current base rent to \$700.36, effective September 1, 2016.
3. Effective September 1, 2016, a new Capital Improvement pass-through is granted to the owner in the amount of \$26.91 to tenant Schacher. Effective September 1, 2016, her total legal rent is \$862.93 a month.
4. Ms. Schacher has underpaid rent in the amount of \$149.10. The underpayment is adjusted over a period of 3 months. From March 2017 through May 2017, Ms. Schacher's rent will be \$912.63 a month. Her rent will revert to the current legal rent in June of 2017.
5. On August 1, 2020, tenant Schacher's rent will be reduced by the prior capital improvement pass-through of \$135.66.
6. On August 1, 2021, tenant Schacher's rent will be reduced by the new capital improvement pass-through of \$26.91.
7. The owner is granted a banked rent increase as to tenant McKinzie in the amount of \$13.16, bringing her current base rent to \$787.16, effective September 1, 2016.
8. Effective September 1, 2016, a new Capital Improvement pass-through is granted to the owner in the amount of \$25.75 to tenant McKinzie. Effective September 1, 2016, her total legal rent is \$907.89 a month.

9. Ms. McKinzie has underpaid rent in the amount of \$140.58. The underpayment is adjusted over a period of 3 months. From March 2017 through May 2017, Ms. McKinzie's rent will be \$954.75 a month. Her rent will revert to the current legal rent in June of 2017.
10. On August 1, 2020, tenant McKinzie's rent will be reduced by the prior capital improvement pass-through of \$94.98.
11. On August 1, 2021, tenant McKinzie's rent will be reduced by the new capital improvement pass-through of \$25.75.
12. The owner is granted a banked rent increase as to tenant Kleinjan in the amount of \$12.06, bringing her current base rent to \$721.51, effective September 1, 2016.
13. Effective September 1, 2016, a new Capital Improvement pass-through is granted to the owner in the amount of \$26.91 to tenant Joyce Kleinjan. Effective September 1, 2016, her total legal rent is \$859.46 a month.
14. Ms. Kleinjan has underpaid rent in the amount of \$148.68. The underpayment is adjusted over a period of 3 months. From March 2017 through May 2017, Ms. Kleinjan's rent will be \$909.02 a month. Her rent will revert to the current legal rent in June of 2017.
15. On August 1, 2020, tenant Kleinjan's rent will be reduced by the prior capital improvement pass-through of \$111.04.
16. On September 1, 2021, tenant Kleinjan's rent will be reduced by the new capital improvement pass-through of \$26.91.
17. The owner is granted a banked rent increase as to tenant Coleman in the amount of \$12.95, bringing her current base rent to \$774.95, effective September 1, 2016.
18. Effective September 1, 2016, a new Capital Improvement pass-through is granted to the owner in the amount of \$25.75 to tenant Sonya Coleman. Effective September 1, 2016, her total legal rent is \$917.19 a month.
19. Ms. Coleman has overpaid rent in the amount of \$2.22. The overpayment is adjusted over a period of 1 month. In March 2017, Ms. Coleman's rent will be \$914.97 a month. Her rent will revert to the current legal rent in April of 2017.
20. On August 1, 2018, tenant Coleman's rent will be reduced by the first prior capital improvement pass-through of \$14.00.
21. On August 1, 2020, tenant Coleman's rent will be reduced by the second prior capital improvement pass-through of \$102.49.
22. On September 1, 2021, tenant Coleman's rent will be reduced by the new capital improvement pass-through of \$25.75.

23. The owner is granted a banked rent increase as to tenant Taylor in the amount of \$12.18, bringing her current base rent to \$728.91, effective September 1, 2016.

24. Effective September 1, 2016, a new Capital Improvement pass-through is granted to the owner in the amount of \$26.91 to tenant Carol Taylor. Effective September 1, 2016, her total legal rent is \$850.80 a month.

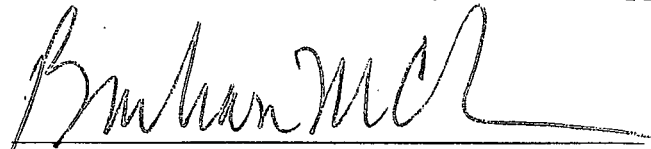
25. Ms. Taylor has overpaid rent in the amount of \$2.28. The overpayment is adjusted over a period of 1 month. In March 2017, Ms. Taylor's rent will be \$848.52 a month. Her rent will revert to the current legal rent in April of 2017.

26. On August 1, 2020, tenant Taylor's rent will be reduced by the prior capital improvement pass-through of \$94.98.

27. On September 1, 2021, tenant Taylor's rent will be reduced by the new capital improvement pass-through of \$26.91.

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

Dated: February 23, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

City of Oakland Capital Improvements Calculator Worksheet

IMPROVEMENTS BENEFITING ALL UNITS BUILDING WIDE

Effective Date of Rent Increase
 Number of Residential Units

1-Sep-16
 24

IMPROVEMENT OR REPAIR	DATE COMPLETED	FULL COST	Amortizable Cost (70%)	# of Units	Allowable Cost per Unit (Pre-Amortization)	Date Validation (2 years ago max)
Painting	3-Jul-16	\$35,568.63	\$24,898.04	24	\$1,037.42	OK
Pigeon Control	5-Jul-16	\$1,200.00	\$840.00	24	\$35.00	OK
Interior Design	16-May-16	\$1,912.50	\$1,338.75	24	\$55.78	OK
Carpeting	14-May-16	\$14,280.94	\$9,996.66	24	\$416.53	OK
Subtotal			\$37,073.45		\$1,544.73	
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					\$1,544.73	

Exhibit "A"

IMPROVEMENTS LIMITED TO SPECIFIC UNITS

Total Allowable Unit-Specific Pass-through (Column D)							\$210.00
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)
Painting Door	9-May-16	\$100.00	\$70.00	1	\$70.00	27	OK
Painting Door	9-May-16	\$100.00	\$70.00	1	\$70.00	36	OK
Painting Door	9-May-16	\$100.00	\$70.00	1	\$70.00	38	OK
Totals							\$210.00

AMORTIZATION

Sum of Unit-Specific Costs (Column D below):								\$210.00
Unit Specific Data Entry is Complete								
Unit	Current Base Rent	Building Wide Pass-through	Unit Specific Pass-through	Total Pass through on	Years to Amortize (5)	Allowable Increase \$	Increase % (must be 10%)	
27	\$688.65	\$1,544.73	\$70.00	\$1,614.73	5	\$26.91	3.91%	
36	\$709.45	\$1,544.73	\$70.00	\$1,614.73	5	\$26.91	3.79%	
34	\$762.00	\$1,544.73	\$0.00	\$1,544.73	5	\$25.75	3.38%	
38	\$716.73	\$1,544.73	\$70.00	\$1,614.73	5	\$26.91	3.75%	
31	\$774.00	\$1,544.73	\$0.00	\$1,544.73	5	\$25.75	3.33%	
Totals							\$210.00	

T16-0467 RC/BC

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp: 2016 AUG 31 PM 2:01</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Susan G. Schacher</i>	Rental Address (with zip code) <i>3500 35th Ave, Apt 27 Oakland CA 94619</i>	Telephone <i>(510) 482-0973</i>
Your Representative's Name <i>James E. Vann</i>	Mailing Address (with zip code) <i>251 Wayne Ave Oakland CA 94606</i>	Telephone <i>(510) 763-0142</i>
Property Owner(s) name(s) <i>Ann McClain</i>	Mailing Address (with zip code) <i>3500 35th Ave, Apt 3 Oakland CA 94619</i>	Telephone <i>(510) 655-0372</i>

Number of units on the property: 24

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

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

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

000033

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

Date you moved into the Unit: approx 10/1/79 Initial Rent: \$? /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 3/28/02. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased <i>includes storage + parking</i>		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
7/13/16	9/1/16	\$ <i>I have been paying 700.36</i>	\$ 863.31	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<i>appeal pending</i> 5/22/15	8/1/15	\$ 688.65	\$ 833.38	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

per RAP law, I have been paying 700.36 since 8/1/15, upon petitioning & pending appeal

appeal pending regarding capital improvement

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

List case number(s) of all Petition(s) you have ever filed for this rental unit: T 15-0354, T14-0268, T13-0253, T11-0155, T08-0183, T07-0127, T05-0153, T02-0126

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

00064

IV. VERIFICATION: The tenant must sign:

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

Susan G. Schacher
Tenant's Signature

8/27/16
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

0003-

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

For filing stamp.
RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2016 OCT -3 PM 3:40

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

CASE NUMBER T16-0467

OWNER RESPONSE

Please print legibly.

Your Name <u>ANW McCLAIN</u>	Complete Address (with zip code) <u>3500 - 35TH AVENUE, APT #3</u> <u>OAKLAND</u> <u>CA 94619</u>	Phone: <u>510-655-0372</u> Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <u>SUSAN SCHACHER</u>	Complete Address (with zip code) <u>3500 - 35TH AVENUE, APT #27</u> <u>OAKLAND</u> <u>CA 94619</u>	

Have you paid for your Oakland Business License? Yes No Number 827754
(Provide proof of payment.)

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

There are 24 residential units in the subject building. I acquired the building on 10/7/09.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on APPROX 10/1/79.

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

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? APPROX 2000?

MS. SCHACHER STATES 3/28/02

Is the tenant current on the rent? Yes No

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 7/16/16 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
7/16/16	9/1/16	\$ 824.31 ^{ON APPEAL}	\$ 863.31 ^{ON PETITION}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/26/15	8/1/15	\$ 688.65	\$ 833.38 ^{ON APPEAL}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

8/1/15 RENT INCREASE WAS PETITIONED. HEARING OFFICER DECISION = \$824.31, HOWEVER MS. SCHACHEK IS CURRENTLY APPEALING H.O. DECISION OF \$824.31. (CHALLENGING 70%/100% RULE)

II. JUSTIFICATION FOR RENT INCREASE

FROM 8/1/15 - 8/31/16 SHE PAID \$700.36 MONTHLY
 FROM 9/1/16 FORWARD SHE HAS BEEN PAYING \$714.13
 SHE HAS NOT PARTICIPATED IN THE 12 MONTH PAYBACK PERIOD OF FEB 2016 - JAN 2017
 CASE 15-033

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

Date of Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

VI. VERIFICATION

Owner must sign here:

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



9/25/16

Owner's Signature

Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

2016 OCT -3 PM 3:39

ATTACHED:

1. OWNER RESPONSE FOR:

SUSAN SCHACHER T16-0467

RASHIDA MCKINZIE T16-0468

JOYCE KLEWJAN T16-0469

SONYA COLEMAN T16-0470

CAROL TAYLOR T16-0471

2. VERIFICATION OF PREVIOUSLY SUBMITTED
ENHANCED NOTICE AND RENT INCREASE FORM
JULY 18, 2016 2:25PM - 2:29 PM 18 TENANTS
(5 OF WHOM ARE PETITIONING)

3. OAKLAND BUSINESS TAX DECLARATION AND
PROOF OF PAYMENT

4. OAKLAND 2016 RENT ADJUSTMENT PROGRAM TAX AND
PROOF OF PAYMENT

T116-0468 RC/BC

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For Date/Stamp 2016 AUG 31 PM 3:57</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name ROSHIDA MCKENZIE	Rental Address (with zip code) 3500 35TH AVE APT 31 OAKLAND, CA 94619	Telephone 919.452.7205
Your Representative's Name JAMES VANN	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) ANN Mc CLAIN	Mailing Address (with zip code)	Telephone

Number of units on the property: 24

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

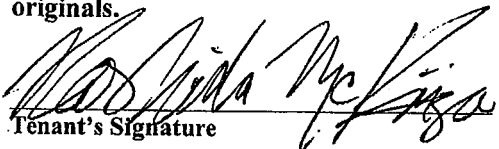
I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

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

00000

IV. VERIFICATION: The tenant must sign:

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


Tenant's Signature

8/31/16
Date

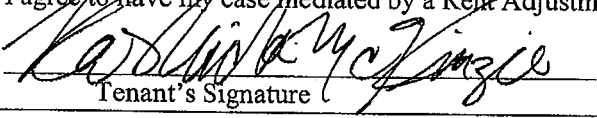
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

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

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

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

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


Tenant's Signature

8/31/16
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For filing stamp

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 OCT -3 PM 3:40

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

CASE NUMBER T/6-0468

OWNER RESPONSE

Please print legibly.

Your Name ANN McCLAIN	Complete Address (with zip code) # 3500 - 35TH AVENUE, APT 3 OAKLAND CA. 94619	Phone: <u>510-655-0372</u> Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) RASHIDA MCKINZIE	Complete Address (with zip code) # 3500-35TH AVENUE, APT 31 OAKLAND CA 94619	

Have you paid for your Oakland Business License? Yes No Number 827754
(Provide proof of payment.)

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

There are 24 residential units in the subject building. I acquired the building on 10/7/09.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on NOVEMBER 1, 2011.

The tenant's initial rent including all services provided was \$ 735 / month.

INITIAL RENT DID NOT INCLUDE STORAGE. STORAGE BEGAN 3/15/12

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?

Yes No I don't know If yes, on what date was the Notice first given? 11/1/11

IT HAS BEEN GIVEN WITH EVERY RENT INCREASE, FOR EXAMPLE IN 2015, 2014

Is the tenant current on the rent? Yes No

SHE IS PAYING THE MINIMUM AMOUNT BECAUSE OF PAST + CURRENT APPEALS, PETITIONS

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

DECREASED OR MAINTAIN HOUSING SERVICES, SHE DID NOT APPEAR TO BE PETITIONING LETTER (A) BUT JUST IN CASE, I WILL CHECK THE VARIOUS POSSIBLE BOXES. SEE SECTION II BELOW.

If a contested increase was based on Capital Improvements, did you provide an Enhanced Notice to Tenants for Capital Improvements to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 7/16/16 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
7/16/16	9/1/16	\$ 868.98 ^{ON APPEAL}	\$ 908.26 ^{ON PETITION}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/26/15	8/1/15	\$ 774.00	\$ 878.05 ^{ON APPEAL}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

8/1/15 RENT INCREASE WAS PETITIONED. HEARING OFFICER DECISION = 868.98, HOWEVER MS. MCKENZIE IS CURRENTLY APPEALING THE H.O. DECISION OF 868.98 (CHALLENGING THE 70%/100% RULE)

II. JUSTIFICATION FOR RENT INCREASE SHE DOES NOT APPEAR TO BE CONTESTING

(a) INCREASE(S) EXCEEDED THE CPI ADJUSTMENT, BUT I AM MARKING THE BOXES BELOW ANYHOW. YOU MUST PROVE THAT EACH CONTESTED RENT INCREASE GREATER THAN THE ANNUAL CPI ADJUSTMENT IS JUSTIFIED AND WAS CORRECTLY SERVED. USE THE FOLLOWING TABLE AND CHECK THE APPLICABLE JUSTIFICATION(S) BOX FOR EACH INCREASE CONTESTED BY THE TENANT(S) PETITION. FOR A SUMMARY OF THESE JUSTIFICATIONS, PLEASE REFER TO THE "JUSTIFICATIONS FOR INCREASES GREATER THAN THE ANNUAL CPI RATE" SECTION IN THE ATTACHED OWNER'S GUIDE TO RENT ADJUSTMENT.
 SHE HAS NOT PARTICIPATED IN THE G.M.G. PAYBACK PROGRAM OF T15-0345

Date of Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

VI. VERIFICATION

Owner must sign here:

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

Owner's Signature

9/25/16
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

Tile. 0449 RA/BC

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date of Rent Adjustment Program 2016 AUG 31 PM 2:01
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Joyce Kleinjan	Rental Address (with zip code) 3500 35TH Ave #36 Oakland Ca 94619	Telephone 510 530 0389
Your Representative's Name James Vann	Mailing Address (with zip code) 251 Wayne Ave Oakland Ca 94606	Telephone 510 763 0142
Property Owner(s) name(s) Ann McClain	Mailing Address (with zip code) 3500 35TH Ave #3 Oakland Ca 94619	Telephone 510 655 0372

Number of units on the property: 24

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

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

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

0007-

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

Date you moved into the Unit: 8/1/08 Initial Rent: \$ 600.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 8/2010. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased includes Storage + parking		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>7/14/16</u>	<u>9/1/16</u>	<u>\$ * appeal pending</u>	<u>\$ 859.84</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>5/22/15</u>	<u>8/1/15</u>	<u>\$ 709.45</u>	<u>\$ 820.49</u>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
* Since 8/1/15 in accordance to the RAP Law I have been paying		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<u>\$ 709.45</u>	<u>\$ 820.49</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<u>\$ + 12.00 (1.7%)</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<u>721.51</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

appeal pending

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

T13-0254

List case number(s) of all Petition(s) you have ever filed for this rental unit: T15-0358

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

016076

IV. VERIFICATION: The tenant must sign:

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

Joyce Kleinjan
Tenant's Signature

8/17/16
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

0077

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM 2016 OCT -3 PM 3:40
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T16-0469

OWNER RESPONSE

Please print legibly.

Your Name ANN McCLAIN	Complete Address (with zip code) # 3500-35 TH AVENUE, APT 3 OAKLAND, CA. 94619	Phone: 510-655-0372 Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) JOYCE KLEINJAN	Complete Address (with zip code) # 3500-35 TH AVENUE, APT 36 OAKLAND CA. 94619	

Have you paid for your Oakland Business License? Yes No Number 827754
(Provide proof of payment.)

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

There are 24 residential units in the subject building. I acquired the building on 10/7/09.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 8/1/08.

The tenant's initial rent including all services provided was \$ 600 / month.

DID NOT INCLUDE PARKING INITIALLY, BUT INCLUDED STORAGE
Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 8/1/10

Is the tenant current on the rent? Yes No

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 7/15/16 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
7/15/16	9/1/16	\$ 820.49 ^{ON APPEAL}	\$ 859.84 ^{ON PETITION}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6/26/15	8/1/15	\$ 709.45	\$ 827.81 ^{ON APPEAL}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

8/1/15 Rent increase was petitioned. Hearing officer decision = \$ 820.49 However, MS. KLEINMAN IS CURRENTLY APPEALING H.O. DECISION OF \$ 820.49 (challenging 70%/100% RULE) FROM 8/1/15 - 8/31/16 SHE PAID \$ 721.51 MONTHLY FROM 9/1/16 FORWARD SHE IS PAYING \$ 35.70 SHE HAS NOT PARTICIPATED IN THE PAYBACK PERIOD OF 9 MONTHS 2/16 - 10/16 TIS-0358

II. JUSTIFICATION FOR RENT INCREASE

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

Date of Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

VI. VERIFICATION

Owner must sign here:

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

Owner's Signature

9/25/16

Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

Tilc 0470 re/BC

RECEIVED
CITY OF OAKLAND
For Rent Arbitration Program

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	2016 AUG 31 PM 2:01
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name SONYA M. COLEMAN	Rental Address (with zip code) 3500 35th AVE. #34 OAKLAND, CA. 94619	Telephone 510-482-1324
Your Representative's Name JAMES E. VANN	Mailing Address (with zip code) 251 WAYNE AVE. OAKLAND, CA. 94606	Telephone 510-763-0142
Property Owner(s) name(s) ANN McCLAIN	Mailing Address (with zip code) 3500 35th AVE. #3 OAKLAND, CA. 94619	Telephone 510-655-0372

Number of units on the property: 24

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

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

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

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

Date you moved into the Unit: August 1, 2008 Initial Rent: \$ 675.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: August 1, 2008 If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
		<i>see page 2A</i>			
<i>7-14-16</i>	<i>9-1-16</i>	<i>\$ appeal pending</i>	<i>\$ 917.56</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<i>5-22-15</i>	<i>8-1-16</i>	<i>\$ 776.00</i>	<i>\$ 885.82</i>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

appeal pending or -0357

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

List case number(s) of all Petition(s) you have ever filed for this rental unit: T15-0357

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign: .

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

Sonya M. Coleman
Tenant's Signature

8-19-16
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Case T15-0357 (consolidated with others) is pending appeal.

Sonya Coleman

Corrected Hearing Decision, January 28, 2016 specified 2015 rent at 878.49

Since Feb 2016, I have opted to pay \$59.69 extra each month for 9 months to cover an underpayment of \$537.24, from Aug 2015 to Jan 2016, as calculated in the Corrected Hearing Decision.

	rent according to Corrected Decision	extra to cover underpayment	total rent paid
Feb 2016	878.49	59.81	938.30 error
Mar 2016	878.49	59.57	938.06 error corrected
Apr 2016	878.49	59.69	938.18
May 2016	878.49	59.69	938.18
June 2016	878.49	59.69	938.18
July 2016	878.49	59.69	938.18
Aug 2016	878.49	59.69	938.18

6/14/2016 Notice of rent increase says rent as of 9/1/16 should be 917.56

Re 2016: I intend to pay the following until this 2016 case is resolved.

The \$59.69 per month overpayment continues for Sept and Oct 2016

The \$59.69 per month overpayment does not apply in Nov 2016.

Sept 2016	917.56	59.69	977.25
Oct 2016	917.56	59.69	977.25
Nov 2016	917.56	0	917.56

etc. until this 2016 case is resolved

Landlady's explanation of 917.56 rent from rent notice

762.00	base rent 2014	
12.95	2015 CPI (1.7% banked)	
774.95	total base rent 2015	
14.00	8/1/13 capital improvement, yr 4 of 5	
102.49	8/1/15 capital improvement, yr 2 of 5	(appeal pending)
26.12	9/1/16 capital improvement, yr 1 of 5	(current petition)
917.56	total rent due 9/1/16	

Page 2A

000084

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

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

For filing stamp.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 OCT -3 PM 3:40

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

CASE NUMBER T16-0470

OWNER RESPONSE

Please print legibly.

Your Name <u>ANN McCLAIN</u>	Complete Address (with zip code) <u>3500-35TH AVENUE, APT #3</u> <u>OAKLAND</u> <u>CA. 94619</u>	Phone: <u>510-655-0372</u> Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <u>SONYA COLEMAN</u>	Complete Address (with zip code) <u>3500-35TH AVENUE, APT #34</u> <u>OAKLAND</u> <u>CA. 94619</u>	

Have you paid for your Oakland Business License? Yes No Number 827754
(Provide proof of payment.)

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

There are 24 residential units in the subject building. I acquired the building on 10/7/09.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 8/1/08.

The tenant's initial rent including all services provided was \$ 675 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 8/1/08

Is the tenant current on the rent? Yes No

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes X No ____ . If yes, on what date was the Enhanced Notice given? 7/15/16 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes X No ____ . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
7/15/16	9/1/16	\$ 878.49 ^{ON APPEAL}	\$ 917.56 ^{ON PETITION}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/26/15	8/1/15	\$ 776.00	\$ 885.82 ^{ON APPEAL}	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

8/1/16 Rent increase was petitioned. Hearing officer decision = 878.49. HOWEVER MS. COLEMAN IS CURRENTLY APPEALING THE H.O. decision of 878.49 (Challenging 70% / 100% rule)

II. JUSTIFICATION FOR RENT INCREASE

MS. COLEMAN IS UP TO DATE ON RENT PAYMENTS AND HAS PARTICIPATED IN HER PAYBACK PROGRAM FROM CASE TIS-0357. SHE IS NOT TAKING THE MINIMUM AMOUNT IN THIS CASE TIL-0470

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


Date of Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

9/25/16

Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

T16-0471 RC/BC

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM For date stamp 2016 AUG 31 PM 2:01
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Carol Taylor</i>	Rental Address (with zip code) <i>3500 35th Ave #38 Oakland, CA 94619</i>	Telephone <i>510-418-6876</i>
Your Representative's Name <i>James E. Vann</i>	Mailing Address (with zip code) <i>251 Wayne Ave. Oakland, CA 94606</i>	Telephone <i>510-723-0142</i>
Property Owner(s) name(s) <i>Ann McClain</i>	Mailing Address (with zip code) <i>3500 35th Ave #3 Oakland, CA 94619</i>	Telephone <i>510-655-0372</i>

Number of units on the property: 24

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

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

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

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

Date you moved into the Unit: 12/01/2000 Initial Rent: \$ 500 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 2002. If never provided, enter "Never."

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

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

ending appeal

pending appeal

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>7/14/14</u>	<u>9/01/14</u>	<u>\$ see page 2A</u>	<u>\$ 851.18</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>5/22/15</u>	<u>8/01/15</u>	<u>\$ 716.73</u>	<u>\$ 820.78</u>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

T13 - 0257

List case number(s) of all Petition(s) you have ever filed for this rental unit: T15 - 0359

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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

Carol Taylor
Tenant's Signature

8/30/16
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Carol Taylor

3500 35th Av. Unit 38

Case T15-0359 (consolidated with others) is pending appeal.

Corrected Hearing Decision, January 28, 2016 specified 2015 rent at 811.71

Since Feb 2016, I have opted to pay \$55.20 extra each month for 9 months to cover an underpayment of \$537.24, from Aug 2015 to Jan 2016, as calculated in the Corrected Hearing Decision.

	rent according to Corrected Decision	extra to cover underpayment	total rent paid
Feb 2016	811.71	55.20	866.91
Mar 2016	811.71	55.20	866.91
Apr 2016	811.71	55.20	866.91
May 2016	811.71	55.20	866.91
June 2016	811.71	55.20	866.91
July 2016	811.71	55.20	866.91
Aug 2016	811.71	55.20	866.91

6/14/2016 Notice of rent increase says rent as of 9/1/16 should be 851.15

Re 2016: I intend to pay the following until this 2016 case is resolved.

The \$55.20 per month overpayment continues for Sept and Oct 2016

The \$55.20 per month overpayment does not apply in Nov 2016.

Sept 2016	851.18	55.20	906.38
Oct 2016	851.18	55.20	906.38
Nov 2016	851.18	0	851.18

etc. until this 2016 case is resolved

Landlady's explanation of 861.18 rent from rent notice

716.73	base rent 2014	
12.18	2015 CPI (1.7% banked)	
728.91	total base rent 2015	
94.98	8/1/15 capital improvement, yr 2 of 5	(appeal pending)
<u>27.29</u>	9/1/16 capital improvement, yr 1 of 5	(current petition)
851.18	total rent due 9/1/16	

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

For filing stamp.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 OCT -3 PM 3:40

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

CASE NUMBER T16 - 0471

OWNER RESPONSE

Please print legibly.

Your Name ANN McCLAIN	Complete Address (with zip code) 3500-35TH AVENUE, APT #3 OAKLAND CA. 94619	Phone: <u>510-655-0372</u> Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) CAROL TAYLOR	Complete Address (with zip code) # 3500-35TH AVENUE, APT 38 OAKLAND CA 94619	

Have you paid for your Oakland Business License? Yes No Number 827754
(Provide proof of payment.)

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

There are 24 residential units in the subject building. I acquired the building on 10/7/09

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 12/1/2000

The tenant's initial rent including all services provided was \$ 500 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants? Yes No I don't know If yes, on what date was the Notice first given? 2002 PER TENANT

Is the tenant current on the rent? Yes No

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 7/18/16 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
7/18/16	9/1/16	\$ 811.71 <small>ON APPEAL</small>	\$ 851.18 <small>ON PETITION</small>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/26/15	8/1/15	\$ 716.73	\$ 820.78 <small>ON APPEAL</small>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

8/1/15 Rent increase was petitioned. Hearing officer decision = \$811.71, Decision of 811.71 IS BEING APPEALED (CHALLENGING 70%/100% RULE). SHE IS PARTICIPATING IN THE 6 MONTH PAYBACK FROM CASE T15-0359

II. JUSTIFICATION FOR RENT INCREASE

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

Date of Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
9/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

VI. VERIFICATION

Owner must sign here:

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

Owner's Signature _____

9/25/16
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature _____

_____ Date

114 011

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 OCT 13 PM 3:40
ENHANCED NOTICE AND RENT INCREASE FORM (ATTACHED)

18 TENANTS:

- M. CARHELL APT 2
- G. BATES 5
- L. KING 6
- E. CONRAD 8
- P. HODEL 21
- C. KIDOLIS 22
- M. CHARDIET + } 24
- J. MILLER } 24
- C. SHUM 25
- C. CHEN + } 26
- M. LY } 26
- S. SCHACHER 27 PETITIONED T16-0467
- D. PALIUS 28
- R. MCKINZIE 31 PETITIONED T16-0468
- L. MINER 33
- S. COLEMAN 34 PETITIONED T16-0470
- Q. YUAN + } 35
- L. CARSTENSEN } 35
- J. KLEINJAN 36 PETITIONED T16-0469
- A. BARBALAT 37
- C. TAYLOR 38 PETITIONED T16-0471

2016 JUL 18 PM 2:25

2016 JUL 18 PM 2:29

THE ABOVE ENHANCED NOTICES WERE SUBMITTED TO RAP
 ON JULY 18 BETWEEN 2:25 PM AND 2:29 PM
 SEE STAMP IMPRINTS NEAR RIGHT MARGIN
 (SHOWN VERTICALLY ALONG RIGHT MARGIN LINE)
 2016 YEAR

CHRONOLOGICAL CASE REPORT

Case Nos. and Name: T16-0197, T16-0263; Ramirez v. Padilla/ SPJC, LLC
T16-0198, T16-0265; Citalli Vargas v. SPJC, LLC
T16-0199, T16-0264; Gonzalez v. Padilla/ SPJC, LLC
T16-0200, T16-0279; Delia Vargas v. SPJC, LLC

Property Address: 1829 Myrtle Street, Apt. # 2, 3, 5, & 7, Oakland, CA

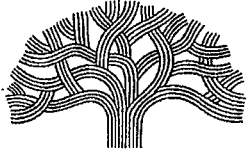
Parties: Edith Ramirez (Tenant)
Citlalli Vargas (Tenant)
Haydee Gonzalez (Tenant)
Delia Vargas (Tenant)
Javier Padilla (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	April 20, 2016 May 31, 2016
Owner Response filed	May 26, 2016 June 30, 2016
Hearing Decision issued	February 14, 2017
Tenants Appeal filed	March 7, 2017 April 5, 2017
Correction of Clerical Error issued	March 24, 2017
Owner Response filed	March 23, 2017 March 27, 2017 April 18, 2017
Tenant Reply to Owner's Appeal Response	April 19, 2017

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(510) 238-3721

2017 MAR -7

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APPEAL

Appellant's Name Citlalli Vargas, Delia Vargas, Haydee Gonzalez, Edith Ramirez		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1829 Myrtle Street, Apts 2, 3, 5, 7 Oakland, CA 94607			
Appellant's Mailing Address (For receipt of notices) Citlalli: 1829 Myrtle Street, Apt 2; Haydee: 1829 Myrtle Street, Apt 3; Delia: 1829 Myrtle St, Apt 5; Edith: 1829 Myrtle St, Apt 7 ALL: Oakland, CA 94703		Case Number see attachment header list	
		Date of Decision appealed February 14, 2017	
Name of Representative (if any) Centro Legal de la Raza		Representative's Mailing Address (For notices) 3400 E 12th Street Oakland, CA 94601	

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.

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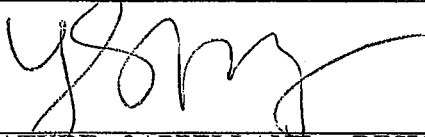
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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: 2

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 March 7, 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:

<u>Name</u>	Alana Grice Conner, Fried & Williams
<u>Address</u>	1901 Harrison Street, 14th Floor
<u>City, State Zip</u>	Oakland, CA 94612
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	3/7/17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

1829 Myrtle Street Tenant Appeal Attachment
Case Nos. T16-0197 & T16-0263, T16-0198 & T16-0265,
T16-0199 & T16-0264, T16-0200 & T16-0279

All tenants are appealing the (1) denial of the decreased housing service claim related to mold and (2) failure of the Decision to mention what rent increases would effectively arise if the proposed lease were to be enforced. Tenants Delia Vargas and Haydee Gonzalez also appeal calculation errors, outlined in section I below.

I. There are calculation errors in the Decision.

Haydee Gonzalez, Apartment 3, T16-0199 & T16-0264

The Decision correctly states that the rent increase notice to \$790.63 is invalid. In calculating the overpayments, the Decision correctly states that the Tenant paid \$790.63 from September 2016 through February 2017. The underpayment is correct at \$28.13 per month. The Decision states that the total amount owed to the Tenant is \$140.65, however the correct amount is \$168.78 (as she overpaid for 6 months).

Delia Vargas, Apartment 5, T16-0200 & T16-0279

The Decision states that the tenant withdrew her challenge to the rent increase that increased the rent to \$1,146.77 per month, effective May 1, 2016. The Decision states that the Tenant paid \$1,146.77 from September 2016 through February 2017. The Decision states that the tenant paid \$1,107.77 from January through August 2016, and calculates that this constitutes an underpayment of \$39 per month, totaling \$312. However, the total underpayment over four months would total \$156, rather than \$312.

However, The Tenant testified that she had received another rent increase notice from the Owner that increased her rent to \$1,146.77 per month, effective in August 2016. This second rent increase notice would replace the first, rendering the increase effective in August rather than May. *See, e.g., Raceway Ford Cases*, 2 Cal. 5th 161 (Cal. 2016). The Decision does not address this second rent increase notice. Accordingly, the tenant should only owe \$39 for the month of August 2016.

II. The Decision is inconsistent with decisions issued by other hearing officers and prior decisions of the Board.

The Decision states in part that because the Tenant failed to notify the Owner in writing of mold problems, their claims are denied. The Tenants testified that they notified the Owners verbally of the mold problem. The denial of this claim for failure to notify the Owner in writing is inconsistent with prior decisions of the Board, which have held that constructive notice is sufficient. *See, e.g., Damrosch v. Milner*, T13-0347.

III. The Decision Violates State Law

The Decision states that at least one tenant “testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners.” *See* page 12. However, under California Civil Code § 1941, owners are responsible for maintaining a habitable premises, which includes “effective waterproofing and weather protection of roof and exterior walls.” *See* Cal Civ. Code § 1941.1(a)(1). Consequently, ensuring that insulation is sufficient does fall within the control of the owner.

When SB 655 was passed, it amended the California Health & Safety Code § 17920 and 17920.3 to include “visible mold growth” as a substandard building condition that landlords are required to repair. The Tenants met their burden of establishing there was visible mold growth on the exterior walls. Exterior walls do not accumulate moisture as part of their properly functioning and intended use. Consequently, the Decision’s finding that “there is really nothing that the owners can be required to do with regard to the mold problem” contradicts the owners’ obligations under state law.

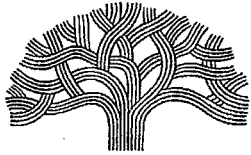
The Decision denies the tenants’ mold claim for failure to notify the owner in writing of the mold problem. However, under California law, the proper standard for evaluating whether an owner had notice of a habitability defect is constructive notice. *See, e.g., Petersen v. Superior Court*, 10 Cal.4th 1185 (Cal. 1995). As such, the tenants’ verbal notice was sufficient.

IV. The Decision is Not Supported by Substantial Evidence

Multiple tenants testified that they believed the mold was partly caused by poor insulation. The decision states in part that an “owner must correct a condition that allows water to enter a unit. However there is no evidence of water intrusion in the tenant’s unit.” *See* page 11 (referring to Ms. Ramirez’ unit in apartment 7). However, during the site inspection, the Hearing Officer commented that the exterior walls felt wet in multiple apartments, including apartment 7. Therefore, there was sufficient evidence aside from the tenants’ testimony and documentary evidence that water was entering the unit. It follows that it is the owner’s responsibility to correct this condition.

Finally, the tenants testified that they received a new proposed lease from the owner, which was provided to them in English, that none of them had signed. The Tenants had noticed on their petition that they were also challenging this proposed lease. The tenants argued that while it is not the jurisdiction of RAP to determine whether these new provisions are enforceable, the tenants were requesting a decision stating which terms of the new lease – if enforced – would constitute a rent increase. The Decision is silent on this issue.

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(510) 238-3721

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APPEAL

Appellant's Name Citlalli Vargas, Delia Vargas, Haydee Gonzalez, Edith Ramirez		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1829 Myrtle Street, Apts 2, 3, 5, 7 Oakland, CA 94607			
Appellant's Mailing Address (For receipt of notices) Citlalli: 1829 Myrtle Street, Apt 2; Haydee: 1829 Myrtle Street, Apt 3; Delia: 1829 Myrtle St, Apt 5; Edith: 1829 Myrtle St, Apt 7 ALL: Oakland, CA 94703		Case Number see attachment header list	
		Date of Decision appealed MARCH 24, 2017	
Name of Representative (if any) Centro Legal de la Raza		Representative's Mailing Address (For notices) 3400 E 12th Street Oakland, CA 94601	

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.

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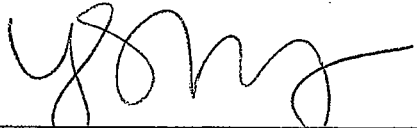
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 Number of pages attached: 2.

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I declare under penalty of perjury under the laws of the State of California that on April 4, 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	Alana Grice Conner, Fried & Williams
Address	1901 Harrison Street, 14th Floor
City, State Zip	Oakland, CA 94612
Name	
Address	
City, State Zip	

	4/4/17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

**1829 Myrtle Street Tenant Appeal Attachment
Case Nos. T16-0197 & T16-0263, T16-0198 & T16-0265,
T16-0199 & T16-0264, T16-0200 & T16-0279**

All tenants are appealing the (1) denial of the decreased housing service claim related to mold and (2) failure of the Decision to mention what rent increases would effectively arise if the proposed lease were to be enforced. Tenant Delia Vargas also appeals calculation errors, outlined in section I below.

I. There are calculation errors in the Decision.

Delia Vargas, Apartment 5, T16-0200 & T16-0279

The Decision states that the tenant withdrew her challenge to the rent increase that increased the rent to \$1,146.77 per month, effective May 1, 2016. The Decision states that the Tenant paid \$1,146.77 from September 2016 through February 2017. The Decision states that the tenant paid \$1,107.77 from January through August 2016, and calculates that this constitutes an underpayment of \$39 per month, totaling \$312. However, the total underpayment over four months would total \$156, rather than \$312.

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III. The Decision Violates State Law

The Decision states that at least one tenant “testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners.” *See* page 12. However, under California Civil Code § 1941, owners are responsible for maintaining a habitable premises, which includes “effective waterproofing and

weather protection of roof and exterior walls.” *See* Cal Civ. Code § 1941.1(a)(1). Consequently, ensuring that insulation is sufficient does fall within the control of the owner.

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The Decision denies the tenants’ mold claim for failure to notify the owner in writing of the mold problem. However, under California law, the proper standard for evaluating whether an owner had notice of a habitability defect is constructive notice. *See, e.g., Petersen v. Superior Court*, 10 Cal.4th 1185 (Cal. 1995). As such, the tenants’ verbal notice was sufficient.

IV. The Decision is Not Supported by Substantial Evidence

Multiple tenants testified that they believed the mold was partly caused by poor insulation. The decision states in part that an “owner must correct a condition that allows water to enter a unit. However there is no evidence of water intrusion in the tenant’s unit.” *See* page 11 (referring to Ms. Ramirez’ unit in apartment 7). However, during the site inspection, the Hearing Officer commented that the exterior walls felt wet in multiple apartments, including apartment 7. Therefore, there was sufficient evidence aside from the tenants’ testimony and documentary evidence that water was entering the unit. It follows that it is the owner’s responsibility to correct this condition.

Finally, the tenants testified that they received a new proposed lease from the owner, which was provided to them in English, that none of them had signed. The Tenants had noticed on their petition that they were also challenging this proposed lease. The tenants argued that while it is not the jurisdiction of RAP to determine whether these new provisions are enforceable, the tenants were requesting a decision stating which terms of the new lease – if enforced – would constitute a rent increase. The Decision is silent on this issue.

1829 Myrtle Street Tenant Appeal Attachment
Case Nos. T16-0197 & T16-0263, T16-0198 & T16-0265,
T16-0199 & T16-0264, T16-0200 & T16-0279

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Tenant Petitioners' Joint Reply to Respondent's Appeal Brief

All tenants are appealing the (1) denial of the decreased housing service claim related to mold and (2) failure of the Decision to mention what rent increases would effectively arise if the proposed lease were to be enforced. Tenant Delia Vargas also appeals calculation errors, outlined in section I below.

I. The Decision Violates State Law

The Decision violates State law by (1) ignoring the fact that the Owner had **actual notice** of the mold issues and (2) ruling that a landlord has no obligation to address inadequate insulation in the unit.

The Hearing Officer Erred in Ruling Actual Notice Was Insufficient

Specifically, the Hearing Officer denied Tenants' mold claims, in part, because they failed to notify the Owner in writing, despite having established beyond any doubt that the Owner had **actual notice** of the mold issues. A landlord cannot avoid his/her statutory obligations to make repairs once s/he has **actual notice** on the mere grounds that the notice was not in the manner prescribed by a contract. The relevant question when determining landlord liability for failure to make repairs is: did the landlord know of the need for repairs. If the answer is yes, the landlord is liable for failure to make repairs. On occasion, a landlord may not have actual notice in which case the court will ask whether the landlord should have known. This is referred to as constructive notice. If the landlord should have known of the need for repairs, that is sufficient to trigger landlord liability for failure to make those repairs. *See, e.g., Petersen v. Superior Court*, 10 Cal.4th 1185 (Cal. 1995).¹

Respondent cites *Peterson* for the proposition that "a tenant cannot reasonable expect that the landlord will eliminate defects in a rented dwelling of which the landlord is unaware...." Respondent ignores the fact that Owner **is aware** of the mold issues and the concerns of water intrusion and insufficient insulation, yet has not taken **any steps** to identify and address the root cause of the ongoing mold issues.

*The Hearing Officer Erred in Ruling Landlord Is Not Responsible Poor Insulation
or Inadequate Weatherproofing*

The Hearing Officer also ruled that "poor insulation and the fact that [a tenant's] apartment is often cold...[are not] factors within the control of the owners." *See* Hearing Decision page 12. This is incorrect. The Landlord has a legal obligation to effectively waterproof and weatherproof

¹ Even were the Board to rule the Hearing Officer did not err in ignoring actual notice due to the earlier mediation agreement, Tenant Ramirez was not a party to that mediation agreement and cannot, therefore, be bound by its terms.

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the unit. Specifically, the Landlord has the legal obligation to ensure "effective waterproofing and weather protection of roof and exterior walls." See Cal Civ. Code § 1941.1(a)(1). This includes proper insulation and ventilation. Exterior walls do not accumulate moisture as part of their properly functioning and intended use. The Tenants met their burden of establishing there was visible mold growth on the exterior walls. Therefore, state law requires the Owner ensure "effective waterproofing and weather protection" of the exterior walls so as to prevent the buildup of mold. See also SB655, Cal. H&S Code §§ 17920 and 17920.3 (adding "visible mold growth" as a substandard building condition that landlords are required to repair).

II. The Decision is Not Supported by Substantial Evidence

The Hearing Officer denied the Tenant Petitioners' mold claims for the following reasons:

1. The Hearing Officer, who is not a trained code enforcement inspector, did not see any evidence of water intrusion during her inspection of the units in December 2016.
2. A landlord is not responsible for poor insulation in a unit.
3. A landlord is not responsible for a cold unit.
4. During the inspection conducted by the Hearing Officer in December 2016, all of the windows in the units were closed. (The landlord also testified that during an inspection in February 2016 windows were closed in some of the units.)

In denying the Tenant Petitioners' claims, the Hearing Officer ignored the fact that

1. Multiple tenants testified they believe the ongoing mold problems are the result of poor insulation.
2. The Hearing Officer who conducted the inspection noted that exterior walls felt wet in multiple apartments.
3. The Hearing Officer who conducted the inspection noted "buckled paint in the closet ceiling in the bedroom...[and t]he wall under the window in [unit 7's] bedroom that could have been due to water/moisture intrusion."
4. The tenants testified, and the Owner did not dispute, multiple "contacts" with the Owner concerning the mold issues.

In other words, the message sent to tenants is: keep your windows open 365 days out of the year. Even when the temperature outside is between 45 and 56 degrees (which was the case on December 16, 2016 when the Hearing Officer conducted her inspection), you must keep your windows open at all time. This is preposterous.

The facts clearly established there was a mold issue, the Owner knew about the mold issue, the Tenant Petitioners are taking all reasonable steps to ameliorate the mold issues, and the Owner has not taken any steps to address the root cause of the mold issues.

III. The Decision Fails To Address the New Proposed Lease

Finally, the tenants testified that they received a new proposed lease from the owner, which was provided to them in English, that none of them had signed. The Tenants had noticed on their petition that they were also challenging this proposed lease. The tenants argued that while it is not the jurisdiction of RAP to determine whether these new provisions are enforceable, the tenants were requesting a decision stating which terms of the new lease – if enforced – would constitute a rent increase. The Decision is silent on this issue. A ruling on this is necessary as the Owner has not rescinded the new proposed lease.

PROOF OF SERVICE

Case Nos.

T16-0197; T16-0263; T16-0198; T16-0265; T16-0199
T16-0264; T16-0100; T16-0279

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 cases listed above. I am employed in Alameda County, California. My business address is 3022 International Boulevard, Suite 410, Oakland, CA 94601.

Today, I served the attached **Tenant Petitioners' Joint Reply to Respondent's Appeal Brief** by placing a true copy of it in a sealed envelope in my business office's mail collection receptacle for mailing on the below date addressed to:

Alana Grice Conner
Fried & Williams
1901 Harrison St., 14th Floor
Oakland, CA 94612

I am readily familiar with my place of business' 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 United States Postal Service on that same day with first class postage thereon fully prepared 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 April 19, 2016, in Oakland, California.

Leah Simon-Weisberg

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Alana Grice Conner. ESQ, SBN 182676
Fried & Williams LLP
1901 Harrison St., 14th Floor
Oakland, CA 94612
Tel: (510) 625-0100
Fax: (510) 550-3621
aconner@friedwilliams.com

Attorneys for Respondent
SPJC LLC/Javier Padilla

CITY OF OAKLAND
RENT STABILIZATION BOARD

CITLALLI VARGAS;
DELIA VARGAS;
HAYDEE GONZALEZ;
EDITH RAMIREZ;

Appellants,

v.

SPJC LLC/JAVIER PADILLA;

Respondent.

CASE NO'S.: T16-0197; T16-0263;
T16-0198; T16-0265; T16-0199;
T16-0264; T16-0100; T16-0279

PROPERTY ADDRESS:
1829 Myrtle Street, Apts. 2, 3, 5, 7,
Oakland, CA 94607

RESPONSE TO APPEAL

Hearing date: Not yet set
Dept: Oakland Rent Arbitration Board
Hearing Examiner: Stephen Kasdin

I. RESPONDENT AGREES THAT THERE ARE CALCULATION ERRORS IN THE DECISION

Pursuant to the Oakland Ordinance 8.22.070(D)(4)(a) following a final decision, a rent adjustment takes effect the date the increase would have been effective pursuant to a valid increase notice given to the tenant, or in the case of a decrease in housing services, on the effective date for a noticed decrease in housing service.

Haydee Gonzalez (tenant), Unit 3:

The appeal on this issue in the amount of \$168.78 is correct.

Delia Vargas, Unit 5 T-16-0200 & T16-0279:

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Both the appeal and the Hearing Decision (Hearing Decision is attached as **Exhibit A**) make a calculation error. Delia Vargas (unit #5) overpaid for rent in August in the amount of \$15.61.

Calculations:

As established through the Mediation Agreement in Case No. T15-0254; (hereto attached as of July 1, 2015, as **Exhibit B**).

Base rent:	\$982.69
Capital Improvement pass-through:	\$125.00
TOTAL	\$1,107.69

Padilla caused a rent increase notice to be served (effective August 15, 2016, attached as **Exhibit C**)

Base rent:	\$1021.77
Capital Improvement pass through:	\$125
TOTAL	\$1146.77

Since the rent increase took effect mid-month (August 15, 2016), the amount due for rent in August should be prorated as follows:

- \$1107.69/31 days = \$35.73 per day * 14 days (August 1 – August 14)	\$500.24
- \$1146.77/31 = \$36.99 per day * 16 days (August 15 – August 31)	\$591.84
TOTAL AUGUST PRO-RATED RENT	\$1092.08

Delia Vargas paid \$1107.69 in August, she should have paid \$1092.08. Therefore, she overpaid \$15.61. Mr. Padilla will reimburse Vargas \$15.61.

II. THE DECISION IS CONSISTENT WITH DECISIONS ISSUED BY THE OTHER HEARING OFFICERS.

Whether there has been a breach of the implied warranty depends on the particular facts. Due to the practical impossibility of obtaining expert knowledge of all the components of an apartment, landlord must rely on others. In this respect, a landlord is in no better position to know of defects than are tenants. (*Peterson v. Superior Court of Riverside* (1995) 10 Cal. 4th 1185). A tenant cannot reasonably expect that the landlord will eliminate defects in a rented dwelling of which the landlord was unaware, and which would not have been disclosed by a reasonable inspection. A landlord is held to be constructively notified if the defect is obvious in nature.

California Civil Code § 19, defines constructive notice as “every person who has actual notice of circumstance sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself.” Although the Rent Board has held that constructive notice is sufficient, that notice is sufficient only when a condition is in obvious disrepair. (See *Damrosch v. Milner*, T-13-0347). Damrosch states that, “In a decreased housing service case the tenants must establish that they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.”

In the Mediation Agreement, the parties stipulated on page 2 in ¶ 11, that “the tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency!” (See the Mediation Agreement as of October 27, 2014, attached as **Exhibit D**). There is no evidence that there were any requests made in writing.

Furthermore, neither the inspection by Padilla nor by Linda Moroz noted dark spots but no determination that the stains were mold.

**III. THE DECISION DOES NOT VIOLATE CALIFORNIA CIVIL CODE § 1941;
THERE WAS INSUFFICIENT EVIDENCE TO ESTABLISH THE UNIT WAS
UNHABITABLE.**

Mold

California Civil Code § 1941.1 sets out standards that a dwelling must meet. If the dwelling “substantially lacks” any of the standards laid out by the statute, then the dwelling is untenable. California Health and Safety Code §§ 17920 and 17920.3 were amended to include “visible mold growth,” however the mere presence of mold alone is not sufficient to render a unit uninhabitable. Instead, California Health and Safety Code § 17920.3 states the presence of the mold must be to the “extent that endangers the life, limb, health, property, safety, or welfare of the public of the occupants thereof.” There was evidence presented that the unit was uninhabitable by this standard.

Furthermore, § 17920.3 says at subsection (13) visible mold growth, as determined by a *health officer or a code enforcement officer* “excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use”. The mere presence of “mold” is not sufficient to render this unit uninhabitable.

Health & Safety Code Section 17920(j) defines “Mold” microscopic organisms or fungi that can grow in damp conditions in the interior of a building. Tenant’s appeal notes the presence of the mold on the “exterior walls.” That is not a habitability defect nor a substandard condition under 17920. Even if mold was evident on the exterior of the walls there was no determination of this by an authorized officer.

The statute considers the presence of mold minor when found on surfaces that can accumulate moisture as part of their proper use. Failing to open the windows allowing condensation to accumulate on any surface could cause mildew to form. There was evidence from the owner and the rent board officer who inspected the units that the windows in the units weren’t open. The tenants even testified that they do not open the bathroom window.

In this case, Linda M. Moroz conducted the inspection of the property. Her findings are as such: Citlalli D. Vargas (tenant), Unit 2: "I noticed several dark spots that looked like mold on the walls in the larger bedroom and bedroom closet. There were also darker spots in the order of the second, smaller bedroom and in the bathroom on the wall."

Haydee Gonzalez and Domingo Valencia (tenants), Unit 3: "I noticed a few darker spots that looked like mold on the wall of the bedroom closet."

Delia Vargas, Alejandro Flota, Roberto A. Flota Dzul (tenants), Unit 5: "I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling... I did not see any discolored or darker spots on that wall... I did not see any discolored spots on the ceiling."

Edith Ramirez (tenant), Unit 7: "I did not see any mold or darker spots that would look like mold or any discoloring of paint anywhere in the unit."

Although, there is evidence that spots that look like mold present, Moroz did not indicate that it rose to the level of uninhabitable.

IV. APPELLANT FAILED TO ESTABLISH A FACTUAL AND LEGAL BREACH OF HABITABILITY.

Water intrusion

California Civil Code § 1941.1 also provides that effective waterproofing and weather protection of roof and exterior walls needs to be provided, again the tenant needs to show that dwelling substantial lacks the said condition.

The tenants testified that there was water intrusion. Padilla presented evidence to the contrary of adequate ventilation and many tenants testified that they did not open windows or use the fan to minimize condensation.

Both landlords and tenants have legal responsibility regarding the condition of the rental unit. A tenant must maintain the rental unit in a clean and sanitary condition. This shared responsibility is reiterated in the "Mold and Mildew Addendum" which states that the tenant is responsible for ventilating the premise and exercising moisture control precautions (See Decision page 6 ¶ 3).

The tenants still have a duty to inform Padilla of such conditions. Peterson recognizes a landlord is responsible for defects that he is aware of or had an opportunity to discover. Peterson states, "The tenant further reasonable expect that the landlord will maintain the property in a habitable condition by repairing promptly any conditions, of which the landlord has actual or constructive notice.," Peterson goes on to state "but a tenant cannot reasonably expect that the landlord will eliminate defects in a rented dwelling of which the landlord is unaware and which would have been disclosed by a reasonable inspection."

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Padilla took all reasonable steps to ensure that he fixed a problem within a reasonable time after notice and made sure he was in compliance with health and safety code, California statutes, and any other applicable codes. The Hearing officers was in the best position to hear all the evidence i.e. testimony from witnesses, parties, read all information and evidence presented, and thus had more than efficient evidence to make his finding.

As admitted by Tenants in their appeal, the Rent Board has no jurisdiction to determine enforceability of lease terms. It cannot make prospective rulings.

Date: March 23, 2017

Fried & Williams LLP

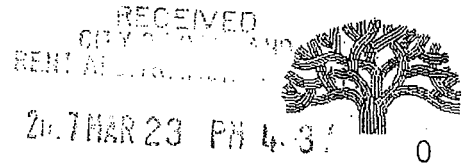


By: Alana Grice Conner
Attorney for Respondent
Javier Padilla

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CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: T16-0197 & T16-0263, Ramirez v. Padilla / SPJC, LLC
T16-0198 & T16-0265, Citalli Vargas v. SPJC, LLC
T16-0199 & T16-0264, Gonzalez v. Padilla / SPJC, LLC
T16-0200 & T16-0279, Delia Vargas v. SPJC, LLC

PROPERTY ADDRESSES: 1829 Myrtle St., Nos. 2, 3, 5, &7, Oakland, CA

DATES OF HEARING: November 4 & December 1, 2016 & January 17, 2017

DATE OF INSPECTION: December 16, 2016

DATE OF DECISION: February 14, 2017

APPEARANCES:¹

- Delia Vargas (Tenant, Unit #5)
- Alejandro Flota (Tenant, Unit #5)
- Roberto A. Flota Dzul (Tenant, Unit #5)
- Edith Ramirez (Tenant, Unit #7)
- Citalli D. Vargas (Tenant, Unit #2)
- Haydee Gonzalez (Tenant, Unit #3)
- Domingo Valencia (Tenant, Unit #3)
- Karuna Holm (Witness for Tenants, by Telephone)
- Laura Shoaps (Attorney for Tenants)
- Javier Padilla (Owner)
- Carlos Padilla (Owner)
- Alana Grice Conner (Attorney for Owners)
- Elizabeth Hart (Owner Representative)
- Nathan Luben (Witness for Owners)
- Nicole Randle (Witness for Owners)

¹ Delia Vargas appeared only on November 4 & December 1, 2016. Alejandro Flota, Edith Ramirez, Citalli Vargas, Karuna Holm and Nathan Luben appeared only on November 4, 2016. Roberto A. Flota Dzul appeared only on December 1, 2016. Noemi Gonzalez appeared only on November 4 and December 1, 2016. Alana Grice Conner, Nicole Randle and Marci Valdivieso appeared only on January 17, 2017.

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Noemi Gonzalez (Interpreter)
Marci Valdivieso (Interpreter) 20.7 MAR 23 PM 4.37

SUMMARY OF DECISION

The petition of tenant Ramirez is denied. The petition of tenant Citalli Vargas is denied. The petition of tenant Gonzalez is partly granted. The petition of tenant Delia Vargas is denied.

CONTENTIONS OF THE PARTIES

Tenant Ramirez filed petitions in April and May 2016, which allege that rent increases from \$695 to \$790, effective April 1, 2015, and from \$790 to \$918.99, effective May 1, 2016, exceed the CPI Adjustment and are unjustified or greater than 10%; that she first received the form Notice to Tenants (RAP Notice) on April 1, 2016; and that her housing services have been decreased due to inadequate ventilation in the bathroom; mold; yellow spots on a window; spiders; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the Ramirez petitions, which allege that the tenant was given the RAP Notice in February 2015 or earlier; the 2016 rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Citalli Vargas filed petitions in April and May 2016, which allege that a rent increase from \$954.54 to \$988.73 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to mold and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of Citalli Vargas, which allege that the tenant was given the RAP Notice on July 1, 2014; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Gonzalez filed petitions in April and May 2016, which allege that a rent increase from \$762.47 to \$827.51 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to an inadequate stove fan; cabinets in disrepair; roaches; mold; peeling paint; the owner's denial of permission for outdoor barbeques and parties; and reduction in parking services.

The owners filed responses to the petitions of tenant Gonzalez, which allege that the tenant was given the RAP Notice on March 26, 2015; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Delia Vargas filed petitions in April and May 2016, which allege that a rent increase from \$982.69 to \$1,146.77 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%, and that her housing services have been decreased due to mold; bedroom floors; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of tenant Delia Vargas, which allege that the rent increase is justified by Banking and deny that the tenant's housing services have decreased.

THE ISSUES

- (1) When did tenant Ramirez receive the RAP Notice?
- (2) When did tenant Citali Vargas receive the RAP Notice?
- (3) When did tenant Gonzalez receive the RAP Notice?
- (4) Is a rent increase for tenant Ramirez justified by Banking and, if so, in what amount?
- (5) Is a rent increase for tenant Citali Vargas justified by Banking and, if so, in what amount?
- (6) Is a rent increase for tenant Gonzalez justified by Banking and, if so, in what amount?
- (7) Have the tenant Ramirez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (8) Have the tenant Citali Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (9) Have the tenant Gonzalez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (10) Have the tenant Delia Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

TENANT RAMIREZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The owners did not dispute this testimony.

Decreased Housing Services:

Bathroom Ventilation: The tenant testified that the ceiling fan in her bathroom does not work well. However, there is a window in the room. The tenant admitted receiving a statement from the owners in 2015 that maintenance requests must be in writing. However, she never gave written notice to the owners regarding the bathroom fan.

Mold: The tenant testified that there has been a recurring mold problem in her bathroom and bedroom closet for a number of years, and she has repeatedly notified the owners. The tenant believes that the mold is caused by excess humidity because the bathroom fan does not work. She opens the bathroom window each time someone takes a shower. The tenant submitted photographs of the bathroom wall and a corner of the bedroom closet, which she took in March 2016.² These photos depict mold on various wall surfaces.

² These Exhibits, and all others to which reference is made in this Decision, were admitted into evidence without objection unless otherwise noted.

On July 31, 2016, owner Javier Padilla wrote to the tenant and her husband: "On or about July 27th, Carlos [Padilla] spoke with your husband, Jose, and agreed on the following: Jose will paint the closet, as well as the shower stall. \$300 will include paint and any materials necessary to remedy the closet situation. For the moment, you are to send us a bill in the amount of \$300 for said services."³ The tenant testified that on August 2, 2016, Carlos Padilla gave her paint, and she painted the closet.

The owners submitted a number of photographs, which Javier Padilla testified he took during his annual inspections of the unit in March 2015 and June 2016.⁴ These photographs depict a considerable amount of clutter, including clothing and other items, both in bags and loose on the floor and in a closet. Javier Padilla testified that the unit also contained 10 parakeets and a large fish tank, which is prohibited since a fish tank can contribute to mold. He further testified that overstuffing closets reduces air circulation and can cause or contribute to the development of mold.

Finally, Mr. Padilla testified that, when he inspected the unit on June 28, 2016, he told the tenant's husband that the exhaust fans in the unit were dirty, and needed to be cleaned, which could be accomplished with a broom or brush. Mr. Padilla wrote this advice in a document entitled "Condition of Premises Addendum, dated the same day."⁵

On questioning from the owners, the tenant testified that the closet wall with mold shown on the photos that she submitted is on the other side of the bathroom; she denied keeping wet items in the closet.

The tenant testified that all contacts with the owners concerning mold have been by phone or in person, since Carlos Padilla is often in the building. Official Notice is taken of a Mediation Agreement in Case Nos. T14-0265 (Rodriguez v. SPJC, LLC), T14-0266 (Vargas v. SPJC, LLC) and T14-0267 (Vargas v. SPJC, LLC), which was signed by both the tenant and the owners on October 27, 2014. The owners cite Paragraph 11 of this Agreement, which says: "The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency."

On December 16, 2016, Linda Moroz, a Hearing Officer with the Rent Adjustment Program, inspected the tenant's unit, and the units of other petitioning tenants. Following her inspection, Ms. Moroz prepared a Declaration, a copy of which is attached as Attachment "A." Ms. Moroz writes: "I entered and walked through the entire unit. I did not see any mold or darker spots . . . anywhere in the unit. However, I noticed buckled paint in the closet ceiling in the bedroom that could have been due to water/moisture intrusion. The wall under the window in the bedroom felt wet. I also noticed water drops on paint in the bathroom ceiling."

Yellow Spots: This claim was withdrawn at the Hearing.

Spiders: This claim was withdrawn at the Hearing.

³ Exhibit No. 6A.

⁴ Exhibit Nos. 5A through 5M.

⁵ Exhibit No. 7.

BBOs & Parties: The tenant testified that she has lived in her unit in the subject building for more than 10 years. For a long time, other tenants in the building and their friends would have parties – which included music – in the parking lot of the building. The parties would usually be attended by 30 to 40 people, and would last until 10:00 or 10:30 at night. Such parties were held an average of once a month, or approximately 20 parties a year. In or about February 2016, the owners told tenants in the building that they could no longer have such parties.

Owner Javier Padilla testified that he received complaints from people in neighboring properties that tenants would have parties in the parking lot with an estimated 70 people, which included music and drinking, and which would often last very late at night. He further testified that there were 3 large parties in late December 2015 and early January 2016, and on one occasion a party included a fire in a metal container in which a palette was cut up and burned. The tenants did not dispute this testimony. Therefore, in February 2016, he wrote to tenants in the subject building that they could no longer have parking lot parties. The owners have created a smaller paved area in which the tenants can have BBQs, but no parties. The owners testified that the newly designated BBQ area can accommodate 8 to 10 people.

Karuna Holm testified by telephone as a witness for the tenants. Ms. Holm testified that she lives at 1835 Myrtle Street – 2 addresses down from the subject building – in a home that she has owned since 2007. She stated that she has been aware of the tenants' parties, and that they are not a problem; she enjoys how vibrant the neighborhood is, and the parties are consistent with the character of the neighborhood. Ms. Holm further testified that there is a street party on her block at least once every weekend, and the parties at the subject building are quieter than other parties on the block. On questioning from the owners, Ms. Holm testified that she has not actually gone into the parking lot during parties, but that she sees people on the street who go to and come from the parties.

Ms. Moroz inspected the "BBQ" area, and wrote: "I walked to the back of the property outside and inspected the BBQ area. The designated BBQ area is located in the back corner along the right side of the property . . . It has a rectangular shape and there is a large tree in the middle of the area. The entire area except where the tree is has large paving tiles. I walked the perimeter of the area, counted the tiles and estimated its size to be about 22.5' x 9'. The tree takes up about 8' x 6' of that BBQ area. The total estimated size of the usable BBQ area is about 155 square feet."

TENANT CITALI VARGAS

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in the year 2014.

Rent History: The tenant withdrew her challenge to the rent increase from \$954.54 to \$988.73, effective May 1, 2016.

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Decreased Housing Services:

Mold: The tenant testified that there is always mold in both bedrooms and the living room of her unit. She believes that the cause of the mold is that the apartment is always cold and humid, which is partly caused by poor insulation. Also, when it rains, she sees droplets of water on the walls in the bathroom. The tenant further testified that she told owner Carlos Padilla about the mold in 2014, and in 2015, the entire apartment was painted. The mold returned in February 2016, and she again informed Carlos Padilla. In response, he suggested that she clean the walls and purchase a de-humidifier. The tenant cleaned the walls; Mr. Padilla did no work in the unit. Mr. Padilla testified that when he inspected the unit in February 2016, no windows were open.

The tenant submitted photographs that she testified were taken by her inside her apartment in February 2016.⁶ These photos depict a great deal of mold on a bathroom wall and floor, a closet wall, and on a dresser. Several of the photos were sent as a text message attachment to Carlos Padilla on February 9, 2016. Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed several dark spots that looked like mold on the walls in the larger bedroom and a bedroom closet. There were also darker spots in the corner of the second, smaller bedroom and in the bathroom on the wall under the window."

The owners submitted a 6-page document, the first of which is entitled "Notice of Change of Terms of Tenancy," dated April 29, 2016.⁷ The tenant acknowledged that she received these documents. The "Mold and Mildew Addendum" states, in part: "Resident shall immediately notify Landlord of any moisture, standing water or water intrusion of any kind, or mold condition in order to provide Landlord an opportunity to evaluate the conditions and/or to make recommendations regarding appropriate actions. . . The Resident shall be solely responsible for properly ventilating the premises and exercising moisture control precautions." This document is entirely in English, and the tenant – whose primary language is Spanish – testified that she could not understand these documents.

Owner Javier Padilla testified that he conducts annual inspections of all units in the subject building, and promptly makes needed repairs. In July 2015, he provided all tenants with forms for maintenance requests, and the only such request regarding mold that he received from the tenant was in late 2015. He had the unit painted, and the problem appeared to have been resolved. Mr. Padilla submitted a document entitled "Maintenance Request," dated September 1, 2015; the tenant identified her signature on this document.⁸ The wording on this document is in Spanish, which was interpreted at the Hearing by the interpreter, Noemi Gonzalez. This document states, in pertinent part: "repair paint in kitchen."

Mr. Padilla also submitted a document entitled "Condition of Premises Addendum," regarding the tenant's unit, dated March 3, 2015.⁹ This document, signed by the tenant, does not state any problem with mold. He also submitted a similar document dated June 28, 2016, which is signed

⁶ Exhibit Nos. 8A through 8D.

⁷ Exhibit Nos. 10A through 10F.

⁸ Exhibit No. 12A

⁹ Exhibit Nos. 11A & 11B.

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only by him.¹⁰ Mr. Padilla wrote on this document: "No black mold or any mold observed anywhere in unit." He also wrote that he informed the tenant to clean the bathroom fan and window screens, and not to "overstuff" closets. The document does not otherwise contain any mention of mold. Javier Padilla testified that, after the unit was painted in 2015, he had no notice of any mold problem until he received a copy of the tenant's second petition, which was mailed to him on May 26, 2016.

Javier Padilla further submitted a number of photographs that he testified he took on June 28, 2016.¹¹ Some of the photographs depict what appears to be mold on a window screen; numerous objects stuffed into a small closet; and a number of items on and draping onto the bathroom floor.

BBOs & Parties: The tenant submitted a copy of a lease for her unit, dated September 9, 2011.¹² The lease does not prohibit parties or BBQ's.

TENANT GONZALEZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in January or February 2015.

Rent History: The tenant testified that, as stated in her petitions, she moved into her unit in April 2012, at a rent of \$725 per month. The owners agreed with this testimony. The parties also agreed that the tenant paid monthly rent of \$762.50 from May through August 2016 and \$790.63 from September 2016 through January 2017.

Service of Rent Increase Notice: The tenant testified that a copy of the contested rent increase notice was stuck in the window of her unit; she never received another copy of the notice in the mail.

Witness Randle testified that she has been employed by the law firm Fried & Williams for the past 4 ½ years. Among her duties are the preparation and mailing of various notices on behalf of property owners. She follows an established procedure in doing this work, which includes the preparation and signing under penalty of perjury a Certificate of Mailing at the time a notice is mailed. She prepared and mailed copies of all rent increase notices to tenants in the subject building.

Ms. Randle identified her signature on a Certificate of Mailing for the contested rent increase notice and other documents, including RAP Notices in both English and Spanish, to the tenant on March 26, 2015.¹³ The owners also submitted a letter from Javier Padilla to the tenant's husband, Domingo Valencia.¹⁴ This letter concerns the tenant's alleged underpayment of rent,

¹⁰ Exhibit Nos. 13A & 13B.

¹¹ Exhibit Nos. 14A through 14H. The tenant's attorney objected to the admission of these photos into evidence on the ground that they were too numerous. The objection was overruled, and the photos were admitted into evidence.

¹² Exhibit No. 9.

¹³ Exhibit No. J

¹⁴ Exhibit No. M

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and is written entirely in Spanish. Another document submitted by the owners is the lease for the unit, signed by Mr. Valencia and Javier Padilla on April 21, 2012.¹⁵ The printed part of this lease is in English. However, following the numbered Paragraph 36 – headed “Other Terms” – are 3 sentences written in Spanish. Official Notice is taken of the tenant’s request for a Spanish-speaking interpreter to attend the Hearing.

Decreased Housing Services:

Stove Fan: The tenant testified that the kitchen fan was not working effectively, and she needed to open the kitchen window when she cooked. The tenant further testified that the fan was not working well when she moved in. The fan was replaced in November 2016.

Cabinets: This claim was withdrawn at the Hearing.

Roaches: This claim was withdrawn at the Hearing.

Mold: The tenant testified that about 1 ½ years ago she noticed mold in the bedroom and the bedroom closet in her ground-floor unit. She never notified the owners in writing about this problem. However, Carlos Padilla comes by regularly and she reports problems to him. The owners conducted an annual inspection of her unit in or about September 2016. She was not at home at the time of the inspection. However, her son was at home during the inspection, and her son told her that he pointed out the mold to the owners. The tenant’s son told her that the owners had told him to clean the mold; they did nothing with regard to this situation.

The tenant submitted a photograph of a wall and adjoining floor and portion of a closet in her bedroom, which she testified she took in or about July 2016.¹⁶ She testified that the wall is an exterior wall, with a garden on the other side of the wall, and this is the only room in which there was mold. The photo depicts a considerable amount of what appears to be mold on both the wall and floor. The tenant believes that the mold is due to inadequate construction of the outside wall, and the fact that there is a garden directly by the wall. She testified that the window in this room is almost always open. The tenant also testified that her unit has one bedroom and one bathroom, in which she lives with her husband and their 4 children.

Carlos Padilla testified that the wall next to the bedroom closet was covered during his inspection in June 2016, and he saw no mold at that time. He submitted a series of photographs of areas of the unit that he took in June 2016.¹⁷ These photos depict clothing, bedding, and other personal items fit tightly within a closet. Mr. Padilla further testified that Unit #1 – where the tenant did not file a petition – is also located on the ground floor of the building. Mr. Padilla testified that he has never seen mold in Unit #1, nor has the tenant in that unit ever reported mold.

¹⁵ Exhibit No. Q

¹⁶ Exhibit No. P. The owners objected to the admission of this photo into evidence because the location and date on which the photo was taken were unclear. The objection was overruled, and the photo was admitted into evidence.

¹⁷ Exhibit No. U.

As to this unit, Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I notice a few darker spots that looked like mold on one wall of the bedroom closet.

Peeling Paint: This claim was withdrawn at the Hearing.

BBOs & Parties: The tenant testified in accordance with the testimony of other petitioning tenants.

Reduction in Parking Services: The tenant testified that she was given one designated parking space at the start of her tenancy. At that time, she and her husband owned a pickup truck and a passenger car; they still own both vehicles. They would park one or the other vehicle in the assigned space, depending on whether it was a street sweeping day and other personal considerations. In mid-2015, the owners sent a letter to the tenant and her husband, which said that they could no longer park the pickup truck in their parking space.

During cross-examination of the tenants, the owners submitted two photographs which depict a large pickup truck in the building parking lot.¹⁸ One of the photos is date-stamped June 17, 2016, and the other is on a page on which the date May 4, 2016 is written. Although the truck is quite large, in both photos the vehicle is parked within the white lines painted on the pavement, and it does not appear to extend past the ends of these lines.

TENANT DELIA VARGAS

Rent History: At the Hearing, the tenant withdrew her challenge to the rent increase from \$982.69 to \$1,146.77, effective May 1, 2016. The parties agreed that the tenant had paid monthly rent, as follows: January through August 2016 - \$1,107.77; and September through December 2016 - \$1,146.77.

Decreased Housing Services:

Mold: The tenant testified that she has had a mold problem in her unit since 2010. She believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. She opens the bathroom window after showers are taken, and leaves the window open. The window is not open while a person is showering. The tenant testified that there is mold on the bathroom walls and also in the bedrooms and bedroom closet, on the 2 walls facing the outside. She opens windows in the bedrooms when she goes to work, and then closes them when she returns home.

The tenant further testified that she first notified the owners about this problem in the year 2014, when she filed Petition No. T14-0267, Vargas v. SPJC, LLC. That case was resolved in a Mediation Agreement dated October 27, 2014. As part of that agreement, the owners agreed to "remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint." The tenant testified that the owners complied with this Agreement.

¹⁸ Exhibit Nos. T1 & T2.

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Owner Carlos Padilla inspected the unit in early 2016, at which time the tenant's husband, Mr. Flota Dzul, was at home. Mr. Flota Dzul testified that he showed Mr. Padilla mold in the bathroom. In response, Mr. Padilla told the tenant that he could simply wipe the mold off. The tenant also showed Mr. Padilla the bedroom walls and closet, but there was not much mold in these areas since Ms. Vargas had recently cleaned the areas. Mr. Padilla also asked the tenant if he needed paint. Mr. Flota Dzul further testified that he uses the bathroom fan during showers, and then turns it off. The tenant and his wife live in the unit with their 3 children. The mold problem is worse during the winter. When asked what the owners should do, Mr. Flota Dzul stated that the problem was lack of insulation, and that the owners should clean the mold as necessary.

The owners submitted a document entitled "Condition of Premises Addendum" regarding the tenants' unit, dated June 28, 2016.¹⁹ This document does not mention mold, but it was signed only by Javier Padilla, and not by either tenant.

Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling. I touched the bedroom wall under the window and it felt wet. I did not see any discolored or darker spots on that wall. It rained the night before the inspection. I also noticed water drops on the bathroom ceiling. I did not see any discolored or darker spots on the ceiling."

Bedroom Floors: This claim was withdrawn at the Hearing.

BBQs & Parties: The tenant testified that, before the owners said they could not have parties or BBQ's in the parking lot, most gatherings occurred approximately once a month, with no more than about 13 people (the petitioning tenants and their families), and lasting no later than 11:00 P. M. She recalled only one very big party, which involved approximately 70 people. On questioning by the owners, the tenant testified that 40 people at most would attend a party / BBQ, except for a special event.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

TENANT RAMIREZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The tenant has underpaid \$13, which is added to the rent for March 2017. The rent for March 2017 will be \$931.

¹⁹ Exhibit No. D.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent²⁰ and may be corrected by a rent adjustment.²¹ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must have notice of a needed repair, and a reasonable period of time in which to make such a repair.

There is also a time limit for claiming decreased housing services. A tenant petition must be filed within 90 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.²²

However, when a tenant complains of ongoing problems with his or her unit, the Board has declared that such claims should not be completely denied if the tenant received the RAP Notice more than 90 days before the petition was filed. The tenant first received the RAP Notice in the year 2015, far more than 90 days before filing her petition alleging decreased housing services on May 24, 2016. Therefore, in accordance with the Regulations and Board decision,²³ the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which he filed her petition. Allowable claims of decreased housing services therefore begin on February 24, 2016.

Bathroom Ventilation: The Building Code requires a bathroom to have either a window or an exhaust fan. The tenant's unit has both a window and a fan. Further, the tenant did not submit any written report to the owners, and the problem may well have been caused by the need to clean the fan, which is normally the responsibility of a tenant. Therefore, the claim is denied.

Mold: Mold is the result of excess moisture in the air, which can result from either water intrusion from a window, roof leak water overflow from another unit in the building; poor ventilation; or a combination of such factors. An owner must correct a condition that allows water to enter a unit. However, there is no evidence of water intrusion in the tenant's unit. The tenant testified that she believes the mold in her unit is caused by the poorly functioning bathroom fan. However, she never notified the owners about this in writing, as she agreed in the Mediation Agreement. Javier Padilla conducted an annual inspection in June 2016, at which time he was informed about a mold problem. The following month, Mr. Padilla then arranged with the tenant's husband to clean and paint the affected areas. Further, when Ms. Moroz inspected the unit, she did not see "any mold or darker spots." For all of these reasons, the claim is denied.

BBQs & Parties: From the combined testimony of the petitioning tenants – and even ignoring the testimony of the owners – it is clear that there have been parties at least monthly, attended by as many as 70 people, with music playing, and lasting until at least 11:00 P.M. Such activities are clearly incompatible with a residential neighborhood, and the right to hold such

²⁰ O.M.C. Section 8.22.070(F)

²¹ O.M.C. Section 8.22.110(E)

²² O.M.C. Section 8.22.090(A)(2)

²³ Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

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events can scarcely be implied in any residential rental agreement. The ability to have such parties was never part of the tenant's rental agreement, and denying tenants the ability to do so does not decrease their housing services. The claim is denied.

Conclusion: The rent for the tenant's unit is \$918 per month, effective May 1, 2016. The tenant has underpaid rent of \$13, which should be added to the March 2017 rent payment.

TENANT CITALI VARGAS

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2014.

Rent: Before considering the tenant's claim of decreased housing services, the rent is \$988.73 per month, effective May 1, 2016.

Decreased Housing Services:

Mold: The tenant testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners. Carlos Padilla testified that during an inspection of the unit in February 2016, no windows were open. Ms. Moroz also noticed that no windows were open at the time of her inspection. The tenant has not sustained her burden of proof that mold in her unit is caused by some act or failure to act on the part of the owners. Therefore, the claim is denied.

BBQs & Parties: For the reasons set forth in the discussion above, this claim is denied.

TENANT GONZALEZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in early 2015.

Service of Rent Increase Notice: Ms. Randle's testimony, supported by the Proof of Service that she signed, was believable. On the other hand, the tenant testified in a straightforward way, and there is no reason to disbelieve her testimony. The California Evidence Code is instructive, and states that a letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.²⁴ The testimony of both the tenants and Ms. Randle was credible, and it is possible that the mailing was lost or otherwise not delivered to the tenant. However, an owner can do nothing more than mail a notice, and assume that it is delivered. It is therefore found that copies of the contested rent increase notice were both posted and mailed to the tenant.

However, it is clear that the tenant is essentially a monolingual Spanish speaker, and this fact was well known to the owners. At times, they wrote to the tenant in Spanish, and they sent a Spanish language version of the RAP Notice to the tenant. The contested rent increase notice is entirely in English.

²⁴ Evidence Code Section 641.

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Civil Code Section 1632 states, in part:

Any person engaged in a trade or business who negotiates primarily in Spanish . . . orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, which includes a translation of every term and condition in that contract of agreement: . . . (3) A lease . . . for a period of longer than one month . . . covering a dwelling . . .

(g) The term “contract” or “agreement,” as used in this section, . . . includes any subsequent document making substantial changes in the rights and obligations of the parties.

The contested rent increase notice is a “document making substantial changes in the rights and obligations of the parties.” Therefore, this notice, which should have been given in Spanish, is invalid. Before considering the tenant’s claims of decrease housing services, the rent is \$762.50 per month, effective May 1, 2016. The tenant paid rent of \$790.63 in the months of September 2016 through January 2017, and it is assumed that she also paid this amount in February 2017. Therefore, she overpaid rent of \$28.13 per month, a total of \$140.65.

The overpayment is ordered repaid over a period of 3 months.²⁵ The rent is temporarily reduced by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.

Decreased Housing Services:

Stove Fan: The Building Code does not require a kitchen fan and, since the fan was essentially the same when the tenant moved in, her housing services were not decreased. Therefore, the claim is denied.

Mold: The tenant testified that she believes that mold in her unit is caused by poor construction of the outside wall and the fact that there is a garden next to the wall. There is no evidence of water intrusion. On the other hand, there is evidence of inadequate ventilation in the unit. Ms. Moroz noticed that no windows were open at the time of her inspection. As discussed above, under such circumstances, there is really nothing that the owners can be required to do with regard to the mold problem, and the claim is denied.

BBQs & Parties: For the reasons discussed above, the claim is denied.

Reduction in Parking Services: Based upon the testimony and photographs in evidence, it is found that the tenants’ truck does not extend outside the marked parking space which is a part of their housing services. Therefore, the tenants may park either of their vehicles in that space.

²⁵ Regulations, Section 8.22.110(F)

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However, since the tenants have continued to park both vehicles in the assigned parking space, the tenants are not entitled to monetary restitution.

TENANT DELIA VARGAS

Rent: Since the tenant withdrew her challenge to the rent increase, the rent is \$1,146.77 per month, effective May 1, 2016. The tenant paid rent of \$1,107.77 in the months of January through August 2016, an underpayment of \$39 per month, and a total underpayment of \$312. The underpayment is ordered repaid over a period of 6 months.²⁶ The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.

Decreased Housing Services:

Mold: The tenant testified that she believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. There is no evidence of water intrusion, and Ms. Moroz noticed that no windows were open at the time of her inspection. The trees were presumably there when the tenants moved in, and the tenant and her family are responsible for proper ventilation. The claim is denied.

BBOs & Parties: For the reasons discussed above, the claim is denied.

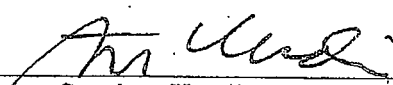
ORDER

1. Petitions T16-0197 & T16-0263 (Ramirez) are denied.
2. The rent, before a temporary increase due to underpaid rent, is \$918 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$13. This underpayment is added to the rent in March 2017.
3. The rent is temporarily increased by \$13 per month, to \$931, in the month of March 2017.
4. In April 2017, the rent returns to \$918 per month.
5. Claims of decreased housing services are denied.
6. The Anniversary Date for future rent increases is May 1.
7. Petitions T16-0198 & T16-0265 (Citalli Vargas) are denied.
8. The rent is \$988.73 per month, effective May 1, 2016.
9. Claims of decreased housing services are denied.
10. The Anniversary Date for future rent increases is May 1.

²⁶ Regulations, Section 8.22.110(F)

11. Petitions T16-0199 & T16-0264 (Gonzalez) are partly granted.
12. The rent, before a temporary decrease due to overpaid rent, is \$762.50 per month, effective May 1, 2016. However, the tenant has overpaid rent in the total amount of \$140.65. This underpayment is adjusted over a period of 3 months.
13. The rent is temporarily decreased by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.
14. In June 2016, the rent returns to \$762.50 per month.
15. The tenants may park either of their vehicles in their assigned parking space.
16. Claims of decreased housing services are denied.
17. The Anniversary Date for future rent increases is May 1.
18. Petitions T16-0200 & T16-0279 (Delia Vargas) are denied.
19. The rent, before a temporary increase due to underpaid rent, is the rent is \$1,146.77 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$312. This underpayment is adjusted over a period of 6 months.
20. The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.
21. In September 2017, the rent returns to \$1,146.77 per month.
22. Claims of decreased housing services are denied.
23. The Anniversary Date for future rent increases is May 1.
24. Right to Appeal: **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: February 14, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

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RENT ADJUSTMENT PROGRAM

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CITY OF OAKLAND



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

Department of Housing & Community Development
Rent Adjustment Program

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

MEDIATION AGREEMENT AND DECISION

CASE NUMBER: T15-0241, Vargas v. SPJC, LLC (Apt 2)
T15-0254, Vargas v. SPJC, LLC (Apt 5)

PROPERTY ADDRESS: 1829 Myrtle Ave, Oakland, CA

DATE OF MEDIATION: September 3, 2015

PARTIES OR AUTHORIZED REPRESENTATIVES:
Liz Hart, Owner Representative
Carlos Padilla, Owner
Javier Padilla, Owner
Delia Vargas, Tenant Apt 5
Alejandro Flota, Tenant Apt 5
Cittali Vargas, Tenant Apt 2
Laura Shoaps, Attorney for tenants

I. INTRODUCTION

The following Agreement is intended to compromise and end the disputes and to resolve the issues presented in the above-described cases. The mediation was conducted on September 3, 2015, in the offices of the Rent Adjustment Program.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents in this case.

In consideration of the mutual promises contained herein, the parties agree as follows:

///

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II. TERMS AND CONDITIONS

1. This Agreement settles all of the claims raised in the petitions and in the responses, if any, except for any claims regarding exemptions. Claims of exemption from the Rent Adjustment Ordinance may not be decided by agreement of the parties.

2. The parties intend this Agreement to be binding and enforceable in a court of law. Therefore, the parties agree that this Agreement is specifically exempt from all provisions of Evidence Code § 1119, which would prohibit the introduction of this Agreement into evidence for the purpose of enforcing it in either a court of law or a Rent Adjustment Program proceeding.

3. The parties agree and understand that this Agreement does not constitute a finding of fact or admission of any violation of law.

4. In the case of *Vargas v. SPLC*, T15-0241, the owners are entitled to a rent increase based on banking in the sum of \$6.21. The new base rent, effective May 1, 2015, is therefore \$941.21.

5. In the case of *Vargas v. SPLC*, T15-0241, the parties agree that the owners are entitled to a total capital improvement pass-through of \$800. This capital improvement pass-through is \$13.33 per month beginning on May 1, 2015 and ending on April 30, 2020.

6. In case T15-0241, the parties agree that all costs submitted by the owner in support of this rent increase will not be passed on in subsequent years.

7. In case T15-0241, the parties agree that the owners will not seek another unit specific capital improvement rent increase for two years from the effective date of the rent increase, May 1, 2015.

8. The tenant Citlali Vargas owes the owner \$19.54 for each month from May 2015-September of 2015, for a total owed of \$117.24. The tenant will reimburse the owner 1/3 of that amount in each of the next three months. The tenant will pay the owner an additional \$39.08 for the months October-December of 2015.

9. In the case of *Vargas v. SPLC*, T15-0254, the owners are entitled to a rent increase based on banking in the sum \$47.69. The new base rent, effective July 1, 2015, is therefore \$982.69 per month.

10. In the case of *Vargas v. SPLC*, T15-0254, the parties agree that the owners are entitled to a total capital improvement pass-through of \$7,500. This capital improvement pass through is \$125 per month beginning on July 1, 2015 and ending on June 30, 2020.

11. In case T15-0254, the parties agree that all costs submitted by the owner in support of this rent increase will not be passed on in subsequent years.

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12. In case T15-0254, the parties agree that the owners will not seek another unit specific capital improvement rent increase for two years from the effective date of the rent increase, July 1, 2015.

13. The tenant Delia Vargas owes the owner \$172.69 for each month from July 2015-September of 2015, for a total owed of \$518.07. The tenant will reimburse the owner 1/3 of that amount in each of the next three months. The tenant will pay the owner an additional \$172.69 for the months October-December of 2015.

14. This Agreement includes a covenant of good faith and fair dealing, and the parties acknowledge their obligation to fulfill the terms of this Agreement in good faith and to deal fairly with each other in doing so.

~~15. This Agreement is adopted as the final Decision of the Rent Adjustment Program.~~

16. The parties acknowledge that if any party violates this Agreement he or she may be subject to a fine or other sanction pursuant to Rent Adjustment Regulation Section 8.22.170, in addition to other legal remedies which may be available.

III. ENTIRE AGREEMENT

17. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

IV. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

18. If any provision of this Agreement is held in whole or in part to be invalid or unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and shall remain in full force and effect.

ATTORNEY FEES AND COSTS

19. The parties acknowledge and agree that they will bear their own costs, expenses and attorney fees arising out of, or connected with, each party's petition or response.

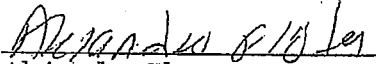
The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents, respectively. The parties further acknowledge that they have signed this Agreement of their own free will and not under duress from any participant in the mediation process.

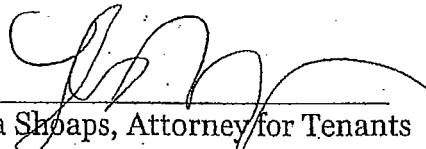
This Agreement is signed on September 3, 2015 at Oakland, California by


Delia Vargas
Delia Vargas, Tenant

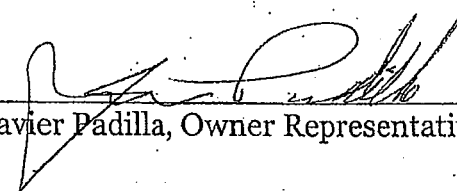
Citalalli Vargas
Citalalli Vargas, Tenant
Citalalli

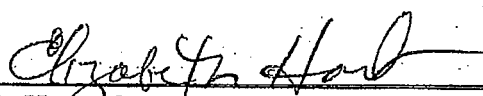
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Alejandro Flota, Tenant


Laura Shoaps, Attorney for Tenants


Carlos Padilla, Owner Representative

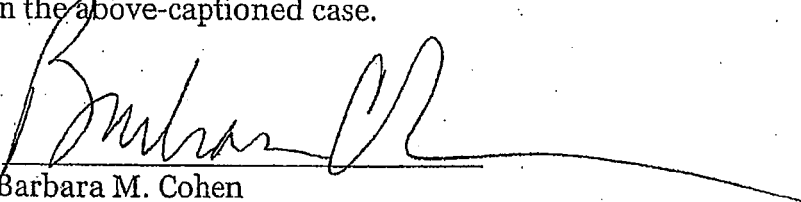

Javier Padilla, Owner Representative


Liz Hart, Owner Representative

ORDER

This Agreement is adopted as the Decision in the above-captioned case.

Dated: September 3, 2015


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

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NOTICE OF CHANGE TO TERMS OF TENANCY
(Civil Code Section 827)

TO: Alejandro Flota, Delia Vargas
and all others claiming a right to possession

- TENANT(S) IN POSSESSION -

Premises to which this Notice relates:

1829 Myrtle Street, #5
Oakland, California 94607
together with any common areas, storage or parking in the tenancy.

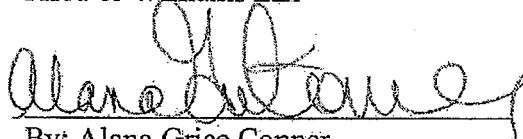
YOU ARE HEREBY NOTIFIED that beginning August 15, 2016, which is at least thirty (30) days after the service on you of this notice, your month-to-month tenancy of the premises you now occupy will be changed, pursuant to Civil Code Section 827, as follows:

The rental of said premises will be the sum of One Thousand One Hundred Forty Six Dollars and Seventy Seven Cents (\$1,146.77) per month instead of Nine Hundred Eighty Two Dollars and Sixty Nine Cents (\$982.69) per month as heretofore, payable monthly in advance on the 1st day of each month. If the period of this notice does not coincide with the rent due date, rent will be adjusted on a pro-rata basis for the month in which the increase goes into effect.

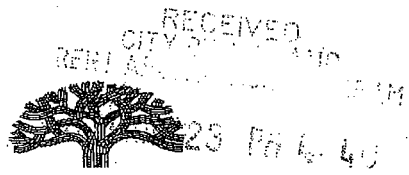
Portion of the rent increase reflecting the annual increase and/or banking pursuant to §8.22.070 of the Oakland Municipal Code, if any: 100%. See attached Calculation of Deferred CPI Increases (Banking).

Information regarding the NOTICE OF CHANGE TO TERMS OF TENANCY may be obtained from the City of Oakland's Rent Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland California 94612, 510-238-3721, website: www.oaklandnet.com. (as of January 2004). Please refer to the attached City of Oakland Rent Adjustment Program Notice to Tenants of Residential Rent Adjustment Program.

Fried & Williams LLP



By: Alana Grice Conner,
Attorneys for Landlord
SPJC, LLC
1901 Harrison Street, 14th Floor
Oakland, CA 94612
Telephone: 510-625-0100



CITY OF OAKLAND

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

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

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	1-Feb-2010	MUST FILL IN D9, D10, D11 and D14	Case No.:		CHANGE YELLOW CELLS ONLY
Effective date of increase	15-Aug-2016		Unit:	5	
Current rent (before increase and without prior cap. improve pass-through)	\$983				
Prior cap. imp. pass-through	\$ 125.00				
Date calculation begins	1-Feb-2010				
Base rent when calc. begins	\$895				

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

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return Increase	Housing Serv. Costs Increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
2/1/2016				1.7%	\$ 17.08	\$ 1,021.77
2/1/2015				1.9%	\$ 18.73	\$ 1,004.69
2/1/2014				2.1%	\$ 20.28	\$ 985.95
2/1/2013				3.0%	\$ 28.13	\$ 965.67
2/1/2012				2.0%	\$ 18.38	\$ 937.55
2/1/2011				2.7%	\$ 24.17	\$ 919.17
2/1/2010				-	-	\$895

Calculation of Limit on Increase

Prior base rent	\$982.69
Banking limit this year (3 x current CPI and not more than 10%)	6.0%
Banking available this year	\$ 39.08
Banking this year + base rent	\$ 1,021.77
Prior capital improvements recovery	\$ 125.00
Rent ceiling w/o other new increases	\$ 1,146.77

Notes:

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

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EXHIBIT D

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

Department of Housing & Community Development
Rent Adjustment Program

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

MEDIATION AGREEMENT AND DECISION

CASE NUMBER: T14-0265, Rodriguez v. SPJC, LLC (Apt 6)
T14-0266, Vargas v. SPJC, LLC (Apt 2)
T14-0267, Vargas v. SPJC, LLC (Apt 5)

PROPERTY ADDRESS: 1829 Myrtle Ave, Oakland, CA

DATE OF MEDIATION: October 27, 2014

**PARTIES OR AUTHORIZED
REPRESENTATIVES:**

Steve Williams, Attorney for owner
Carlos Padilla, Owner
Javier Padilla, Owner
Alana Grice Conner, Attorney for owner
Delia Vargas, Tenant Apt 5
Alejandro Flota, Tenant Apt 5
Cittali Vargas, Tenant Apt 2
Arthur Hernandez, Tenant Apt 2
Beatriz Rodriguez, Tenant Apt 6
Ana Baires Mira, Attorney for tenants
Gillian Quandt, Tenant Representative

I. INTRODUCTION

The following Agreement is intended to compromise and end the disputes and to resolve the issues presented in the above-described cases. The mediation was conducted on October 27, 2014, in the offices of the Rent Adjustment Program.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents in this case.

In consideration of the mutual promises contained herein, the parties agree as follows:

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RENT ADJUSTMENT
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II. TERMS AND CONDITIONS

1. This Agreement settles all of the claims raised in the petitions and in the responses, if any, except for any claims regarding exemptions. Claims of exemption from the Rent Adjustment Ordinance may not be decided by agreement of the parties.
2. The parties intend this Agreement to be binding and enforceable in a court of law. Therefore, the parties agree that this Agreement is specifically exempt from all provisions of Evidence Code § 1119, which would prohibit the introduction of this Agreement into evidence for the purpose of enforcing it in either a court of law or a Rent Adjustment Program proceeding.
3. The parties agree and understand that this Agreement does not constitute a finding of fact or admission of any violation of law.
4. In the case of *Rodriguez v. SPLC*, T14-0265, the base rent for the unit is \$935.00 a month.
5. In the case of *Vargas v. SPLC*, T14-0266, the base rent for the unit is \$935.00 per month.
6. In the case of *Vargas v. SPLC*, T14-0267, the base rent for the unit is \$935.00 per month.
7. By November 26, 2014, SPJC LLC, will pay the following amounts: \$9,000 payable to tenant Beatriz Rodriguez; \$8,000.00 payable to tenant Cittali Vargas; and \$7,000.00 payable to tenant Delia Vargas. Each of these checks will be sent to the tenants' attorney, Ana Baires Mira, at Centro Legal de la Raza, 3022 International Blvd., Suite 410, Oakland, CA 94601.
8. This Agreement sets the current rent for the subject units, pursuant to the Rent Adjustment Ordinance. The parties acknowledge that, by operation of the Rent Adjustment Ordinance, the rent may not be increased until 6 months after the tenants were first served with the *Notice to Tenants of the Residential Rent Adjustment Program*, commonly referred to as the *RAP Notice* in Spanish. All parties agree that the *RAP Notice* was served on the tenants in Spanish on July 1, 2014.
9. The owners will not increase the rent on any of the subject units before January 1, 2015.
10. The tenants agree to provide the owner with copies of keys to their respective units.
11. The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency. In an emergency they will contact the owner by telephone.

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12. The owners will provide the tenants with the legally required *24-Hour Notice to Enter* prior to entering their apartments to make any necessary repairs, unless there is an emergency requiring less notice.

13. The owner will provide building wide pest control service, by a licensed pest control company, at least monthly, until the pest control company provides written notification that monthly service is no longer necessary because cockroaches have been abated. The owner will then follow the recommendation of the pest control company to provide regular pest control service.

14. The tenants will comply with the pest control instructions providing they are given the requisite *24 Hour Notice*.

15. For each unit the owner will remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint. Tenants will use the bathroom fan when showering and the kitchen fan when cooking.

16. The owner agrees to make the following repairs to Unit #5:

- a) Close the gaps in the baseboard in the kitchen;
- b) Change or repair the hinges on the front door, so that it no longer slams when shut;
- c) Scrape all chipped paint, prepare the surfaces appropriately and repaint;
- d) Repair closet doors in the bedroom; and,
- e) Hire a licensed electrician to test the electrical system to ensure that there are no hazards.

17. The owner agrees to make the following repairs to Unit #6:

- a) Paint the unit;
- b) Unclog the bathroom sink;
- c) Unclog the bathroom toilet;
- d) Repair the closet doors; and,
- e) Repair the bathroom door knob.

18. The owner agrees to make the following repairs to Unit #2:

- a) Fix the heater; and
- b) Close the open hole in the bathroom ceiling.

19. All repairs and mold remediation will be made within 60 days from the date of this signed mediation agreement. If the work is not complete by that time, in the following month the rent for that particular tenant will decrease by \$75.00. This monthly rent decrease will continue for each month until the repairs are made.

20. This Agreement includes a covenant of good faith and fair dealing, and the parties acknowledge their obligation to fulfill the terms of this Agreement in good faith and to deal fairly with each other in doing so.

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RENT ADJUSTMENT PROGRAM

- 21. This Agreement is adopted as the final Decision of the Rent Adjustment Program.
- 22. The parties acknowledge that if any party violates this Agreement he or she may be subject to a fine or other sanction pursuant to Rent Adjustment Regulation Section 8.22.170, in addition to other legal remedies which may be available.
- 23. Before vacating the unit, Tenants Delia Vargas and Alejandro Flota (Unit 5), will repair the cosmetic damage to the kitchen cabinets caused in order to install the new refrigerator. If that repair is not made, the owner will have the right to deduct \$250 from the security deposit.

III. ENTIRE AGREEMENT

24. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

IV. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

25. If any provision of this Agreement is held in whole or in part to be invalid or unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and shall remain in full force and effect.

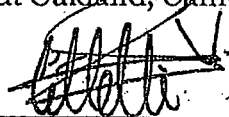
ATTORNEY FEES AND COSTS

26. The parties acknowledge and agree that they will bear their own costs, expenses and attorney fees arising out of, or connected with, each party's petition or response.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents, respectively. The parties further acknowledge that they have signed this Agreement of their own free will and not under duress from any participant in the mediation process.


This Agreement is signed on October 27, 2014 at Oakland, California by

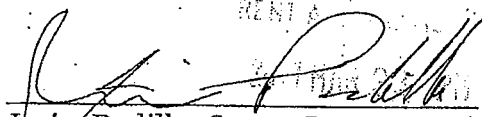
Delia Vargas
Delia Vargas, Tenant


Citalalli Vargas, Tenant

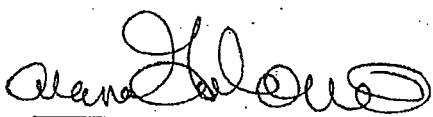
Beatriz Rodriguez
Beatriz Rodriguez, Tenant

Ana Baires Mira
Ana Baires Mira, Attorney for Tenants


Carlos Padilla, Owner Representative


Javier Padilla, Owner Representative

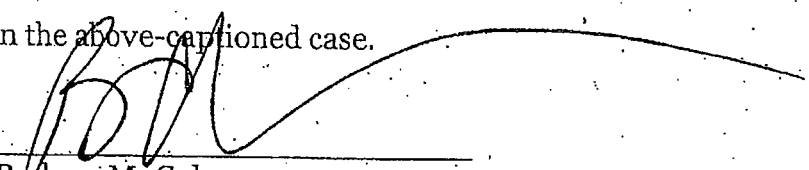
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Alana Grice Conner, Attorney for Owner

ORDER

This Agreement is adopted as the Decision in the above-captioned case.

Dated: October 27, 2014


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

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PROOF OF SERVICE

Case Number T14-0265 thru T14-0267

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 **Mediation Agreement and 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:

SPJC, LLC
Javier Padilla
2500 Grant Avenue
San Lorenzo, CA 94580

Beatriz Rodriguez
1829 Myrtle Street, #6
Oakland, CA 94607

Citlalli Vargas
1829 Myrtle Street, #2
Oakland, CA 94607

Delia Vargas
1829 Myrtle Street, #5
Oakland, CA 94607

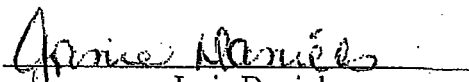
Ana Baires Mira
Centro Legal de la Raza
3022 International Blvd., #410
Oakland, CA 94603

SPJC, LLC
Carlos Padilla
2500 Grant Avenue
San Lorenzo, CA 94580

Fried and Williams
Alana Grice Conner
480 9th Street
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 **October 29, 2014**, in Oakland, California.


Janie Daniels
Oakland Rent Adjustment Program

Alana Grice Conner. ESQ, SBN 182676
Fried & Williams LLP
1901 Harrison St., 14th Floor
Oakland, CA 94612
Tel: (510) 625-0100
Fax: (510) 550-3621
aconner@friedwilliams.com

Attorneys for Respondent
SPJC LLC/Javier Padilla

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CITY OF OAKLAND
RENT STABILIZATION BOARD

CITLALLI VARGAS;
DELIA VARGAS;
HAYDEE GONZALEZ;
EDITH RAMIREZ;

Appellants,

v.

SPJC LLC/JAVIER PADILLA;

Respondent.

CASE NO'S.: T16-0197; T16-0263;
T16-0198; T16-0265; T16-0199;
T16-0264; T16-0100; T16-0279

PROPERTY ADDRESS:
1829 Myrtle Street, Apts. 2, 3, 5, 7,
Oakland, CA 94607

RESPONSE TO APPEAL [AMENDED]

Hearing date: Not yet set
Dept: Oakland Rent Arbitration Board
Hearing Examiner: Stephen Kasdin

I. RESPONDENT AGREES THAT THERE ARE CALCULATION ERRORS IN THE DECISION

Haydee Gonzalez (tenant), Unit 3:

Respondent SPJC LLC/Padilla agrees that the calculation of the over-payment due to Haydee is \$168.78.

Delia Vargas, Unit 5 T-16-0200 & T16-0279:

Both the appeal and the Hearing Decision (Hearing Decision is attached as **Exhibit A**) make a calculation error. Delia Vargas (unit #5) overpaid for rent in August in the amount of \$15.61.

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Calculations:

As established through the Mediation Agreement in Case No. T15-0254, (hereto attached as of September 3, 2015, as **Exhibit B**).

Base rent:	\$982.69
Capital Improvement pass-through:	\$125.00
TOTAL	\$1,107.69

Padilla caused a rent increase notice to be served (effective August 15, 2016, attached as **Exhibit C**)

Base rent:	\$1021.77
Capital Improvement pass through:	\$125.00
TOTAL	\$1146.77

Since the rent increase took effect mid-month (August 15, 2016), the amount due for rent in August should be prorated as follows:

- \$1107.69/31 days = \$35.73 per day * 14 days (August 1 – August 14)	\$500.24
- \$1146.77/31 = \$36.99 per day * 16 days (August 15 – August 31)	\$591.84
TOTAL AUGUST PRO-RATED RENT	\$1092.08

Delia Vargas paid \$1107.69 in August, she should have paid \$1092.08. Therefore, she overpaid \$15.61.

II. THE DECISION IS CONSISTENT WITH DECISIONS ISSUED BY THE OTHER HEARING OFFICERS.

Whether there has been a breach of the implied warranty depends on the particular facts. Due to the practical impossibility of obtaining expert knowledge of all the components of an apartment, landlord must rely on others. In this respect, a landlord is in no better position to know of defects than are tenants. (*Peterson v. Superior Court of Riverside* (1995) 10 Cal. 4th 1185). A tenant cannot reasonably expect that the landlord will eliminate defects in a rented dwelling of which the landlord was unaware, and which would not have been disclosed by a reasonable inspection. A landlord is held to be constructively notified if the defect is obvious in nature.

California Civil Code § 19, defines constructive notice as “every person who has actual notice of circumstance sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself.” Although the Rent Board has held that constructive notice is sufficient, that notice is sufficient only when a condition is in obvious disrepair. (See *Damrosch v. Milner*, T-13-0347). Damrosch states that, “In a decreased housing service case the tenants must establish that they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.”

In the Mediation Agreement, the parties stipulated on page 2 in ¶ 11, that “the tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency.” (See the

Mediation Agreement as of October 27, 2014, attached as **Exhibit D**). There is no evidence that there were any requests made in writing.

Furthermore, neither the inspection by Padilla nor by Linda Moroz noted dark spots but no determination that the stains were mold.

**III. THE DECISION DOES NOT VIOLATE CALIFORNIA CIVIL CODE § 1941;
THERE WAS INSUFFICIENT EVIDENCE TO ESTABLISH THE UNIT WAS
UNHABITABLE.**

Mold

California Civil Code § 1941.1 sets out standards that a dwelling must meet. If the dwelling “substantially lacks” any of the standards laid out by the statute, then the dwelling is untenable. California Health and Safety Code §§ 17920 and 17920.3 were amended to include “visible mold growth,” however the mere presence of mold alone is not sufficient to render a unit uninhabitable. Instead, California Health and Safety Code § 17920.3 states the presence of the mold must be to the “extent that endangers the life, limb, health, property, safety, or welfare of the public of the occupants thereof.” There was no evidence presented that the unit was uninhabitable by this standard.

Furthermore, § 17920.3 says at subsection (13) visible mold growth, as determined by a *health officer or a code enforcement officer* “excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use”. The mere presence of “mold” is not sufficient to render this unit uninhabitable.

Health & Safety Code Section 17920(j) defines “Mold” microscopic organisms or fungi that can grow in damp conditions in the interior of a building. Tenant’s appeal notes the presence of the mold on the “exterior walls.” That is not a habitability defect nor a substandard condition under 17920. Even if mold was evident on the exterior of the walls there was no determination of this by an authorized officer.

The statute considers the presence of mold minor when found on surfaces that can accumulate moisture as part of their proper use. Failing to open the windows allowing condensation to accumulate on any surface could cause mildew to form. There was evidence from the owner and the rent board officer who inspected the units that the windows in the units weren’t open. The tenants even testified that they do not open the bathroom window.

In this case, Linda M. Moroz conducted the inspection of the property. Her findings are as such:

Citlalli D. Vargas (tenant), Unit 2: "I noticed several dark spots that looked like mold on the walls in the larger bedroom and bedroom closet. There were also darker spots in the order of the second, smaller bedroom and in the bathroom on the wall."

Haydee Gonzalez and Domingo Valencia (tenants), Unit 3: "I noticed a few darker spots that looked like mold on the wall of the bedroom closet."

Delia Vargas, Alejandro Flota, Roberto A. Flota Dzul (tenants), Unit 5: "I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling... I did not see any discolored or darker spots on that wall... I did not see any discolored spots on the ceiling."

Edith Ramirez (tenant), Unit 7: "I did not see any mold or darker spots that would look like mold or any discoloring of paint anywhere in the unit."

Although, there is evidence that spots that look like mold present, Moroz did not indicate that it rose to the level of uninhabitable.

IV. APPELLANT FAILED TO ESTABLISH A FACTUAL AND LEGAL BREACH OF HABITABILITY.

Water intrusion

California Civil Code § 1941.1 also provides that effective waterproofing and weather protection of roof and exterior walls needs to be provided, again the tenant needs to show that dwelling substantial lacks the said condition.

The tenants testified that there was water intrusion. Padilla presented evidence to the contrary of adequate ventilation and many tenants testified that they did not open windows or use the fan to minimize condensation.

Both landlords and tenants have legal responsibility regarding the condition of the rental unit. A tenant must maintain the rental unit in a clean and sanitary condition. This shared responsibility is reiterated in the "Mold and Mildew Addendum" which states that the tenant is responsible for ventilating the premise and exercising moisture control precautions (See Decision page 6 ¶ 3).

The tenants still have a duty to inform Padilla of such conditions. *Peterson* recognizes a landlord is responsible for defects that he is aware of or had an opportunity to discover. *Peterson* states, "The tenant further reasonable expect that the landlord will maintain the property in a habitable condition by repairing promptly any conditions, of which the landlord has actual or constructive notice.," *Peterson* goes on to state "but a tenant cannot reasonably expect that the landlord will eliminate defects in a rented dwelling of which the landlord is unaware and which would not have been disclosed by a reasonable inspection."

Padilla took all reasonable steps to ensure that he fixed a problem within a reasonable time after notice and made sure he was in compliance with health and safety code, California statues, and

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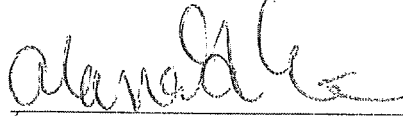
any other applicable codes. The Hearing officers was in the best position to hear all the evidence i.e. testimony from witnesses, parties, read all information and evidence presented, and thus had more than sufficient evidence to make his finding.

V. RENT BOARD HAS NO JURISDICTION

As admitted by Tenants in their appeal, the Rent Board has no jurisdiction to determine enforceability of lease terms. It cannot make prospective rulings.

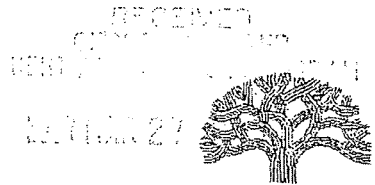
Date: March 27, 2017

Fried & Williams LLP



By: Alana Grice Conner
Attorney for Respondent
Javier Padilla

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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 NUMBERS: T16-0197 & T16-0263, Ramirez v. Padilla / SPJC, LLC
T16-0198 & T16-0265, Citalli Vargas v. SPJC, LLC
T16-0199 & T16-0264, Gonzalez v. Padilla / SPJC, LLC
T16-0200 & T16-0279, Delia Vargas v. SPJC, LLC

PROPERTY ADDRESSES: 1829 Myrtle St., Nos. 2, 3, 5, &7, Oakland, CA

DATES OF HEARING: November 4 & December 1, 2016 & January 17, 2017

DATE OF INSPECTION: December 16, 2016

DATE OF DECISION: February 14, 2017

APPEARANCES:¹
Delia Vargas (Tenant, Unit #5)
Alejandro Flota (Tenant, Unit #5)
Roberto A. Flota Dzul (Tenant, Unit #5)
Edith Ramirez (Tenant, Unit #7)
Citalli D. Vargas (Tenant, Unit #2)
Haydee Gonzalez (Tenant, Unit #3)
Domingo Valencia (Tenant, Unit #3)
Karuna Holm (Witness for Tenants, by Telephone)
Laura Shoaps (Attorney for Tenants)
Javier Padilla (Owner)
Carlos Padilla (Owner)
Alana Grice Conner (Attorney for Owners)
Elizabeth Hart (Owner Representative)
Nathan Luben (Witness for Owners)
Nicole Randle (Witness for Owners)

¹ Delia Vargas appeared only on November 4 & December 1, 2016. Alejandro Flota, Edith Ramirez, Citalli Vargas, Karuna Holm and Nathan Luben appeared only on November 4, 2016. Roberto A. Flota Dzul appeared only on December 1, 2016. Noemi Gonzalez appeared only on November 4 and December 1, 2016: Alana Grice Conner, Nicole Randle and Marci Valdivieso appeared only on January 17, 2017.

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Noemi Gonzalez (Interpreter)
Marci Valdivieso (Interpreter)

SUMMARY OF DECISION

The petition of tenant Ramirez is denied. The petition of tenant Citalli Vargas is denied. The petition of tenant Gonzalez is partly granted. The petition of tenant Delia Vargas is denied.

CONTENTIONS OF THE PARTIES

Tenant Ramirez filed petitions in April and May 2016, which allege that rent increases from \$695 to \$790, effective April 1, 2015, and from \$790 to \$918.99, effective May 1, 2016, exceed the CPI Adjustment and are unjustified or greater than 10%; that she first received the form Notice to Tenants (RAP Notice) on April 1, 2016; and that her housing services have been decreased due to inadequate ventilation in the bathroom; mold; yellow spots on a window; spiders; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the Ramirez petitions, which allege that the tenant was given the RAP Notice in February 2015 or earlier; the 2016 rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Citalli Vargas filed petitions in April and May 2016, which allege that a rent increase from \$954.54 to \$988.73 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to mold and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of Citalli Vargas, which allege that the tenant was given the RAP Notice on July 1, 2014; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Gonzalez filed petitions in April and May 2016, which allege that a rent increase from \$762.47 to \$827.51 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to an inadequate stove fan; cabinets in disrepair; roaches; mold; peeling paint; the owner's denial of permission for outdoor barbeques and parties; and reduction in parking services.

The owners filed responses to the petitions of tenant Gonzalez, which allege that the tenant was given the RAP Notice on March 26, 2015; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Delia Vargas filed petitions in April and May 2016, which allege that a rent increase from \$982.69 to \$1,146.77 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%, and that her housing services have been decreased due to mold; bedroom floors; and the owner's denial of permission for outdoor barbeques and parties.

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The owners filed responses to the petitions of tenant Delia Vargas, which allege that the rent increase is justified by Banking and deny that the tenant's housing services have decreased.

THE ISSUES

- (1) When did tenant Ramirez receive the RAP Notice?
- (2) When did tenant Citali Vargas receive the RAP Notice?
- (3) When did tenant Gonzalez receive the RAP Notice?
- (4) Is a rent increase for tenant Ramirez justified by Banking and, if so, in what amount?
- (5) Is a rent increase for tenant Citali Vargas justified by Banking and, if so, in what amount?
- (6) Is a rent increase for tenant Gonzalez justified by Banking and, if so, in what amount?
- (7) Have the tenant Ramirez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (8) Have the tenant Citali Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (9) Have the tenant Gonzalez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (10) Have the tenant Delia Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

TENANT RAMIREZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The owners did not dispute this testimony.

Decreased Housing Services:

Bathroom Ventilation: The tenant testified that the ceiling fan in her bathroom does not work well. However, there is a window in the room. The tenant admitted receiving a statement from the owners in 2015 that maintenance requests must be in writing. However, she never gave written notice to the owners regarding the bathroom fan.

Mold: The tenant testified that there has been a recurring mold problem in her bathroom and bedroom closet for a number of years, and she has repeatedly notified the owners. The tenant believes that the mold is caused by excess humidity because the bathroom fan does not work. She opens the bathroom window each time someone takes a shower. The tenant submitted photographs of the bathroom wall and a corner of the bedroom closet, which she took in March 2016.² These photos depict mold on various wall surfaces.

² These Exhibits, and all others to which reference is made in this Decision, were admitted into evidence without objection unless otherwise noted.

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On July 31, 2016, owner Javier Padilla wrote to the tenant and her husband: "On or about July 27th, Carlos [Padilla] spoke with your husband, Jose, and agreed on the following: Jose will paint the closet, as well as the shower stall. \$300 will include paint and any materials necessary to remedy the closet situation. For the moment, you are to send us a bill in the amount of \$300 for said services."³ The tenant testified that on August 2, 2016, Carlos Padilla gave her paint, and she painted the closet.

The owners submitted a number of photographs, which Javier Padilla testified he took during his annual inspections of the unit in March 2015 and June 2016.⁴ These photographs depict a considerable amount of clutter, including clothing and other items, both in bags and loose on the floor and in a closet. Javier Padilla testified that the unit also contained 10 parakeets and a large fish tank, which is prohibited since a fish tank can contribute to mold. He further testified that overstuffing closets reduces air circulation and can cause or contribute to the development of mold.

Finally, Mr. Padilla testified that, when he inspected the unit on June 28, 2016, he told the tenant's husband that the exhaust fans in the unit were dirty, and needed to be cleaned, which could be accomplished with a broom or brush. Mr. Padilla wrote this advice in a document entitled "Condition of Premises Addendum, dated the same day."⁵

On questioning from the owners, the tenant testified that the closet wall with mold shown on the photos that she submitted is on the other side of the bathroom; she denied keeping wet items in the closet.

The tenant testified that all contacts with the owners concerning mold have been by phone or in person, since Carlos Padilla is often in the building. Official Notice is taken of a Mediation Agreement in Case Nos. T14-0265 (Rodriguez v. SPJC, LLC), T14-0266 (Vargas v. SPJC, LLC) and T14-0267 (Vargas v. SPJC, LLC), which was signed by both the tenant and the owners on October 27, 2014. The owners cite Paragraph 11 of this Agreement, which says: "The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency."

On December 16, 2016, Linda Moroz, a Hearing Officer with the Rent Adjustment Program, inspected the tenant's unit, and the units of other petitioning tenants. Following her inspection, Ms. Moroz prepared a Declaration, a copy of which is attached as Attachment "A." Ms. Moroz writes: "I entered and walked through the entire unit. I did not see any mold or darker spots . . . anywhere in the unit. However, I noticed buckled paint in the closet ceiling in the bedroom that could have been due to water/moisture intrusion. The wall under the window in the bedroom felt wet. I also noticed water drops on paint in the bathroom ceiling."

Yellow Spots: This claim was withdrawn at the Hearing.

Spiders: This claim was withdrawn at the Hearing.

³ Exhibit No. 6A.
⁴ Exhibit Nos. 5A through 5M.
⁵ Exhibit No. 7.

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BBQs & Parties: The tenant testified that she has lived in her unit in the subject 7-unit building for more than 10 years. For a long time, other tenants in the building and their friends would have parties – which included music – in the parking lot of the building. The parties would usually be attended by 30 to 40 people, and would last until 10:00 or 10:30 at night. Such parties were held an average of once a month, or approximately 20 parties a year. In or about February 2016, the owners told tenants in the building that they could no longer have such parties.

Owner Javier Padilla testified that he received complaints from people in neighboring properties that tenants would have parties in the parking lot with an estimated 70 people, which included music and drinking, and which would often last very late at night. He further testified that there were 3 large parties in late December 2015 and early January 2016, and on one occasion a party included a fire in a metal container in which a palette was cut up and burned. The tenants did not dispute this testimony. Therefore, in February 2016, he wrote to tenants in the subject building that they could no longer have parking lot parties. The owners have created a smaller paved area in which the tenants can have BBQs, but no parties. The owners testified that the newly designated BBQ area can accommodate 8 to 10 people.

Karuna Holm testified by telephone as a witness for the tenants. Ms. Holm testified that she lives at 1835 Myrtle Street – 2 addresses down from the subject building – in a home that she has owned since 2007. She stated that she has been aware of the tenants’ parties, and that they are not a problem; she enjoys how vibrant the neighborhood is, and the parties are consistent with the character of the neighborhood. Ms. Holm further testified that there is a street party on her block at least once every weekend, and the parties at the subject building are quieter than other parties on the block. On questioning from the owners, Ms. Holm testified that she has not actually gone into the parking lot during parties, but that she sees people on the street who go to and come from the parties.

Ms. Moroz inspected the “BBQ” area, and wrote: “I walked to the back of the property outside and inspected the BBQ area. The designated BBQ area is located in the back corner along the right side of the property . . . It has a rectangular shape and there is a large tree in the middle of the area. The entire area except where the tree is has large paving tiles. I walked the perimeter of the area, counted the tiles and estimated its size to be about 22.5’ x 9’. The tree takes up about 8’ x 6’ of that BBQ area. The total estimated size of the usable BBQ area is about 155 square feet.”

TENANT CITALI VARGAS

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in the year 2014.

Rent History: The tenant withdrew her challenge to the rent increase from \$954.54 to \$988.73, effective May 1, 2016.

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Decreased Housing Services:

Mold: The tenant testified that there is always mold in both bedrooms and the living room of her unit. She believes that the cause of the mold is that the apartment is always cold and humid, which is partly caused by poor insulation. Also, when it rains, she sees droplets of water on the walls in the bathroom. The tenant further testified that she told owner Carlos Padilla about the mold in 2014, and in 2015, the entire apartment was painted. The mold returned in February 2016, and she again informed Carlos Padilla. In response, he suggested that she clean the walls and purchase a de-humidifier. The tenant cleaned the walls; Mr. Padilla did no work in the unit. Mr. Padilla testified that when he inspected the unit in February 2016, no windows were open.

The tenant submitted photographs that she testified were taken by her inside her apartment in February 2016.⁶ These photos depict a great deal of mold on a bathroom wall and floor, a closet wall, and on a dresser. Several of the photos were sent as a text message attachment to Carlos Padilla on February 9, 2016. Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed several dark spots that looked like mold on the walls in the larger bedroom and a bedroom closet. There were also darker spots in the corner of the second, smaller bedroom and in the bathroom on the wall under the window."

The owners submitted a 6-page document, the first of which is entitled "Notice of Change of Terms of Tenancy," dated April 29, 2016.⁷ The tenant acknowledged that she received these documents. The "Mold and Mildew Addendum" states, in part: "Resident shall immediately notify Landlord of any moisture, standing water or water intrusion of any kind, or mold condition in order to provide Landlord an opportunity to evaluate the conditions and/or to make recommendations regarding appropriate actions. . . The Resident shall be solely responsible for properly ventilating the premises and exercising moisture control precautions." This document is entirely in English, and the tenant – whose primary language is Spanish – testified that she could not understand these documents.

Owner Javier Padilla testified that he conducts annual inspections of all units in the subject building, and promptly makes needed repairs. In July 2015, he provided all tenants with forms for maintenance requests, and the only such request regarding mold that he received from the tenant was in late 2015. He had the unit painted, and the problem appeared to have been resolved. Mr. Padilla submitted a document entitled "Maintenance Request," dated September 1, 2015; the tenant identified her signature on this document.⁸ The wording on this document is in Spanish, which was interpreted at the Hearing by the interpreter, Noemi Gonzalez. This document states, in pertinent part: "repair paint in kitchen."

Mr. Padilla also submitted a document entitled "Condition of Premises Addendum," regarding the tenant's unit, dated March 3, 2015.⁹ This document, signed by the tenant, does not state any problem with mold. He also submitted a similar document dated June 28, 2016, which is signed

⁶ Exhibit Nos. 8A through 8D.

⁷ Exhibit Nos. 10A through 10F.

⁸ Exhibit No. 12A

⁹ Exhibit Nos. 11A & 11B.

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only by him.¹⁰ Mr. Padilla wrote on this document: "No black mold or any mold observed anywhere in unit." He also wrote that he informed the tenant to clean the bathroom fan and window screens, and not to "overstuff" closets. The document does not otherwise contain any mention of mold. Javier Padilla testified that, after the unit was painted in 2015, he had no notice of any mold problem until he received a copy of the tenant's second petition, which was mailed to him on May 26, 2016.

Javier Padilla further submitted a number of photographs that he testified he took on June 28, 2016.¹¹ Some of the photographs depict what appears to be mold on a window screen; numerous objects stuffed into a small closet; and a number of items on and draping onto the bathroom floor.

BBQs & Parties: The tenant submitted a copy of a lease for her unit, dated September 9, 2011.¹² The lease does not prohibit parties or BBQ's.

TENANT GONZALEZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in January or February 2015.

Rent History: The tenant testified that, as stated in her petitions, she moved into her unit in April 2012, at a rent of \$725 per month. The owners agreed with this testimony. The parties also agreed that the tenant paid monthly rent of \$762.50 from May through August 2016 and \$790.63 from September 2016 through January 2017.

Service of Rent Increase Notice: The tenant testified that a copy of the contested rent increase notice was stuck in the window of her unit; she never received another copy of the notice in the mail.

Witness Randle testified that she has been employed by the law firm Fried & Williams for the past 4 ½ years. Among her duties are the preparation and mailing of various notices on behalf of property owners. She follows an established procedure in doing this work, which includes the preparation and signing under penalty of perjury a Certificate of Mailing at the time a notice is mailed. She prepared and mailed copies of all rent increase notices to tenants in the subject building.

Ms. Randle identified her signature on a Certificate of Mailing for the contested rent increase notice and other documents, including RAP Notices in both English and Spanish, to the tenant on March 26, 2015.¹³ The owners also submitted a letter from Javier Padilla to the tenant's husband, Domingo Valencia.¹⁴ This letter concerns the tenant's alleged underpayment of rent,

¹⁰ Exhibit Nos. 13A & 13B.

¹¹ Exhibit Nos. 14A through 14H. The tenant's attorney objected to the admission of these photos into evidence on the ground that they were too numerous. The objection was overruled, and the photos were admitted into evidence.

¹² Exhibit No. 9.

¹³ Exhibit No. J

¹⁴ Exhibit No. M

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and is written entirely in Spanish. Another document submitted by the owners is the lease for the unit, signed by Mr. Valencia and Javier Padilla on April 21, 2012.¹⁵ The printed part of this lease is in English. However, following the numbered Paragraph 36 – headed “Other Terms” – are 3 sentences written in Spanish. Official Notice is taken of the tenant’s request for a Spanish-speaking interpreter to attend the Hearing.

Decreased Housing Services:

Stove Fan: The tenant testified that the kitchen fan was not working effectively, and she needed to open the kitchen window when she cooked. The tenant further testified that the fan was not working well when she moved in. The fan was replaced in November 2016.

Cabinets: This claim was withdrawn at the Hearing.

Roaches: This claim was withdrawn at the Hearing.

Mold: The tenant testified that about 1 ½ years ago she noticed mold in the bedroom and the bedroom closet in her ground-floor unit. She never notified the owners in writing about this problem. However, Carlos Padilla comes by regularly and she reports problems to him. The owners conducted an annual inspection of her unit in or about September 2016. She was not at home at the time of the inspection. However, her son was at home during the inspection, and her son told her that he pointed out the mold to the owners. The tenant’s son told her that the owners had told him to clean the mold; they did nothing with regard to this situation.

The tenant submitted a photograph of a wall and adjoining floor and portion of a closet in her bedroom, which she testified she took in or about July 2016.¹⁶ She testified that the wall is an exterior wall, with a garden on the other side of the wall, and this is the only room in which there was mold. The photo depicts a considerable amount of what appears to be mold on both the wall and floor. The tenant believes that the mold is due to inadequate construction of the outside wall, and the fact that there is a garden directly by the wall. She testified that the window in this room is almost always open. The tenant also testified that her unit has one bedroom and one bathroom, in which she lives with her husband and their 4 children.

Carlos Padilla testified that the wall next to the bedroom closet was covered during his inspection in June 2016, and he saw no mold at that time. He submitted a series of photographs of areas of the unit that he took in June 2016.¹⁷ These photos depict clothing, bedding, and other personal items fit tightly within a closet. Mr. Padilla further testified that Unit #1 – where the tenant did not file a petition – is also located on the ground floor of the building. Mr. Padilla testified that he has never seen mold in Unit #1, nor has the tenant in that unit ever reported mold.

¹⁵ Exhibit No. Q

¹⁶ Exhibit No. P. The owners objected to the admission of this photo into evidence because the location and date on which the photo was taken were unclear. The objection was overruled, and the photo was admitted into evidence.

¹⁷ Exhibit No. U.

As to this unit, Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I notice a few darker spots that looked like mold on one wall of the bedroom closet.

Peeling Paint: This claim was withdrawn at the Hearing.

BBOs & Parties: The tenant testified in accordance with the testimony of other petitioning tenants.

Reduction in Parking Services: The tenant testified that she was given one designated parking space at the start of her tenancy. At that time, she and her husband owned a pickup truck and a passenger car; they still own both vehicles. They would park one or the other vehicle in the assigned space, depending on whether it was a street sweeping day and other personal considerations. In mid-2015, the owners sent a letter to the tenant and her husband, which said that they could no longer park the pickup truck in their parking space.

During cross-examination of the tenants, the owners submitted two photographs which depict a large pickup truck in the building parking lot.¹⁸ One of the photos is date-stamped June 17, 2016, and the other is on a page on which the date May 4, 2016 is written. Although the truck is quite large, in both photos the vehicle is parked within the white lines painted on the pavement, and it does not appear to extend past the ends of these lines.

TENANT DELIA VARGAS

Rent History: At the Hearing, the tenant withdrew her challenge to the rent increase from \$982.69 to \$1,146.77, effective May 1, 2016. The parties agreed that the tenant had paid monthly rent, as follows: January through August 2016 - \$1,107.77; and September through December 2016 - \$1,146.77.

Decreased Housing Services:

Mold: The tenant testified that she has had a mold problem in her unit since 2010. She believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. She opens the bathroom window after showers are taken, and leaves the window open. The window is not open while a person is showering. The tenant testified that there is mold on the bathroom walls and also in the bedrooms and bedroom closet, on the 2 walls facing the outside. She opens windows in the bedrooms when she goes to work, and then closes them when she returns home.

The tenant further testified that she first notified the owners about this problem in the year 2014, when she filed Petition No. T14-0267, Vargas v. SPJC, LLC. That case was resolved in a Mediation Agreement dated October 27, 2014. As part of that agreement, the owners agreed to "remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint." The tenant testified that the owners complied with this Agreement.

¹⁸ Exhibit Nos. T1 & T2.

Owner Carlos Padilla inspected the unit in early 2016, at which time the tenant's husband, Mr. Flota Dzul, was at home. Mr. Flota Dzul testified that he showed Mr. Padilla mold in the bathroom. In response, Mr. Padilla told the tenant that he could simply wipe the mold off. The tenant also showed Mr. Padilla the bedroom walls and closet, but there was not much mold in these areas since Ms. Vargas had recently cleaned the areas. Mr. Padilla also asked the tenant if he needed paint. Mr. Flota Dzul further testified that he uses the bathroom fan during showers, and then turns it off. The tenant and his wife live in the unit with their 3 children. The mold problem is worse during the winter. When asked what the owners should do, Mr. Flota Dzul stated that the problem was lack of insulation, and that the owners should clean the mold as necessary.

The owners submitted a document entitled "Condition of Premises Addendum" regarding the tenants' unit, dated June 28, 2016.¹⁹ This document does not mention mold, but it was signed only by Javier Padilla, and not by either tenant.

Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling. I touched the bedroom wall under the window and it felt wet. I did not see any discolored or darker spots on that wall. It rained the night before the inspection. I also noticed water drops on the bathroom ceiling. I did not see any discolored or darker spots on the ceiling."

Bedroom Floors: This claim was withdrawn at the Hearing.

BBQs & Parties: The tenant testified that, before the owners said they could not have parties or BBQ's in the parking lot, most gatherings occurred approximately once a month, with no more than about 13 people (the petitioning tenants and their families), and lasting no later than 11:00 P. M. She recalled only one very big party, which involved approximately 70 people. On questioning by the owners, the tenant testified that 40 people at most would attend a party / BBQ, except for a special event.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

TENANT RAMIREZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The tenant has underpaid \$13, which is added to the rent for March 2017. The rent for March 2017 will be \$931.

¹⁹ Exhibit No. D.

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Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent²⁰ and may be corrected by a rent adjustment.²¹ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must have notice of a needed repair, and a reasonable period of time in which to make such a repair.

There is also a time limit for claiming decreased housing services. A tenant petition must be filed within 90 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.²²

However, when a tenant complains of ongoing problems with his or her unit, the Board has declared that such claims should not be completely denied if the tenant received the RAP Notice more than 90 days before the petition was filed. The tenant first received the RAP Notice in the year 2015, far more than 90 days before filing her petition alleging decreased housing services on May 24, 2016. Therefore, in accordance with the Regulations and Board decision,²³ the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which he filed her petition. Allowable claims of decreased housing services therefore begin on February 24, 2016.

Bathroom Ventilation: The Building Code requires a bathroom to have either a window or an exhaust fan. The tenant's unit has both a window and a fan. Further, the tenant did not submit any written report to the owners, and the problem may well have been caused by the need to clean the fan, which is normally the responsibility of a tenant. Therefore, the claim is denied.

Mold: Mold is the result of excess moisture in the air, which can result from either water intrusion from a window, roof leak water overflow from another unit in the building; poor ventilation; or a combination of such factors. An owner must correct a condition that allows water to enter a unit. However, there is no evidence of water intrusion in the tenant's unit. The tenant testified that she believes the mold in her unit is caused by the poorly functioning bathroom fan. However, she never notified the owners about this in writing, as she agreed in the Mediation Agreement. Javier Padilla conducted an annual inspection in June 2016, at which time he was informed about a mold problem. The following month, Mr. Padilla then arranged with the tenant's husband to clean and paint the affected areas. Further, when Ms. Moroz inspected the unit, she did not see "any mold or darker spots." For all of these reasons, the claim is denied.

BBQs & Parties: From the combined testimony of the petitioning tenants – and even ignoring the testimony of the owners – it is clear that there have been parties at least monthly, attended by as many as 70 people, with music playing, and lasting until at least 11:00 P.M. Such activities are clearly incompatible with a residential neighborhood, and the right to hold such

²⁰ O.M.C. Section 8.22.070(F)
²¹ O.M.C. Section 8.22.110(E)
²² O.M.C. Section 8.22.090(A)(2)
²³ Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

events can scarcely be implied in any residential rental agreement. The ability to have such parties was never part of the tenant's rental agreement, and denying tenants the ability to do so does not decrease their housing services. The claim is denied.

Conclusion: The rent for the tenant's unit is \$918 per month, effective May 1, 2016. The tenant has underpaid rent of \$13, which should be added to the March 2017 rent payment.

TENANT CITALI VARGAS

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2014.

Rent: Before considering the tenant's claim of decreased housing services, the rent is \$988.73 per month, effective May 1, 2016.

Decreased Housing Services:

Mold: The tenant testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners. Carlos Padilla testified that during an inspection of the unit in February 2016, no windows were open. Ms. Moroz also noticed that no windows were open at the time of her inspection. The tenant has not sustained her burden of proof that mold in her unit is caused by some act or failure to act on the part of the owners. Therefore, the claim is denied.

BBQs & Parties: For the reasons set forth in the discussion above, this claim is denied.

TENANT GONZALEZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in early 2015.

Service of Rent Increase Notice: Ms. Randle's testimony, supported by the Proof of Service that she signed, was believable. On the other hand, the tenant testified in a straightforward way, and there is no reason to disbelieve her testimony. The California Evidence Code is instructive, and states that a letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.²⁴ The testimony of both the tenants and Ms. Randle was credible, and it is possible that the mailing was lost or otherwise not delivered to the tenant. However, an owner can do nothing more than mail a notice a notice, and assume that it is delivered. It is therefore found that copies of the contested rent increase notice were both posted and mailed to the tenant.

However, it is clear that the tenant is essentially a monolingual Spanish speaker, and this fact was well known to the owners. At times, they wrote to the tenant in Spanish, and they sent a Spanish language version of the RAP Notice to the tenant. The contested rent increase notice is entirely in English.

²⁴ Evidence Code Section 641.

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Civil Code Section 1632 states, in part:

Any person engaged in a trade or business who negotiates primarily in Spanish . . . orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, which includes a translation of every term and condition in that contract of agreement: . . . (3) A lease . . . for a period of longer than one month . . . covering a dwelling . . .

(g) The term “contract” or “agreement,” as used in this section, . . . includes any subsequent document making substantial changes in the rights and obligations of the parties.

The contested rent increase notice is a “document making substantial changes in the rights and obligations of the parties.” Therefore, this notice, which should have been given in Spanish, is invalid. Before considering the tenant’s claims of decrease housing services, the rent is \$762.50 per month, effective May 1, 2016. The tenant paid rent of \$790.63 in the months of September 2016 through January 2017, and it is assumed that she also paid this amount in February 2017. Therefore, she overpaid rent of \$28.13 per month, a total of \$140.65.

The overpayment is ordered repaid over a period of 3 months.²⁵ The rent is temporarily reduced by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.

Decreased Housing Services:

Stove Fan: The Building Code does not require a kitchen fan and, since the fan was essentially the same when the tenant moved in, her housing services were not decreased. Therefore, the claim is denied.

Mold: The tenant testified that she believes that mold in her unit is caused by poor construction of the outside wall and the fact that there is a garden next to the wall. There is no evidence of water intrusion. On the other hand, there is evidence of inadequate ventilation in the unit. Ms. Moroz noticed that no windows were open at the time of her inspection. As discussed above, under such circumstances, there is really nothing that the owners can be required to do with regard to the mold problem, and the claim is denied.

BBOs & Parties: For the reasons discussed above, the claim is denied.

Reduction in Parking Services: Based upon the testimony and photographs in evidence, it is found that the tenants’ truck does not extend outside the marked parking space which is a part of their housing services. Therefore, the tenants may park either of their vehicles in that space.

²⁵ Regulations, Section 8.22.110(F)

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However, since the tenants have continued to park both vehicles in the assigned parking space, the tenants are not entitled to monetary restitution.

TENANT DELIA VARGAS

Rent: Since the tenant withdrew her challenge to the rent increase, the rent is \$1,146.77 per month, effective May 1, 2016. The tenant paid rent of \$1,107.77 in the months of January through August 2016, an underpayment of \$39 per month, and a total underpayment of \$312. The underpayment is ordered repaid over a period of 6 months.²⁶ The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.

Decreased Housing Services:

Mold: The tenant testified that she believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. There is no evidence of water intrusion, and Ms. Moroz noticed that no windows were open at the time of her inspection. The trees were presumably there when the tenants moved in, and the tenant and her family are responsible for proper ventilation. The claim is denied.

BBQs & Parties: For the reasons discussed above, the claim is denied.

ORDER

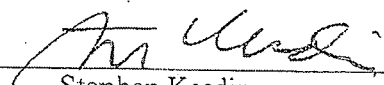
1. Petitions T16-0197 & T16-0263 (Ramirez) are denied.
2. The rent, before a temporary increase due to underpaid rent, is \$918 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$13. This underpayment is added to the rent in March 2017.
3. The rent is temporarily increased by \$13 per month, to \$931, in the month of March 2017.
4. In April 2017, the rent returns to \$918 per month.
5. Claims of decreased housing services are denied.
6. The Anniversary Date for future rent increases is May 1.
7. Petitions T16-0198 & T16-0265 (Citalli Vargas) are denied.
8. The rent is \$988.73 per month, effective May 1, 2016.
9. Claims of decreased housing services are denied.
10. The Anniversary Date for future rent increases is May 1.

²⁶ Regulations, Section 8.22.110(F)

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11. Petitions T16-0199 & T16-0264 (Gonzalez) are partly granted.
12. The rent, before a temporary decrease due to overpaid rent, is \$762.50 per month, effective May 1, 2016. However, the tenant has overpaid rent in the total amount of \$140.65. This underpayment is adjusted over a period of 3 months.
13. The rent is temporarily decreased by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.
14. In June 2016, the rent returns to \$762.50 per month.
15. The tenants may park either of their vehicles in their assigned parking space.
16. Claims of decreased housing services are denied.
17. The Anniversary Date for future rent increases is May 1.
18. Petitions T16-0200 & T16-0279 (Delia Vargas) are denied.
19. The rent, before a temporary increase due to underpaid rent, is the rent is \$1,146.77 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$312. This underpayment is adjusted over a period of 6 months.
20. The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.
21. In September 2017, the rent returns to \$1,146.77 per month.
22. Claims of decreased housing services are denied.
23. The Anniversary Date for future rent increases is May 1.
24. Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: February 14, 2017

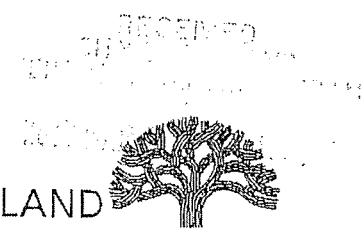


Stephen Kasdin
Hearing Officer
Rent Adjustment Program

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Department of Housing & Community Development
Rent Adjustment Program

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

MEDIATION AGREEMENT AND DECISION

CASE NUMBER: T15-0241, Vargas v. SPJC, LLC (Apt 2)
T15-0254, Vargas v. SPJC, LLC (Apt 5)

PROPERTY ADDRESS: 1829 Myrtle Ave, Oakland, CA

DATE OF MEDIATION: September 3, 2015

PARTIES OR AUTHORIZED REPRESENTATIVES:
Liz Hart, Owner Representative
Carlos Padilla, Owner
Javier Padilla, Owner
Delia Vargas, Tenant Apt 5
Alejandro Flota, Tenant Apt 5
Cittali Vargas, Tenant Apt 2
Laura Shoaps, Attorney for tenants

I. INTRODUCTION

The following Agreement is intended to compromise and end the disputes and to resolve the issues presented in the above-described cases. The mediation was conducted on September 3, 2015, in the offices of the Rent Adjustment Program.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents in this case.

In consideration of the mutual promises contained herein, the parties agree as follows:

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II. TERMS AND CONDITIONS

1. This Agreement settles all of the claims raised in the petitions and in the responses, if any, except for any claims regarding exemptions. Claims of exemption from the Rent Adjustment Ordinance may not be decided by agreement of the parties.

2. The parties intend this Agreement to be binding and enforceable in a court of law. Therefore, the parties agree that this Agreement is specifically exempt from all provisions of Evidence Code § 1119, which would prohibit the introduction of this Agreement into evidence for the purpose of enforcing it in either a court of law or a Rent Adjustment Program proceeding.

3. The parties agree and understand that this Agreement does not constitute a finding of fact or admission of any violation of law.

4. In the case of *Vargas v. SPLC*, T15-0241, the owners are entitled to a rent increase based on banking in the sum of \$6.21. The new base rent, effective May 1, 2015, is therefore \$941.21.

5. In the case of *Vargas v. SPLC*, T15-0241, the parties agree that the owners are entitled to a total capital improvement pass-through of \$800. This capital improvement pass-through is \$13.33 per month beginning on May 1, 2015 and ending on April 30, 2020.

6. In case T15-0241, the parties agree that all costs submitted by the owner in support of this rent increase will not be passed on in subsequent years.

7. In case T15-0241, the parties agree that the owners will not seek another unit specific capital improvement rent increase for two years from the effective date of the rent increase, May 1, 2015.

8. The tenant Citlali Vargas owes the owner \$19.54 for each month from May 2015-September of 2015, for a total owed of \$117.24. The tenant will reimburse the owner 1/3 of that amount in each of the next three months. The tenant will pay the owner an additional \$39.08 for the months October-December of 2015.

9. In the case of *Vargas v. SPLC*, T15-0254, the owners are entitled to a rent increase based on banking in the sum \$47.69. The new base rent, effective July 1, 2015, is therefore \$982.69 per month.

10. In the case of *Vargas v. SPLC*, T15-0254, the parties agree that the owners are entitled to a total capital improvement pass-through of \$7,500. This capital improvement pass through is \$125 per month beginning on July 1, 2015 and ending on June 30, 2020.

11. In case T15-0254, the parties agree that all costs submitted by the owner in support of this rent increase will not be passed on in subsequent years.

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12. In case T15-0254, the parties agree that the owners will not seek another unit specific capital improvement rent increase for two years from the effective date of the rent increase, July 1, 2015.

13. The tenant Delia Vargas owes the owner \$172.69 for each month from July 2015-September of 2015, for a total owed of \$518.07. The tenant will reimburse the owner 1/3 of that amount in each of the next three months. The tenant will pay the owner an additional \$172.69 for the months October-December of 2015.

14. This Agreement includes a covenant of good faith and fair dealing, and the parties acknowledge their obligation to fulfill the terms of this Agreement in good faith and to deal fairly with each other in doing so.

~~15. This Agreement is adopted as the final Decision of the Rent Adjustment Program.~~

16. The parties acknowledge that if any party violates this Agreement he or she may be subject to a fine or other sanction pursuant to Rent Adjustment Regulation Section 8.22.170, in addition to other legal remedies which may be available.

III. ENTIRE AGREEMENT

17. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

IV. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

18. If any provision of this Agreement is held in whole or in part to be invalid or unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and shall remain in full force and effect.

ATTORNEY FEES AND COSTS

19. The parties acknowledge and agree that they will bear their own costs, expenses and attorney fees arising out of, or connected with, each party's petition or response.

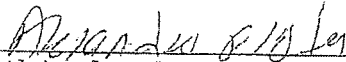
The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents, respectively. The parties further acknowledge that they have signed this Agreement of their own free will and not under duress from any participant in the mediation process.

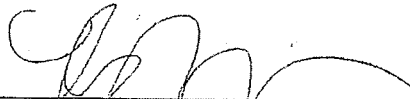
This Agreement is signed on September 3, 2015 at Oakland, California by

Delia Vargas
Delia Vargas, Tenant

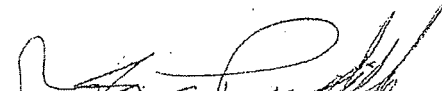
Citalalli Vargas
Citalalli Vargas, Tenant
Citalalli

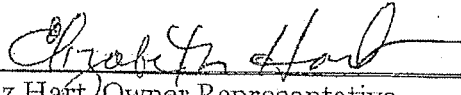
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Alejandro Flota, Tenant


Laura Shoaps, Attorney for Tenants


Carlos Padilla, Owner Representative

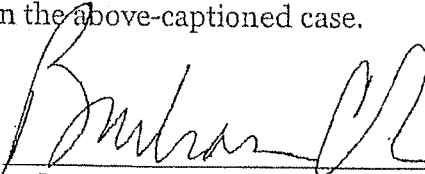

Javier Padilla, Owner Representative


Liz Hart, Owner Representative

ORDER

This Agreement is adopted as the Decision in the above-captioned case.

Dated: September 3, 2015


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

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RECEIVED
CITY OF OAKLAND
RENT PROGRAM
AUG 17 2016

NOTICE OF CHANGE TO TERMS OF TENANCY
(Civil Code Section 827)

TO: Alejandro Flota, Delia Vargas
and all others claiming a right to possession

- TENANT(S) IN POSSESSION -

Premises to which this Notice relates:

1829 Myrtle Street, #5
Oakland, California 94607
together with any common areas, storage or parking in the tenancy.

YOU ARE HEREBY NOTIFIED that beginning August 15, 2016, which is at least thirty (30) days after the service on you of this notice, your month-to-month tenancy of the premises you now occupy will be changed, pursuant to Civil Code Section 827, as follows:

The rental of said premises will be the sum of One Thousand One Hundred Forty Six Dollars and Seventy Seven Cents (\$1,146.77) per month instead of Nine Hundred Eighty Two Dollars and Sixty Nine Cents (\$982.69) per month as heretofore, payable monthly in advance on the 1st day of each month. If the period of this notice does not coincide with the rent due date, rent will be adjusted on a pro-rata basis for the month in which the increase goes into effect.

Portion of the rent increase reflecting the annual increase and/or banking pursuant to §8.22.070 of the Oakland Municipal Code, if any: 100%. See attached Calculation of Deferred CPI Increases (Banking).

Information regarding the NOTICE OF CHANGE TO TERMS OF TENANCY may be obtained from the City of Oakland's Rent Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland California 94612, 510-238-3721, website: www.oaklandnet.com. (as of January 2004). Please refer to the attached City of Oakland Rent Adjustment Program Notice to Tenants of Residential Rent Adjustment Program.

Fried & Williams LLP



By: Alana Grice Conner,
Attorneys for Landlord
SPJC, LLC

1901 Harrison Street, 14th Floor
Oakland, CA 94612
Telephone: 510-625-0100

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CITY OF ...
RENT ADMINISTRATION

MAR 27 PM 4 3

EXHIBIT D

000174

CITY OF OAKLAND



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

Department of Housing & Community Development
Rent Adjustment Program

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

MEDIATION AGREEMENT AND DECISION

CASE NUMBER: T14-0265, Rodriguez v. SPJC, LLC (Apt 6)
T14-0266, Vargas v. SPJC, LLC (Apt 2)
T14-0267, Vargas v. SPJC, LLC (Apt 5)

PROPERTY ADDRESS: 1829 Myrtle Ave, Oakland, CA

DATE OF MEDIATION: October 27, 2014

PARTIES OR AUTHORIZED REPRESENTATIVES: Steve Williams, Attorney for owner
Carlos Padilla, Owner
Javier Padilla, Owner
Alana Grice Conner, Attorney for owner
Delia Vargas, Tenant Apt 5
Alejandro Flota, Tenant Apt 5
Cittali Vargas, Tenant Apt 2
Arthur Hernandez, Tenant Apt 2
Beatriz Rodriguez, Tenant Apt 6
Ana Baires Mira, Attorney for tenants
Gillian Quandt, Tenant Representative

I. INTRODUCTION

The following Agreement is intended to compromise and end the disputes and to resolve the issues presented in the above-described cases. The mediation was conducted on October 27, 2014, in the offices of the Rent Adjustment Program.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents in this case.

In consideration of the mutual promises contained herein, the parties agree as follows:

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2014-11-27

II. TERMS AND CONDITIONS

1. This Agreement settles all of the claims raised in the petitions and in the responses, if any, except for any claims regarding exemptions. Claims of exemption from the Rent Adjustment Ordinance may not be decided by agreement of the parties.
2. The parties intend this Agreement to be binding and enforceable in a court of law. Therefore, the parties agree that this Agreement is specifically exempt from all provisions of Evidence Code § 1119, which would prohibit the introduction of this Agreement into evidence for the purpose of enforcing it in either a court of law or a Rent Adjustment Program proceeding.
3. The parties agree and understand that this Agreement does not constitute a finding of fact or admission of any violation of law.
4. In the case of *Rodriguez v. SPLC*, T14-0265, the base rent for the unit is \$935.00 a month.
5. In the case of *Vargas v. SPLC*, T14-0266, the base rent for the unit is \$935.00 per month.
6. In the case of *Vargas v. SPLC*, T14-0267, the base rent for the unit is \$935.00 per month.
7. By November 26, 2014, SPJC LLC, will pay the following amounts: \$9,000 payable to tenant Beatriz Rodriguez; \$8,000.00 payable to tenant Cittali Vargas; and \$7,000.00 payable to tenant Delia Vargas. Each of these checks will be sent to the tenants' attorney, Ana Baires Mira, at Centro Legal de la Raza, 3022 International Blvd., Suite 410, Oakland, CA 94601.
8. This Agreement sets the current rent for the subject units, pursuant to the Rent Adjustment Ordinance. The parties acknowledge that, by operation of the Rent Adjustment Ordinance, the rent may not be increased until 6 months after the tenants were first served with the *Notice to Tenants of the Residential Rent Adjustment Program*, commonly referred to as the *RAP Notice* in Spanish. All parties agree that the *RAP Notice* was served on the tenants in Spanish on July 1, 2014.
9. The owners will not increase the rent on any of the subject units before January 1, 2015.
10. The tenants agree to provide the owner with copies of keys to their respective units.
11. The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency. In an emergency they will contact the owner by telephone.

12. The owners will provide the tenants with the legally required *24-Hour Notice to Enter* prior to entering their apartments to make any necessary repairs, unless there is an emergency requiring less notice.

13. The owner will provide building wide pest control service, by a licensed pest control company, at least monthly, until the pest control company provides written notification that monthly service is no longer necessary because cockroaches have been abated. The owner will then follow the recommendation of the pest control company to provide regular pest control service.

14. The tenants will comply with the pest control instructions providing they are given the requisite *24 Hour Notice*.

15. For each unit the owner will remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint. Tenants will use the bathroom fan when showering and the kitchen fan when cooking.

16. The owner agrees to make the following repairs to Unit #5:

- a) Close the gaps in the baseboard in the kitchen;
- b) Change or repair the hinges on the front door, so that it no longer slams when shut;
- c) Scrape all chipped paint, prepare the surfaces appropriately and repaint;
- d) Repair closet doors in the bedroom; and,
- e) Hire a licensed electrician to test the electrical system to ensure that there are no hazards.

17. The owner agrees to make the following repairs to Unit #6:

- a) Paint the unit;
- b) Unclog the bathroom sink;
- c) Unclog the bathroom toilet;
- d) Repair the closet doors; and,
- e) Repair the bathroom door knob.

18. The owner agrees to make the following repairs to Unit #2:

- a) Fix the heater; and
- b) Close the open hole in the bathroom ceiling.

19. All repairs and mold remediation will be made within 60 days from the date of this signed mediation agreement. If the work is not complete by that time, in the following month the rent for that particular tenant will decrease by \$75.00. This monthly rent decrease will continue for each month until the repairs are made.

20. This Agreement includes a covenant of good faith and fair dealing, and the parties acknowledge their obligation to fulfill the terms of this Agreement in good faith and to deal fairly with each other in doing so.

21. This Agreement is adopted as the final Decision of the Rent Adjustment Program.

22. The parties acknowledge that if any party violates this Agreement he or she may be subject to a fine or other sanction pursuant to Rent Adjustment Regulation Section 8.22.170, in addition to other legal remedies which may be available.

23. Before vacating the unit, Tenants Delia Vargas and Alejandro Flota (Unit 5), will repair the cosmetic damage to the kitchen cabinets caused in order to install the new refrigerator. If that repair is not made, the owner will have the right to deduct \$250 from the security deposit.

III. ENTIRE AGREEMENT

24. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

IV. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

25. If any provision of this Agreement is held in whole or in part to be invalid or unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and shall remain in full force and effect.

ATTORNEY FEES AND COSTS

26. The parties acknowledge and agree that they will bear their own costs, expenses and attorney fees arising out of, or connected with, each party's petition or response.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents, respectively. The parties further acknowledge that they have signed this Agreement of their own free will and not under duress from any participant in the mediation process.

This Agreement is signed on October 27, 2014 at Oakland, California by

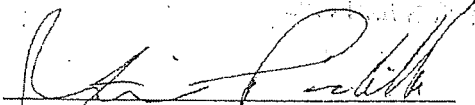
Delia Vargas
Delia Vargas, Tenant

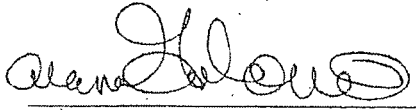
Citalalli Vargas
Citalalli Vargas, Tenant

Beatriz Rodriguez
Beatriz Rodriguez, Tenant

Ana Baires Mira
Ana Baires Mira, Attorney for Tenants


Carlos Padilla, Owner Representative

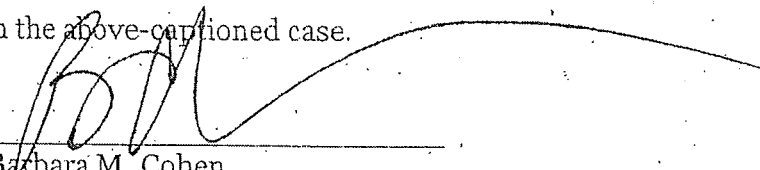

Javier Padilla, Owner Representative


Alana Grice Conner, Attorney for Owner

ORDER

This Agreement is adopted as the Decision in the above-captioned case.

Dated: October 27, 2014


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T14-0265 thru T14-0267

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 **Mediation Agreement and 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:

SPJC, LLC
Javier Padilla
2500 Grant Avenue
San Lorenzo, CA 94580

Beatriz Rodriguez
1829 Myrtle Street, #6
Oakland, CA 94607

Citlalli Vargas
1829 Myrtle Street, #2
Oakland, CA 94607

Delia Vargas
1829 Myrtle Street, #5
Oakland, CA 94607


Ana Baires Mira
Centro Legal de la Raza
3022 International Blvd., #410
Oakland, CA 94603

SPJC, LLC
Carlos Padilla
2500 Grant Avenue
San Lorenzo, CA 94580

Fried and Williams
Alana Grice Conner
480 9th Street
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 **October 29, 2014**, in Oakland, California.


Janie Daniels
Oakland Rent Adjustment Program

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Edith Ramirez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0198;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**

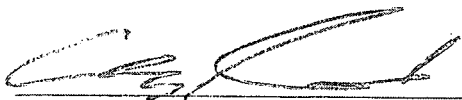
on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Edith Ramirez
1829 Myrtle St., #7
Oakland, CA 94607

Laura Shoaps;Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.



Angie Sandoval

RECEIVED
MAR 27 2017
COURT CLERK
CLERK OF SUPERIOR COURT
COUNTY OF ALAMEDA

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Citalli Vargas v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0265;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**


on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Citlalli Vargas
1829 Myrtle St., #2
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.



Angie Sandoval

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Delia Vargas v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0200;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**

on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Delia Vargas
1829 Myrtle St., #5
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.



Angie Sandoval

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Edith Ramirez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0263;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**

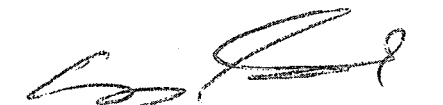
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The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Edith Ramirez
1829 Myrtle St., #7
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.



Angie Sandoval

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Haijdee Gonzalez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0199;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**

on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Haijdee Gonzalez
1829 Myrtle St., #3
Oakland, CA 94607

Laura Shoaps;Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.


Angie Sandoval

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Delia Vargas v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0279;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**

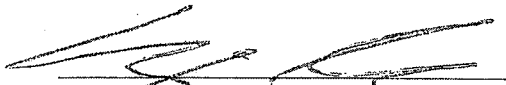
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The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Delia Vargas
1829 Myrtle St., #2
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.


Angie Sandoval

PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On March 27, 2017 I mailed the attached, concerning the action known *Edith Ramirez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0197;

**RESPONSE TO APPEAL;
RESPONSE TO APPEAL [AMENDED]**

on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Edith Ramirez
1829 Myrtle St., #7
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on March 27, 2017, at Oakland, California.



Angie Sandoval

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION BOARD
2017 APR 18 PM 4:10

Alana Grice Conner, ESQ, SBN 182676
Fried & Williams LLP
1901 Harrison St., 14th Floor
Oakland, CA 94612
Tel: (510) 625-0100
Fax: (510) 550-3621
aconner@friedwilliams.com

Attorneys for Respondent
SPJC LLC/Javier Padilla

CITY OF OAKLAND
RENT STABILIZATION BOARD

CITLALLI VARGAS;
DELIA VARGAS;
HAYDEE GONZALEZ;
EDITH RAMIREZ;

Appellants,

v.

SPJC LLC/JAVIER PADILLA;

Respondent.

CASE NO'S.: T16-0197; T16-0263;
T16-0198; T16-0265; T16-0199;
T16-0264; T16-0100; T16-0279

PROPERTY ADDRESS:

1829 Myrtle Street, Apts. 2, 3, 5, 7,
Oakland, CA 94607

RESPONSE TO APPEAL

(March 24, 2017 Hearing Decision)

Hearing date: Not yet set
Dept: Oakland Rent Arbitration Board
Hearing Examiner: Stephen Kasdin

I. RESPONDENT AGREES THAT THERE ARE CALCULATION ERRORS IN THE DECISION

Delia Vargas, Unit 5 T-16-0200 & T16-0279:

Both the appeal and the Hearing Decision (Hearing Decision 3/24/2017 is attached as **Exhibit A**) make a calculation error. Delia Vargas (unit #5) overpaid for rent in August in the amount of \$15.61.

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2017 APR 18 PM 4:10

Calculations:

As established through the Mediation Agreement in Case No. T15-0254; (hereto attached as of September 3, 2015, as **Exhibit B**).

Base rent:	\$982.69
Capital Improvement pass-through:	\$125.00
TOTAL	\$1,107.69

Padilla caused a rent increase notice to be served (effective August 15, 2016, attached as **Exhibit C**).

Base rent:	\$1021.77
Capital Improvement pass through:	\$125.00
TOTAL	\$1146.77

Since the rent increase took effect mid-month (August 15, 2016), the amount due for rent in August should be prorated as follows:

- \$1107.69/31 days = \$35.73 per day * 14 days (August 1 – August 14)	\$500.24
- \$1146.77/31 = \$36.99 per day * 16 days (August 15 – August 31)	\$591.84
TOTAL AUGUST PRO-RATED RENT	\$1092.08

Delia Vargas paid \$1107.69 in August, she should have paid \$1092.08. Therefore, she overpaid \$15.61.

II. THE DECISION IS CONSISTENT WITH DECISIONS ISSUED BY THE OTHER HEARING OFFICERS.

Whether there has been a breach of the implied warranty depends on the particular facts. Due to the practical impossibility of obtaining expert knowledge of all the components of an apartment, a landlord must rely on others. In this respect, a landlord is in no better position to know of defects than are tenants. (*Peterson v. Superior Court of Riverside* (1995) 10 Cal. 4th 1185). A tenant cannot reasonably expect that the landlord will eliminate defects in a rented dwelling of which the landlord was unaware, and which would not have been disclosed by a reasonable inspection. A landlord is held to be constructively notified only if the defect is obvious in nature.

California Civil Code § 19, defines constructive notice as “every person who has actual notice of circumstance sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself.” Although the Rent Board has held that constructive notice is sufficient, that notice is sufficient only when a condition is in obvious disrepair. (See *Damrosch v. Milner*, T-13-0347). *Damrosch* states that, “In a decreased housing service case the tenants must establish that they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.”

In the September 3, 2017 Mediation Agreement, the parties stipulated on page 2 of ¶ 11, that “the tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency.” (See the Mediation Agreement as of October 27, 2014, attached as **Exhibit D**). There is no evidence that there were any requests made in writing.

III. THE DECISION DOES NOT VIOLATE CALIFORNIA CIVIL CODE § 1941; THERE WAS INSUFFICIENT EVIDENCE TO ESTABLISH THE UNIT WAS UNINHABITABLE.

Mold

California Civil Code § 1941.1 sets out standards that a dwelling must meet. If the dwelling “substantially lacks” any of the standards laid out by the statute, then the dwelling is uninhabitable. California Health and Safety Code §§ 17920 and 17920.3 were amended to include “visible mold growth,” however, the mere presence of mold alone is not sufficient to render a unit uninhabitable. Instead, California Health and Safety Code § 17920.3 states the presence of the mold must be to the “extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof.” There was no evidence presented that the unit was uninhabitable by this standard.

California Health and Safety Code § 17920.3 subsection (13) states that an uninhabitable standard or a substandard condition is to be determined by a *health officer or a code enforcement officer* and it excludes the presence of mold that is minor and found on surfaces that can accumulate moisture if the surface is not properly maintained or ventilated. Linda Moroz, the Rent Adjustment Program inspector made the following findings: i) that dark spots were not mold, ii) even if there was potentially mold present it was minor, iv) moisture on exterior walls were not present inside the units and v) windows in the units were not open which would have allowed for adequate ventilation.

Although, there may have been evidence that dark spots might be mold, Ms. Moroz did not make the determination that it rose to the level of uninhabitable.

IV. APPELLANT FAILED TO ESTABLISH A FACTUAL OR LEGAL BREACH WARRANTY OF HABITABILITY.

Water intrusion

California Civil Code § 1941.1 provides that effective waterproofing and weather protection of roof and exterior walls needs to be provided. The tenant needs to show that the dwelling substantially lacks the said condition.

The tenants testified that there was water intrusion. Padilla presented evidence to the contrary of which showed the tenants failed to adequately ventilate their units. The tenants testified that they did not open windows or use the fans to minimize condensation and allow proper ventilation.

Both landlords and tenants have a legal responsibility regarding the condition of the rental unit. A tenant must maintain the rental unit in a clean and sanitary condition. This shared

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responsibility is reiterated in the "Mold and Mildew Addendum" which states that the tenant is responsible for ventilating the premise and exercising moisture control precautions. (See Hearing Decision February 14, 2017 page 6 ¶ 3; **Exhibit E**).

The tenants still have a duty to inform Padilla of such conditions. As *Peterson* states a landlord is responsible for defects that he is aware of or had an opportunity to discover. *Peterson* states, "The tenant further reasonably can expect that the landlord will maintain the property in a habitable condition by repairing promptly any conditions, of which the landlord has actual or constructive notice, that arise during the tenancy and render the dwelling uninhabitable." *Peterson* goes on to state "that a tenant cannot reasonably expect that the landlord will eliminate defects in a rented dwelling of which the landlord is unaware and which would not have been disclosed by a reasonable inspection."

Padilla took all reasonable steps to ensure that he fixed a problem within a reasonable time after notice and made sure he was in compliance with health and safety code, California statutes, and any other applicable codes. He inspected the unit and responded to repair requests when made by the tenants. The Hearing officer was in the best position to hear all the evidence i.e. testimony from witnesses, parties, read all information and evidence presented, and thus had more than sufficient evidence to make his findings.

V. RENT BOARD HAS NO JURISDICTION

As admitted by Tenants in their appeal, the Rent Board has no jurisdiction to determine enforceability of lease terms. It cannot make prospective rulings.

Date: April 18, 2017

Fried & Williams LLP



By: Alana Grice Conner
Attorney for Respondent
Javier Padilla

00191

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RENT A
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PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Citlalli Vargas z v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0198;

RESPONSE TO APPEAL;

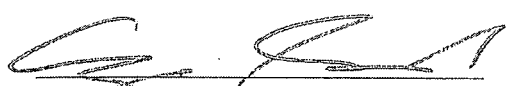
on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Citlalli Vargas
1829 Myrtle St., #2
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.


Angie Sandoval

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RENT ALLIANCE
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PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party to this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Citalli Vargas v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0265;

RESPONSE TO APPEAL


on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Citlalli Vargas
1829 Myrtle St., #2
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.



Angie Sandoval

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PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Haijdee Gonzalez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0199;

RESPONSE TO APPEAL;


on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Haijdee Gonzalez
1829 Myrtle St., #3
Oakland, CA 94607

Laura Shoaps;Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.


Angie Sandoval

00194

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PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Haydee Gonzalez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0264;

RESPONSE TO APPEAL;

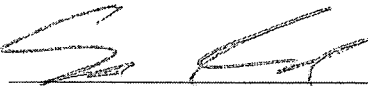
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The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Haydee Gonzalez
1829 Myrtle St., #3
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.



Angie Sandoval

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PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Delia Vargas v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0279;

RESPONSE TO APPEAL;

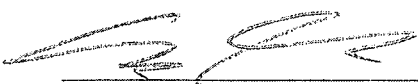
on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Delia Vargas
1829 Myrtle St., #5
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.



Angie Sandoval

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PROOF OF SERVICE BY FIRST-CLASS MAIL

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party to this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Edith Ramirez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0197;

RESPONSE TO APPEAL;

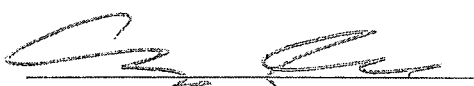
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The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Edith Ramirez
1829 Myrtle St., #7
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.


Angie Sandoval

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I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party to this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 18, 2017 I mailed the attached, concerning the action known *Edith Ramirez v. SPJC LLC/Javier Padilla*; City of Oakland Rent Stabilization Board Case No.; T16-0263;

RESPONSE TO APPEAL;

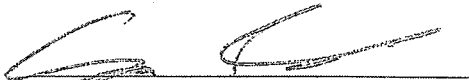
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The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Edith Ramirez
1829 Myrtle St., #7
Oakland, CA 94607

Laura Shoaps; Centro Legal
3400 E. 12th Street
Oakland, CA 94601

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 18, 2017, at Oakland, California.

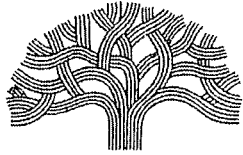

Angie Sandoval

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EXHIBIT A

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CITY OF OAKLAND

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

For date stamp:
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APPEAL

Appellant's Name Citlalli Vargas, Delia Vargas, Haydee Gonzalez, Edith Ramirez		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1829 Myrtle Street, Apts 2, 3, 5, 7 Oakland, CA 94607			
Appellant's Mailing Address (For receipt of notices) Citlalli: 1829 Myrtle Street, Apt 2; Haydee: 1829 Myrtle Street, Apt 3; Delia: 1829 Myrtle St, Apt 5; Edith: 1829 Myrtle St, Apt 7 ALL: Oakland, CA 94703		Case Number see attachment header list	
		Date of Decision appealed MARCH 24, 2017	
Name of Representative (if any) Centro Legal de la Raza		Representative's Mailing Address (For notices) 3400 E 12th Street Oakland, CA 94601	

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.

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- 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: 2.

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 4, 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	Alana Grice Conner, Fried & Williams
Address	1901 Harrison Street, 14th Floor
City, State Zip	Oakland, CA 94612
Name	
Address	
City, State Zip	

--	--

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

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

200

1829 Myrtle Street Tenant Appeal Attachment
Case Nos. T16-0197 & T16-0263, T16-0198 & T16-0265,
T16-0199 & T16-0264, T16-0200 & T16-0279

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All tenants are appealing the (1) denial of the decreased housing service claim related to mold and (2) failure of the Decision to mention what rent increases would effectively arise if the proposed lease were to be enforced. Tenant Delia Vargas also appeals calculation errors, outlined in section I below.

I. There are calculation errors in the Decision.

Delia Vargas, Apartment 5, T16-0200 & T16-0279

The Decision states that the tenant withdrew her challenge to the rent increase that increased the rent to \$1,146.77 per month, effective May 1, 2016. The Decision states that the Tenant paid \$1,146.77 from September 2016 through February 2017. The Decision states that the tenant paid \$1,107.77 from January through August 2016, and calculates that this constitutes an underpayment of \$39 per month, totaling \$312. However, the total underpayment over four months would total \$156, rather than \$312.

However, The Tenant testified that she had received another rent increase notice from the Owner that increased her rent to \$1,146.77 per month, effective in August 2016. This second rent increase notice would replace the first, rendering the increase effective in August rather than May. *See, e.g., Raceway Ford Cases*, 2 Cal. 5th 161 (Cal. 2016). The Decision does not address this second rent increase notice. Accordingly, the tenant should only owe \$39 for the month of August 2016.

II. The Decision is inconsistent with decisions issued by other hearing officers and prior decisions of the Board.

The Decision states in part that because the Tenant failed to notify the Owner in writing of mold problems, their claims are denied. The Tenants testified that they notified the Owners verbally of the mold problem. The denial of this claim for failure to notify the Owner in writing is inconsistent with prior decisions of the Board, which have held that constructive notice is sufficient. *See, e.g., Damrosch v. Milner*, T13-0347.

III. The Decision Violates State Law

The Decision states that at least one tenant “testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners.” *See* page 12. However, under California Civil Code § 1941, owners are responsible for maintaining a habitable premises, which includes “effective waterproofing and

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weather protection of roof and exterior walls.” *See* Cal Civ. Code § 1941.1(a)(1). Consequently, ensuring that insulation is sufficient does fall within the control of the owner.

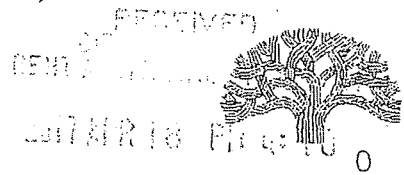
When SB 655 was passed, it amended the California Health & Safety Code § 17920 and 17920.3 to include “visible mold growth” as a substandard building condition that landlords are required to repair. The Tenants met their burden of establishing there was visible mold growth on the exterior walls. Exterior walls do not accumulate moisture as part of their properly functioning and intended use. Consequently, the Decision’s finding that “there is really nothing that the owners can be required to do with regard to the mold problem” contradicts the owners’ obligations under state law.

The Decision denies the tenants’ mold claim for failure to notify the owner in writing of the mold problem. However, under California law, the proper standard for evaluating whether an owner had notice of a habitability defect is constructive notice. *See, e.g., Petersen v. Superior Court*, 10 Cal.4th 1185 (Cal. 1995). As such, the tenants’ verbal notice was sufficient.

IV. The Decision is Not Supported by Substantial Evidence

Multiple tenants testified that they believed the mold was partly caused by poor insulation. The decision states in part that an “owner must correct a condition that allows water to enter a unit. However there is no evidence of water intrusion in the tenant’s unit.” *See* page 11 (referring to Ms. Ramirez’ unit in apartment 7). However, during the site inspection, the Hearing Officer commented that the exterior walls felt wet in multiple apartments, including apartment 7. Therefore, there was sufficient evidence aside from the tenants’ testimony and documentary evidence that water was entering the unit. It follows that it is the owner’s responsibility to correct this condition.

Finally, the tenants testified that they received a new proposed lease from the owner, which was provided to them in English, that none of them had signed. The Tenants had noticed on their petition that they were also challenging this proposed lease. The tenants argued that while it is not the jurisdiction of RAP to determine whether these new provisions are enforceable, the tenants were requesting a decision stating which terms of the new lease – if enforced – would constitute a rent increase. The Decision is silent on this issue.



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

CORRECTION OF CLERICAL ERROR

CASE NUMBERS: T16-0199 & T16-0264, Gonzalez v. Padilla / SPJC, LLC
PROPERTY ADDRESS: 1829 Myrtle St., No. 5, Oakland, CA
DATE OF CORRECTION OF CLERICAL ERROR: March 24, 2017

INTRODUCTION

A Hearing Decision was issued in these cases on February 14, 2017. On March 7, 2017, tenant Haydee Gonzalez filed an appeal. The basis of her appeal is that the Hearing Decision improperly calculates the amount of the tenant's overpayment. Upon review of the Decision, it is found that this contention is correct. The tenant overpaid \$168.78, not \$140.65. The Hearing Decision is amended to state the correct amount of the tenant's overpayment. The parties are ordered to resolve the difference of \$28.13 between themselves. The Hearing Decision is otherwise unchanged.

This Correction of Clerical Error is an entirely new Hearing Decision, and there is a new time period within which to file an appeal, as stated below.

ORDER

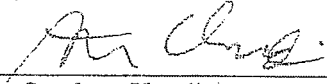
1. The Hearing Decision is corrected to state that tenant Gonzalez overpaid rent in the amount of \$168.78.
2. The parties shall resolve the difference of \$28.13 between themselves.
3. Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached

0203

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RENT ADJUSTMENT PROGRAM
MARCH 24 2017

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 24, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

000204

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2017 APR 18 9:34:10

PROOF OF SERVICE
Case Number T16-0199

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

Tenant
Haijdee Gonzalez
1829 Myrtle St #3
Oakland, CA 94607

Owner
Javier Padilla/SPJC, LLC
2500 Grant Ave
San Lorenzo, CA 94580

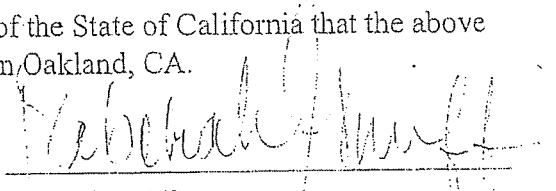
Tenant Representative
Laura Shoaps; Centro Legal
3400 E 12th St
Oakland, CA 94601

Owner Representative
Alana Grice Conner, Fried & Williams LLP
1901 Harrison St 14th Fl
Oakland, CA 94612

Liz Hart, Fried & Williams LLP
1901 Harrison St 14th Fl
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 27, 2017 in Oakland, CA.



Deborah Griffin

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PROOF OF SERVICE

Case Number T16-0264

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

Tenant
Haydee Gonzalez
1829 Myrtle St #3
Oakland, CA 94607

Owner
SPJC, LLC/Javier Padilla
2500 Grant Ave
San Lorenzo, CA 94580

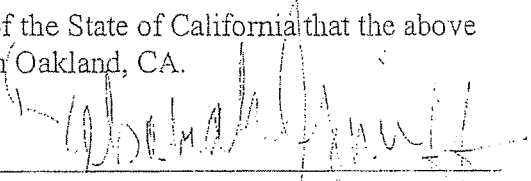
Tenant Representative
Laura Shoaps; Centro Legal
3400 E 12th St
Oakland, CA 94601

Owner Representative
Alana Grice Conner, Fried & Williams LLP
1901 Harrison St 14th Fl
Oakland, CA 94612

Liz Hart, Fried & Williams LLP
1901 Harrison St 14th Fl
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 27, 2017 in Oakland, CA.



Deborah Griffin

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RENT 7
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EXHIBIT B

0207



CITY OF OAKLAND

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

Department of Housing & Community Development
Rent Adjustment Program

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

MEDIATION AGREEMENT AND DECISION

CASE NUMBER: T15-0241, Vargas v. SPJC, LLC (Apt 2)
T15-0254, Vargas v. SPJC, LLC (Apt 5)

PROPERTY ADDRESS: 1829 Myrtle Ave, Oakland, CA

DATE OF MEDIATION: September 3, 2015

PARTIES OR AUTHORIZED REPRESENTATIVES:
Liz Hart, Owner Representative
Carlos Padilla, Owner
Javier Padilla, Owner
Delia Vargas, Tenant Apt 5
Alejandro Flota, Tenant Apt 5
Cittali Vargas, Tenant Apt 2
Laura Shoaps, Attorney for tenants

I. INTRODUCTION

The following Agreement is intended to compromise and end the disputes and to resolve the issues presented in the above-described cases. The mediation was conducted on September 3, 2015, in the offices of the Rent Adjustment Program.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents in this case.

In consideration of the mutual promises contained herein, the parties agree as follows:

///

///

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CITY OF PHOENIX
APR 18 2015

II. TERMS AND CONDITIONS

1. This Agreement settles all of the claims raised in the petitions and in the responses, if any, except for any claims regarding exemptions. Claims of exemption from the Rent Adjustment Ordinance may not be decided by agreement of the parties.

2. The parties intend this Agreement to be binding and enforceable in a court of law. Therefore, the parties agree that this Agreement is specifically exempt from all provisions of Evidence Code § 1119, which would prohibit the introduction of this Agreement into evidence for the purpose of enforcing it in either a court of law or a Rent Adjustment Program proceeding.

3. The parties agree and understand that this Agreement does not constitute a finding of ~~fact or admission of any violation of law.~~

4. In the case of *Vargas v. SPLC*, T15-0241, the owners are entitled to a rent increase based on banking in the sum of \$6.21. The new base rent, effective May 1, 2015, is therefore \$941.21.

5. In the case of *Vargas v. SPLC*, T15-0241, the parties agree that the owners are entitled to a total capital improvement pass-through of \$800. This capital improvement pass-through is \$13.33 per month beginning on May 1, 2015 and ending on April 30, 2020.

6. In case T15-0241, the parties agree that all costs submitted by the owner in support of this rent increase will not be passed on in subsequent years.

7. In case T15-0241, the parties agree that the owners will not seek another unit specific capital improvement rent increase for two years from the effective date of the rent increase, May 1, 2015.

8. The tenant Citlali Vargas owes the owner \$19.54 for each month from May 2015-September of 2015, for a total owed of \$117.24. The tenant will reimburse the owner 1/3 of that amount in each of the next three months. The tenant will pay the owner an additional \$39.08 for the months October-December of 2015.

9. In the case of *Vargas v. SPLC*, T15-0254, the owners are entitled to a rent increase based on banking in the sum \$47.69. The new base rent, effective July 1, 2015, is therefore \$982.69 per month.

10. In the case of *Vargas v. SPLC*, T15-0254, the parties agree that the owners are entitled to a total capital improvement pass-through of \$7,500. This capital improvement pass through is \$125 per month beginning on July 1, 2015 and ending on June 30, 2020.

11. In case T15-0254, the parties agree that all costs submitted by the owner in support of this rent increase will not be passed on in subsequent years.

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UNIT 18

12. In case T15-0254, the parties agree that the owners will not seek another unit specific capital improvement rent increase for two years from the effective date of the rent increase, July 1, 2015.

13. The tenant Delia Vargas owes the owner \$172.69 for each month from July 2015-September of 2015, for a total owed of \$518.07. The tenant will reimburse the owner 1/3 of that amount in each of the next three months. The tenant will pay the owner an additional \$172.69 for the months October-December of 2015.

14. This Agreement includes a covenant of good faith and fair dealing, and the parties acknowledge their obligation to fulfill the terms of this Agreement in good faith and to deal fairly with each other in doing so.

~~15. This Agreement is adopted as the final Decision of the Rent Adjustment Program.~~

16. The parties acknowledge that if any party violates this Agreement he or she may be subject to a fine or other sanction pursuant to Rent Adjustment Regulation Section 8.22.170, in addition to other legal remedies which may be available.

III. ENTIRE AGREEMENT

17. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

IV. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

18. If any provision of this Agreement is held in whole or in part to be invalid or unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and shall remain in full force and effect.

ATTORNEY FEES AND COSTS

19. The parties acknowledge and agree that they will bear their own costs, expenses and attorney fees arising out of, or connected with, each party's petition or response.

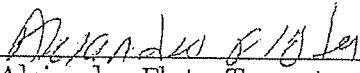
The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents, respectively. The parties further acknowledge that they have signed this Agreement of their own free will and not under duress from any participant in the mediation process.

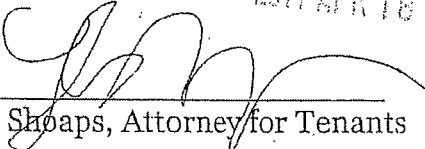
This Agreement is signed on September 3, 2015 at Oakland, California by


Delia Vargas
Delia Vargas, Tenant

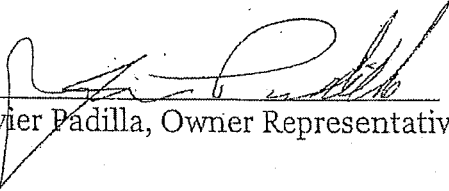
Citalalli Vargas
Citalalli Vargas, Tenant
Citalalli

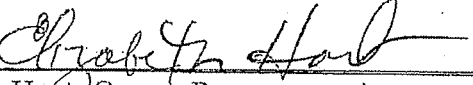
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Alejandro Flota, Tenant


Laura Shoaps, Attorney for Tenants


Carlos Padilla, Owner Representative

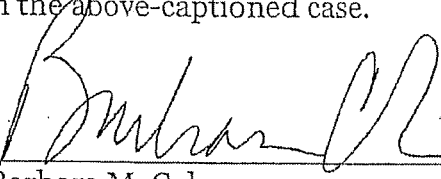

Javier Padilla, Owner Representative


Liz Hart, Owner Representative

ORDER

This Agreement is adopted as the Decision in the above-captioned case.

Dated: September 3, 2015


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

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EXHIBIT C

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NOTICE OF CHANGE TO TERMS OF TENANCY
(Civil Code Section 827)

TO: Alejandro Flota, Delia Vargas
and all others claiming a right to possession

- TENANT(S) IN POSSESSION -

Premises to which this Notice relates:

1829 Myrtle Street, #5
Oakland, California 94607
together with any common areas, storage or parking in the tenancy.

YOU ARE HEREBY NOTIFIED that beginning August 15, 2016, which is at least thirty (30) days after the service on you of this notice, your month-to-month tenancy of the premises you now occupy will be changed, pursuant to Civil Code Section 827, as follows:

The rental of said premises will be the sum of One Thousand One Hundred Forty Six Dollars and Seventy Seven Cents (\$1,146.77) per month instead of Nine Hundred Eighty Two Dollars and Sixty Nine Cents (\$982.69) per month as heretofore, payable monthly in advance on the 1st day of each month. If the period of this notice does not coincide with the rent due date, rent will be adjusted on a pro-rata basis for the month in which the increase goes into effect.

Portion of the rent increase reflecting the annual increase and/or banking pursuant to §8.22.070 of the Oakland Municipal Code, if any: 100%. See attached Calculation of Deferred CPI Increases (Banking).

Information regarding the NOTICE OF CHANGE TO TERMS OF TENANCY may be obtained from the City of Oakland's Rent Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland California 94612, 510-238-3721, website: www.oaklandnet.com. (as of January 2004). Please refer to the attached City of Oakland Rent Adjustment Program Notice to Tenants of Residential Rent Adjustment Program.

Fried & Williams LLP



By: Alana Grice Conner,
Attorneys for Landlord
SPJC, LLC

1901 Harrison Street, 14th Floor
Oakland, CA 94612
Telephone: 510-625-0100



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P.O. BOX 70243, OAKLAND, CA 94612-2043
 Department of Housing and Community Development
 Rent Adjustment Program

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program (“RAP”) that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (“CPI increase”). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases (“banking”). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland, CA 94612 or: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has **not** been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance (“TPO”) to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS’ SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit _____, the unit you intend to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant’s building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____.

I received a copy of this notice on _____ (Date) _____ (Tenant’s signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。
 La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
 Baun Thoang Baun quyean löii cuüa ngöðöi thueä trong Oakland naøy cüong cou baeng tieäng Vieät. Neä cou möät baun sao, xin goii (510) 238-3721.

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P.O. BOX 70243, OAKLAND, CA 94612-2043
Departamento de Desarrollo Comunitario y Vivienda
Programa de Ajustes en el Alquiler

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

AVISO A LOS INQUILINOS DEL PROGRAMA DE AJUSTES EN EL ALQUILER RESIDENCIAL

- Oakland tiene un Programa de Ajustes en el Alquiler (Rent Adjustment Program, RAP) que limita los aumentos de renta (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en renta construidas antes de 1983. No aplica para unidades subsidiadas, la mayoría de las viviendas de una sola familia, condominios y algunos otros tipos de unidades. Para más información sobre las unidades cubiertas, contacte a la oficina de RAP.
- Usted tiene derecho a presentar una petición con RAP para impugnar un aumento de alquiler que sea mayor al ajuste anual del Índice de Precios al Consumidor (Consumer Price Index, CPI). Un propietario puede realizar un aumento en la renta mayor al índice CPI, pero con límites, para: mejoras de capital, aumentos en los gastos operativos y aumento anual diferido de renta ("bancario"). Ningún aumento anual a la renta podrá exceder el 10%. Si usted lo solicita, el propietario deberá proporcionarle un resumen por escrito de las razones para cualquier aumento que supere la tasa del CPI. Si el propietario disminuye sus servicios de vivienda, esto podrá ser un aumento en su renta. Las disminuciones en los servicios de vivienda incluyen problemas sustanciales con las condiciones de una unidad.
- Para impugnar un aumento en la renta, usted debe presentar una solicitud a RAP dentro de los primeros sesenta (60) días de lo que ocurra más tarde: (1) la fecha en la que el propietario presentó el aviso de aumento de renta; o (2) la fecha en la que recibió por primera vez este Aviso a los Inquilinos. Los formularios de petición e información están disponibles en la oficina RAP: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland, CA 94612 o: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- Si usted impugna un aumento de renta, debe pagar su renta con el aumento impugnado hasta que presente la petición. Una vez que haya presentado su petición, si el aumento de renta refleja el monto de la tasa CPI de manera separada, usted debe pagar su renta más el incremento CPI. Si la tasa CPI **no** ha sido reflejada por separado, usted podrá pagar la renta que pagaba antes del aviso de aumento de renta. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha efectiva del aumento.
- Oakland tiene controles de desalojo (Ordenanza de Desalojo por Causa Justa y Reglamentos, O.M.C. 8.22) que limitan los motivos de desalojo en las unidades cubiertas. Para más información contacte la oficina RAP.
- Oakland cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por unidad al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. Su pago por la tarifa anual no forma parte del alquiler. No se requiere que los inquilinos de unidades subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir comportamiento abusivo por parte de propietarios y para ofrecerles a los inquilinos recursos legales en instancias donde han sido víctimas de comportamiento abusivo por parte de propietarios (O.M.C. 8.22.600). (Ordenanza del Concejo Municipal No. 13265 C.M.S.)

INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES

- Fumar (encierre en un círculo) ESTÁ o NO ESTÁ permitido en la Unidad _____, unidad que usted pretende alquilar.
- Fumar (encierre en un círculo) ESTÁ o NO ESTÁ permitido en otras unidades de su edificio. (Si hay disponibilidad de ambas unidades, fumador y no fumador, en el edificio del inquilino, adjunte una lista de las unidades donde se permite fumar).
- (Encierre en un círculo), HAY o NO HAY un área designada al aire libre para fumar. Se encuentra en _____.

Recibí una copia de este aviso el _____
(Fecha) (Firma del inquilino)

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

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

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

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RENT ADMINISTRATION

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EXHIBIT

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

Department of Housing & Community Development
Rent Adjustment Program

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

MEDIATION AGREEMENT AND DECISION

CASE NUMBER: T14-0265, Rodriguez v. SPJC, LLC (Apt 6)
T14-0266, Vargas v. SPJC, LLC (Apt 2)
T14-0267, Vargas v. SPJC, LLC (Apt 5)

PROPERTY ADDRESS: 1829 Myrtle Ave, Oakland, CA

DATE OF MEDIATION: October 27, 2014

PARTIES OR AUTHORIZED REPRESENTATIVES:

Steve Williams, Attorney for owner
Carlos Padilla, Owner
Javier Padilla, Owner
Alana Grice Conner, Attorney for owner
Delia Vargas, Tenant Apt 5
Alejandro Flota, Tenant Apt 5
Cittali Vargas, Tenant Apt 2
Arthur Hernandez, Tenant Apt 2
Beatriz Rodriguez, Tenant Apt 6
Ana Baires Mira, Attorney for tenants
Gillian Quandt, Tenant Representative

I. INTRODUCTION

The following Agreement is intended to compromise and end the disputes and to resolve the issues presented in the above-described cases. The mediation was conducted on October 27, 2014, in the offices of the Rent Adjustment Program.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents in this case.

In consideration of the mutual promises contained herein, the parties agree as follows:

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CITY OF OAKLAND
2/17/18 PM 4:19

II. TERMS AND CONDITIONS

1. This Agreement settles all of the claims raised in the petitions and in the responses, if any, except for any claims regarding exemptions. Claims of exemption from the Rent Adjustment Ordinance may not be decided by agreement of the parties.
2. The parties intend this Agreement to be binding and enforceable in a court of law. Therefore, the parties agree that this Agreement is specifically exempt from all provisions of Evidence Code § 1119, which would prohibit the introduction of this Agreement into evidence for the purpose of enforcing it in either a court of law or a Rent Adjustment Program proceeding.
3. The parties agree and understand that this Agreement does not constitute a finding of fact or admission of any violation of law.
4. In the case of *Rodríguez v. SPLC*, T14-0265, the base rent for the unit is \$935.00 a month.
5. In the case of *Vargas v. SPLC*, T14-0266, the base rent for the unit is \$935.00 per month.
6. In the case of *Vargas v. SPLC*, T14-0267, the base rent for the unit is \$935.00 per month.
7. By November 26, 2014, SPJC LLC, will pay the following amounts: \$9,000 payable to tenant Beatriz Rodriguez; \$8,000.00 payable to tenant Cittali Vargas; and \$7,000.00 payable to tenant Delia Vargas. Each of these checks will be sent to the tenants' attorney, Ana Baires Mira, at Centro Legal de la Raza, 3022 International Blvd., Suite 410, Oakland, CA 94601.
8. This Agreement sets the current rent for the subject units, pursuant to the Rent Adjustment Ordinance. The parties acknowledge that, by operation of the Rent Adjustment Ordinance, the rent may not be increased until 6 months after the tenants were first served with the *Notice to Tenants of the Residential Rent Adjustment Program*, commonly referred to as the *RAP Notice* in Spanish. All parties agree that the *RAP Notice* was served on the tenants in Spanish on July 1, 2014.
9. The owners will not increase the rent on any of the subject units before January 1, 2015.
10. The tenants agree to provide the owner with copies of keys to their respective units.
11. The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency. In an emergency they will contact the owner by telephone.

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RENT

12. The owners will provide the tenants with the legally required *24-Hour Notice to Enter* prior to entering their apartments to make any necessary repairs, unless there is an emergency requiring less notice.

13. The owner will provide building wide pest control service, by a licensed pest control company, at least monthly, until the pest control company provides written notification that monthly service is no longer necessary because cockroaches have been abated. The owner will then follow the recommendation of the pest control company to provide regular pest control service.

14. The tenants will comply with the pest control instructions providing they are given the requisite *24 Hour Notice*.

15. For each unit the owner will remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint. Tenants will use the bathroom fan when showering and the kitchen fan when cooking.

16. The owner agrees to make the following repairs to Unit #5:

- a) Close the gaps in the baseboard in the kitchen;
- b) Change or repair the hinges on the front door, so that it no longer slams when shut;
- c) Scrape all chipped paint, prepare the surfaces appropriately and repaint;
- d) Repair closet doors in the bedroom; and,
- e) Hire a licensed electrician to test the electrical system to ensure that there are no hazards.

17. The owner agrees to make the following repairs to Unit #6:

- a) Paint the unit;
- b) Unclog the bathroom sink;
- c) Unclog the bathroom toilet;
- d) Repair the closet doors; and,
- e) Repair the bathroom door knob.

18. The owner agrees to make the following repairs to Unit #2:

- a) Fix the heater; and
- b) Close the open hole in the bathroom ceiling.

19. All repairs and mold remediation will be made within 60 days from the date of this signed mediation agreement. If the work is not complete by that time, in the following month the rent for that particular tenant will decrease by \$75.00. This monthly rent decrease will continue for each month until the repairs are made.

20. This Agreement includes a covenant of good faith and fair dealing, and the parties acknowledge their obligation to fulfill the terms of this Agreement in good faith and to deal fairly with each other in doing so.

- 21. This Agreement is adopted as the final Decision of the Rent Adjustment Program.
- 22. The parties acknowledge that if any party violates this Agreement he or she may be subject to a fine or other sanction pursuant to Rent Adjustment Regulation Section 8.22.170, in addition to other legal remedies which may be available.
- 23. Before vacating the unit, Tenants Delia Vargas and Alejandro Flota (Unit 5), will repair the cosmetic damage to the kitchen cabinets caused in order to install the new refrigerator. If that repair is not made, the owner will have the right to deduct \$250 from the security deposit.

III. ENTIRE AGREEMENT

24. This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements and understandings with respect thereto.

IV. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY

25. If any provision of this Agreement is held in whole or in part to be invalid or unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and shall remain in full force and effect.

ATTORNEY FEES AND COSTS

26. The parties acknowledge and agree that they will bear their own costs, expenses and attorney fees arising out of, or connected with, each party's petition or response.

The undersigned represent that they are authorized to enter into this Agreement on behalf of all of the petitioners and all of the respondents, respectively. The parties further acknowledge that they have signed this Agreement of their own free will and not under duress from any participant in the mediation process.

This Agreement is signed on October 27, 2014 at Oakland, California by

Delia Vargas
Delia Vargas, Tenant

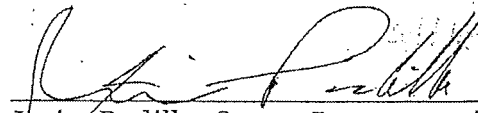
~~Delia Vargas~~
Citalalli Vargas, Tenant

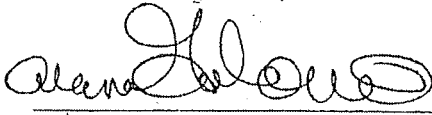
Beatriz Rodriguez
Beatriz Rodriguez, Tenant

Ana Baires Mira
Ana Baires Mira, Attorney for Tenants

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OCT 27 2014


Carlos Padilla, Owner Representative

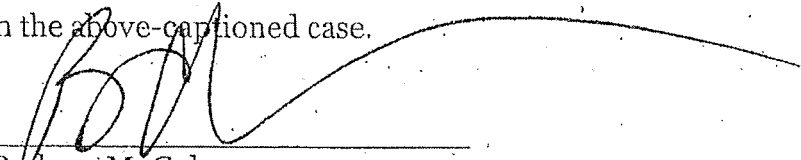

Javier Padilla, Owner Representative


Alana Grice Conner, Attorney for Owner

ORDER

This Agreement is adopted as the Decision in the above-captioned case.

Dated: October 27, 2014


Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2014 APR 18 PM 4:20

PROOF OF SERVICE

Case Number T14-0265 thru T14-0267

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 **Mediation Agreement and 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:

SPJC, LLC
Javier Padilla
2500 Grant Avenue
San Lorenzo, CA 94580

Beatriz Rodriguez
1829 Myrtle Street, #6
Oakland, CA 94607

Citlalli Vargas
1829 Myrtle Street, #2
Oakland, CA 94607

Delia Vargas
1829 Myrtle Street, #5
Oakland, CA 94607


Ana Baires Mira
Centro Legal de la Raza
3022 International Blvd., #410
Oakland, CA 94603

SPJC, LLC
Carlos Padilla
2500 Grant Avenue
San Lorenzo, CA 94580

Fried and Williams
Alana Grice Conner
480 9th Street
Oakland, CA 94607

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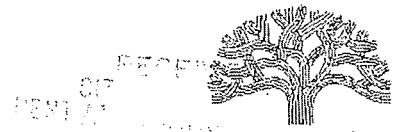
Janie Daniels
Oakland Rent Adjustment Program

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EXHIBIT

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CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

TEL (510) 238-3721
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HEARING DECISION

CASE NUMBERS: T16-0197 & T16-0263, Ramirez v. Padilla / SPJC, LLC
T16-0198 & T16-0265, Citalli Vargas v. SPJC, LLC
T16-0199 & T16-0264, Gonzalez v. Padilla / SPJC, LLC
T16-0200 & T16-0279, Delia Vargas v. SPJC, LLC

PROPERTY ADDRESSES: 1829 Myrtle St., Nos. 2, 3, 5, & 7, Oakland, CA

DATES OF HEARING: November 4 & December 1, 2016 & January 17, 2017

DATE OF INSPECTION: December 16, 2016

DATE OF DECISION: February 14, 2017

APPEARANCES:¹

- Delia Vargas (Tenant, Unit #5)
- Alejandro Flota (Tenant, Unit #5)
- Roberto A. Flota Dzul (Tenant, Unit #5)
- Edith Ramirez (Tenant, Unit #7)
- Citalli D. Vargas (Tenant, Unit #2)
- Haydee Gonzalez (Tenant, Unit #3)
- Domingo Valencia (Tenant, Unit #3)
- Karuna Holm (Witness for Tenants, by Telephone)
- Laura Shoaps (Attorney for Tenants)
- Javier Padilla (Owner)
- Carlos Padilla (Owner)
- Alana Grice Conner (Attorney for Owners)
- Elizabeth Hart (Owner Representative)
- Nathan Luben (Witness for Owners)
- Nicole Randle (Witness for Owners)

¹ Delia Vargas appeared only on November 4 & December 1, 2016. Alejandro Flota, Edith Ramirez, Citalli Vargas, Karuna Holm and Nathan Luben appeared only on November 4, 2016. Roberto A. Flota Dzul appeared only on December 1, 2016. Noemi Gonzalez appeared only on November 4 and December 1, 2016. Alana Grice Conner, Nicole Randle and Marci Valdivieso appeared only on January 17, 2017.

Noemi Gonzalez (Interpreter)
Marci Valdivieso (Interpreter)

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SUMMARY OF DECISION

The petition of tenant Ramirez is denied. The petition of tenant Citalli Vargas is denied. The petition of tenant Gonzalez is partly granted. The petition of tenant Delia Vargas is denied.

CONTENTIONS OF THE PARTIES

Tenant Ramirez filed petitions in April and May 2016, which allege that rent increases from \$695 to \$790, effective April 1, 2015, and from \$790 to \$918.99, effective May 1, 2016, exceed the CPI Adjustment and are unjustified or greater than 10%; that she first received the form Notice to Tenants (RAP Notice) on April 1, 2016; and that her housing services have been decreased due to inadequate ventilation in the bathroom; mold; yellow spots on a window; spiders; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the Ramirez petitions, which allege that the tenant was given the RAP Notice in February 2015 or earlier; the 2016 rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Citalli Vargas filed petitions in April and May 2016, which allege that a rent increase from \$954.54 to \$988.73 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to mold and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of Citalli Vargas, which allege that the tenant was given the RAP Notice on July 1, 2014; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Gonzalez filed petitions in April and May 2016, which allege that a rent increase from \$762.47 to \$827.51 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to an inadequate stove fan; cabinets in disrepair; roaches; mold; peeling paint; the owner's denial of permission for outdoor barbeques and parties; and reduction in parking services.

The owners filed responses to the petitions of tenant Gonzalez, which allege that the tenant was given the RAP Notice on March 26, 2015; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Delia Vargas filed petitions in April and May 2016, which allege that a rent increase from \$982.69 to \$1,146.77 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%, and that her housing services have been decreased due to mold; bedroom floors; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of tenant Delia Vargas, which allege that the rent increase is justified by Banking and deny that the tenant's housing services have decreased.

THE ISSUES

- (1) When did tenant Ramirez receive the RAP Notice?
- (2) When did tenant Citali Vargas receive the RAP Notice?
- (3) When did tenant Gonzalez receive the RAP Notice?
- (4) Is a rent increase for tenant Ramirez justified by Banking and, if so, in what amount?
- (5) Is a rent increase for tenant Citali Vargas justified by Banking and, if so, in what amount?
- (6) Is a rent increase for tenant Gonzalez justified by Banking and, if so, in what amount?
- (7) Have the tenant Ramirez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (8) Have the tenant Citali Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (9) Have the tenant Gonzalez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (10) Have the tenant Delia Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

TENANT RAMIREZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The owners did not dispute this testimony.

Decreased Housing Services:

Bathroom Ventilation: The tenant testified that the ceiling fan in her bathroom does not work well. However, there is a window in the room. The tenant admitted receiving a statement from the owners in 2015 that maintenance requests must be in writing. However, she never gave written notice to the owners regarding the bathroom fan.

Mold: The tenant testified that there has been a recurring mold problem in her bathroom and bedroom closet for a number of years, and she has repeatedly notified the owners. The tenant believes that the mold is caused by excess humidity because the bathroom fan does not work. She opens the bathroom window each time someone takes a shower. The tenant submitted photographs of the bathroom wall and a corner of the bedroom closet, which she took in March 2016.² These photos depict mold on various wall surfaces.

² These Exhibits, and all others to which reference is made in this Decision, were admitted into evidence without objection unless otherwise noted.

On July 31, 2016, owner Javier Padilla wrote to the tenant and her husband: "On or about July 27th, Carlos [Padilla] spoke with your husband, Jose, and agreed on the following: Jose will paint the closet, as well as the shower stall. \$300 will include paint and any materials necessary to remedy the closet situation. For the moment, you are to send us a bill in the amount of \$300 for said services."³ The tenant testified that on August 2, 2016, Carlos Padilla gave her paint, and she painted the closet.

The owners submitted a number of photographs, which Javier Padilla testified he took during his annual inspections of the unit in March 2015 and June 2016.⁴ These photographs depict a considerable amount of clutter, including clothing and other items, both in bags and loose on the floor and in a closet. Javier Padilla testified that the unit also contained 10 parakeets and a large fish tank, which is prohibited since a fish tank can contribute to mold. He further testified that overstuffing closets reduces air circulation and can cause or contribute to the development of mold.

Finally, Mr. Padilla testified that, when he inspected the unit on June 28, 2016, he told the tenant's husband that the exhaust fans in the unit were dirty, and needed to be cleaned, which could be accomplished with a broom or brush. Mr. Padilla wrote this advice in a document entitled "Condition of Premises Addendum, dated the same day."⁵

On questioning from the owners, the tenant testified that the closet wall with mold shown on the photos that she submitted is on the other side of the bathroom; she denied keeping wet items in the closet.

The tenant testified that all contacts with the owners concerning mold have been by phone or in person, since Carlos Padilla is often in the building. Official Notice is taken of a Mediation Agreement in Case Nos. T14-0265 (Rodriguez v. SPJC, LLC), T14-0266 (Vargas v. SPJC, LLC) and T14-0267 (Vargas v. SPJC, LLC), which was signed by both the tenant and the owners on October 27, 2014. The owners cite Paragraph 11 of this Agreement, which says: "The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency."

On December 16, 2016, Linda Moroz, a Hearing Officer with the Rent Adjustment Program, inspected the tenant's unit, and the units of other petitioning tenants. Following her inspection, Ms. Moroz prepared a Declaration, a copy of which is attached as Attachment "A." Ms. Moroz writes: "I entered and walked through the entire unit. I did not see any mold or darker spots . . . anywhere in the unit. However, I noticed buckled paint in the closet ceiling in the bedroom that could have been due to water/moisture intrusion. The wall under the window in the bedroom felt wet. I also noticed water drops on paint in the bathroom ceiling."

Yellow Spots: This claim was withdrawn at the Hearing.

Spiders: This claim was withdrawn at the Hearing.

³ Exhibit No. 6A.

⁴ Exhibit Nos. 5A through 5M.

⁵ Exhibit No. 7.

BBQs & Parties: The tenant testified that she has lived in her unit in the subject 7-unit building for more than 10 years. For a long time, other tenants in the building and their friends would have parties – which included music – in the parking lot of the building. The parties would usually be attended by 30 to 40 people, and would last until 10:00 or 10:30 at night. Such parties were held an average of once a month, or approximately 20 parties a year. In or about February 2016, the owners told tenants in the building that they could no longer have such parties.

Owner Javier Padilla testified that he received complaints from people in neighboring properties that tenants would have parties in the parking lot with an estimated 70 people, which included music and drinking, and which would often last very late at night. He further testified that there were 3 large parties in late December 2015 and early January 2016, and on one occasion a party included a fire in a metal container in which a palette was cut up and burned. The tenants did not dispute this testimony. Therefore, in February 2016, he wrote to tenants in the subject building that they could no longer have parking lot parties. The owners have created a smaller paved area in which the tenants can have BBQs, but no parties. The owners testified that the newly designated BBQ area can accommodate 8 to 10 people.

Karuna Holm testified by telephone as a witness for the tenants. Ms. Holm testified that she lives at 1835 Myrtle Street – 2 addresses down from the subject building – in a home that she has owned since 2007. She stated that she has been aware of the tenants' parties, and that they are not a problem; she enjoys how vibrant the neighborhood is, and the parties are consistent with the character of the neighborhood. Ms. Holm further testified that there is a street party on her block at least once every weekend, and the parties at the subject building are quieter than other parties on the block. On questioning from the owners, Ms. Holm testified that she has not actually gone into the parking lot during parties, but that she sees people on the street who go to and come from the parties.

Ms. Moroz inspected the "BBQ" area, and wrote: "I walked to the back of the property outside and inspected the BBQ area. The designated BBQ area is located in the back corner along the right side of the property . . . It has a rectangular shape and there is a large tree in the middle of the area. The entire area except where the tree is has large paving tiles. I walked the perimeter of the area, counted the tiles and estimated its size to be about 22.5' x 9'. The tree takes up about 8' x 6' of that BBQ area. The total estimated size of the usable BBQ area is about 155 square feet."

TENANT CITALI VARGAS

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in the year 2014.

Rent History: The tenant withdrew her challenge to the rent increase from \$954.54 to \$988.73, effective May 1, 2016.

Decreased Housing Services:

Mold: The tenant testified that there is always mold in both bedrooms and the living room of her unit. She believes that the cause of the mold is that the apartment is always cold and humid, which is partly caused by poor insulation. Also, when it rains, she sees droplets of water on the walls in the bathroom. The tenant further testified that she told owner Carlos Padilla about the mold in 2014, and in 2015, the entire apartment was painted. The mold returned in February 2016, and she again informed Carlos Padilla. In response, he suggested that she clean the walls and purchase a de-humidifier. The tenant cleaned the walls; Mr. Padilla did no work in the unit. Mr. Padilla testified that when he inspected the unit in February 2016, no windows were open.

The tenant submitted photographs that she testified were taken by her inside her apartment in February 2016.⁶ These photos depict a great deal of mold on a bathroom wall and floor, a closet wall, and on a dresser. Several of the photos were sent as a text message attachment to Carlos Padilla on February 9, 2016. Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed several dark spots that looked like mold on the walls in the larger bedroom and a bedroom closet. There were also darker spots in the corner of the second, smaller bedroom and in the bathroom on the wall under the window."

The owners submitted a 6-page document, the first of which is entitled "Notice of Change of Terms of Tenancy," dated April 29, 2016.⁷ The tenant acknowledged that she received these documents. The "Mold and Mildew Addendum" states, in part: "Resident shall immediately notify Landlord of any moisture, standing water or water intrusion of any kind, or mold condition in order to provide Landlord an opportunity to evaluate the conditions and/or to make recommendations regarding appropriate actions. . . The Resident shall be solely responsible for properly ventilating the premises and exercising moisture control precautions." This document is entirely in English, and the tenant – whose primary language is Spanish – testified that she could not understand these documents.

Owner Javier Padilla testified that he conducts annual inspections of all units in the subject building, and promptly makes needed repairs. In July 2015, he provided all tenants with forms for maintenance requests, and the only such request regarding mold that he received from the tenant was in late 2015. He had the unit painted, and the problem appeared to have been resolved. Mr. Padilla submitted a document entitled "Maintenance Request," dated September 1, 2015; the tenant identified her signature on this document.⁸ The wording on this document is in Spanish, which was interpreted at the Hearing by the interpreter, Noemi Gonzalez. This document states, in pertinent part: "repair paint in kitchen."

Mr. Padilla also submitted a document entitled "Condition of Premises Addendum," regarding the tenant's unit, dated March 3, 2015.⁹ This document, signed by the tenant, does not state any problem with mold. He also submitted a similar document dated June 28, 2016, which is signed

⁶ Exhibit Nos. 8A through 8D.

⁷ Exhibit Nos. 10A through 10F.

⁸ Exhibit No. 12A

⁹ Exhibit Nos. 11A & 11B.

only by him.¹⁰ Mr. Padilla wrote on this document: "No black mold or any mold observed anywhere in unit." He also wrote that he informed the tenant to clean the bathroom fan and window screens, and not to "overstuff" closets. The document does not otherwise contain any mention of mold. Javier Padilla testified that, after the unit was painted in 2015, he had no notice of any mold problem until he received a copy of the tenant's second petition, which was mailed to him on May 26, 2016.

Javier Padilla further submitted a number of photographs that he testified he took on June 28, 2016.¹¹ Some of the photographs depict what appears to be mold on a window screen; numerous objects stuffed into a small closet; and a number of items on and draping onto the bathroom floor.

BBQs & Parties: The tenant submitted a copy of a lease for her unit, dated September 9, 2011.¹² The lease does not prohibit parties or BBQ's.

TENANT GONZALEZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in January or February 2015.

Rent History: The tenant testified that, as stated in her petitions, she moved into her unit in April 2012, at a rent of \$725 per month. The owners agreed with this testimony. The parties also agreed that the tenant paid monthly rent of \$762.50 from May through August 2016 and \$790.63 from September 2016 through January 2017.

Service of Rent Increase Notice: The tenant testified that a copy of the contested rent increase notice was stuck in the window of her unit; she never received another copy of the notice in the mail.

Witness Randle testified that she has been employed by the law firm Fried & Williams for the past 4 ½ years. Among her duties are the preparation and mailing of various notices on behalf of property owners. She follows an established procedure in doing this work, which includes the preparation and signing under penalty of perjury a Certificate of Mailing at the time a notice is mailed. She prepared and mailed copies of all rent increase notices to tenants in the subject building.

Ms. Randle identified her signature on a Certificate of Mailing for the contested rent increase notice and other documents, including RAP Notices in both English and Spanish, to the tenant on March 26, 2015.¹³ The owners also submitted a letter from Javier Padilla to the tenant's husband, Domingo Valencia.¹⁴ This letter concerns the tenant's alleged underpayment of rent,

¹⁰ Exhibit Nos. 13A & 13B.

¹¹ Exhibit Nos. 14A through 14H. The tenant's attorney objected to the admission of these photos into evidence on the ground that they were too numerous. The objection was overruled, and the photos were admitted into evidence.

¹² Exhibit No. 9.

¹³ Exhibit No. J.

¹⁴ Exhibit No. M.

As to this unit, Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I notice a few darker spots that looked like mold on one wall of the bedroom closet."

Peeling Paint: This claim was withdrawn at the Hearing.

BBQs & Parties: The tenant testified in accordance with the testimony of other petitioning tenants.

Reduction in Parking Services: The tenant testified that she was given one designated parking space at the start of her tenancy. At that time, she and her husband owned a pickup truck and a passenger car; they still own both vehicles. They would park one or the other vehicle in the assigned space, depending on whether it was a street sweeping day and other personal considerations. In mid-2015, the owners sent a letter to the tenant and her husband, which said that they could no longer park the pickup truck in their parking space.

During cross-examination of the tenants, the owners submitted two photographs which depict a large pickup truck in the building parking lot.¹⁸ One of the photos is date-stamped June 17, 2016, and the other is on a page on which the date May 4, 2016 is written. Although the truck is quite large, in both photos the vehicle is parked within the white lines painted on the pavement, and it does not appear to extend past the ends of these lines.

TENANT DELIA VARGAS

Rent History: At the Hearing, the tenant withdrew her challenge to the rent increase from \$982.69 to \$1,146.77, effective May 1, 2016. The parties agreed that the tenant had paid monthly rent, as follows: January through August 2016 - \$1,107.77; and September through December 2016 - \$1,146.77.

Decreased Housing Services:

Mold: The tenant testified that she has had a mold problem in her unit since 2010. She believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. She opens the bathroom window after showers are taken, and leaves the window open. The window is not open while a person is showering. The tenant testified that there is mold on the bathroom walls and also in the bedrooms and bedroom closet, on the 2 walls facing the outside. She opens windows in the bedrooms when she goes to work, and then closes them when she returns home.

The tenant further testified that she first notified the owners about this problem in the year 2014, when she filed Petition No. T14-0267, Vargas v. SPJC, LLC. That case was resolved in a Mediation Agreement dated October 27, 2014. As part of that agreement, the owners agreed to "remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint." The tenant testified that the owners complied with this Agreement.

¹⁸ Exhibit Nos. T1 & T2.

Owner Carlos Padilla inspected the unit in early 2016, at which time the tenant's husband, Mr. Flota Dzul, was at home. Mr. Flota Dzul testified that he showed Mr. Padilla mold in the bathroom. In response, Mr. Padilla told the tenant that he could simply wipe the mold off. The tenant also showed Mr. Padilla the bedroom walls and closet, but there was not much mold in these areas since Ms. Vargas had recently cleaned the areas. Mr. Padilla also asked the tenant if he needed paint. Mr. Flota Dzul further testified that he uses the bathroom fan during showers, and then turns it off. The tenant and his wife live in the unit with their 3 children. The mold problem is worse during the winter. When asked what the owners should do, Mr. Flota Dzul stated that the problem was lack of insulation, and that the owners should clean the mold as necessary.

The owners submitted a document entitled "Condition of Premises Addendum" regarding the tenants' unit, dated June 28, 2016.¹⁹ This document does not mention mold, but it was signed only by Javier Padilla, and not by either tenant.

Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling. I touched the bedroom wall under the window and it felt wet. I did not see any discolored or darker spots on that wall. It rained the night before the inspection. I also noticed water drops on the bathroom ceiling. I did not see any discolored or darker spots on the ceiling."

Bedroom Floors: This claim was withdrawn at the Hearing.

BBQs & Parties: The tenant testified that, before the owners said they could not have parties or BBQ's in the parking lot, most gatherings occurred approximately once a month, with no more than about 13 people (the petitioning tenants and their families), and lasting no later than 11:00 P. M. She recalled only one very big party, which involved approximately 70 people. On questioning by the owners, the tenant testified that 40 people at most would attend a party / BBQ, except for a special event.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

TENANT RAMIREZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The tenant has underpaid \$13, which is added to the rent for March 2017. The rent for March 2017 will be \$931.

¹⁹ Exhibit No. D.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent²⁰ and may be corrected by a rent adjustment.²¹ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must have notice of a needed repair, and a reasonable period of time in which to make such a repair.

There is also a time limit for claiming decreased housing services. A tenant petition must be filed within 90 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.²²

However, when a tenant complains of ongoing problems with his or her unit, the Board has declared that such claims should not be completely denied if the tenant received the RAP Notice more than 90 days before the petition was filed. The tenant first received the RAP Notice in the year 2015, far more than 90 days before filing her petition alleging decreased housing services on May 24, 2016. Therefore, in accordance with the Regulations and Board decision,²³ the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which he filed her petition. Allowable claims of decreased housing services therefore begin on February 24, 2016.

Bathroom Ventilation: The Building Code requires a bathroom to have either a window or an exhaust fan. The tenant's unit has both a window and a fan. Further, the tenant did not submit any written report to the owners, and the problem may well have been caused by the need to clean the fan, which is normally the responsibility of a tenant. Therefore, the claim is denied.

Mold: Mold is the result of excess moisture in the air, which can result from either water intrusion from a window, roof leak water overflow from another unit in the building; poor ventilation; or a combination of such factors. An owner must correct a condition that allows water to enter a unit. However, there is no evidence of water intrusion in the tenant's unit. The tenant testified that she believes the mold in her unit is caused by the poorly functioning bathroom fan. However, she never notified the owners about this in writing, as she agreed in the Mediation Agreement. Javier Padilla conducted an annual inspection in June 2016, at which time he was informed about a mold problem. The following month, Mr. Padilla then arranged with the tenant's husband to clean and paint the affected areas. Further, when Ms. Moroz inspected the unit, she did not see "any mold or darker spots." For all of these reasons, the claim is denied.

BBQs. & Parties: From the combined testimony of the petitioning tenants – and even ignoring the testimony of the owners – it is clear that there have been parties at least monthly, attended by as many as 70 people, with music playing, and lasting until at least 11:00 P.M. Such activities are clearly incompatible with a residential neighborhood, and the right to hold such

²⁰ O.M.C. Section 8.22.070(F)

²¹ O.M.C. Section 8.22.110(E)

²² O.M.C. Section 8.22.090(A)(2)

²³ Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

events can scarcely be implied in any residential rental agreement. The ability to have such parties was never part of the tenant's rental agreement, and denying tenants the ability to do so does not decrease their housing services. The claim is denied.

Conclusion: The rent for the tenant's unit is \$918 per month, effective May 1, 2016. The tenant has underpaid rent of \$13, which should be added to the March 2017 rent payment.

TENANT CITALI VARGAS

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2014.

Rent: Before considering the tenant's claim of decreased housing services, the rent is \$988.73 per month, effective May 1, 2016.

Decreased Housing Services:

Mold: The tenant testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners. Carlos Padilla testified that during an inspection of the unit in February 2016, no windows were open. Ms. Moroz also noticed that no windows were open at the time of her inspection. The tenant has not sustained her burden of proof that mold in her unit is caused by some act or failure to act on the part of the owners. Therefore, the claim is denied.

BBQs & Parties: For the reasons set forth in the discussion above, this claim is denied.

TENANT GONZALEZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in early 2015.

Service of Rent Increase Notice: Ms. Randle's testimony, supported by the Proof of Service that she signed, was believable. On the other hand, the tenant testified in a straightforward way, and there is no reason to disbelieve her testimony. The California Evidence Code is instructive, and states that a letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.²⁴ The testimony of both the tenants and Ms. Randle was credible, and it is possible that the mailing was lost or otherwise not delivered to the tenant. However, an owner can do nothing more than mail a notice a notice, and assume that it is delivered. It is therefore found that copies of the contested rent increase notice were both posted and mailed to the tenant.

However, it is clear that the tenant is essentially a monolingual Spanish speaker, and this fact was well known to the owners. At times, they wrote to the tenant in Spanish, and they sent a Spanish language version of the RAP Notice to the tenant. The contested rent increase notice is entirely in English.

²⁴ Evidence Code Section 641.

Civil Code Section 1632 states, in part:

Any person engaged in a trade or business who negotiates primarily in Spanish . . . orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, which includes a translation of every term and condition in that contract of agreement: . . . (3) A lease . . . for a period of longer than one month . . . covering a dwelling . . .

(g) The term "contract" or "agreement," as used in this section, . . . includes any subsequent document making substantial changes in the rights and obligations of the parties.

The contested rent increase notice is a "document making substantial changes in the rights and obligations of the parties." Therefore, this notice, which should have been given in Spanish, is invalid. Before considering the tenant's claims of decrease housing services, the rent is \$762.50 per month, effective May 1, 2016. The tenant paid rent of \$790.63 in the months of September 2016 through January 2017, and it is assumed that she also paid this amount in February 2017. Therefore, she overpaid rent of \$28.13 per month, a total of \$140.65.

The overpayment is ordered repaid over a period of 3 months.²⁵ The rent is temporarily reduced by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.

Decreased Housing Services:

Stove Fan: The Building Code does not require a kitchen fan and, since the fan was essentially the same when the tenant moved in, her housing services were not decreased. Therefore, the claim is denied.

Mold: The tenant testified that she believes that mold in her unit is caused by poor construction of the outside wall and the fact that there is a garden next to the wall. There is no evidence of water intrusion. On the other hand, there is evidence of inadequate ventilation in the unit. Ms. Moroz noticed that no windows were open at the time of her inspection. As discussed above, under such circumstances, there is really nothing that the owners can be required to do with regard to the mold problem, and the claim is denied.

BBOs & Parties: For the reasons discussed above, the claim is denied.

Reduction in Parking Services: Based upon the testimony and photographs in evidence, it is found that the tenants' truck does not extend outside the marked parking space which is a part of their housing services. Therefore, the tenants may park either of their vehicles in that space.

²⁵ Regulations, Section 8.22.110(F)

However, since the tenants have continued to park both vehicles in the assigned parking space, the tenants are not entitled to monetary restitution.

TENANT DELIA VARGAS

Rent: Since the tenant withdrew her challenge to the rent increase, the rent is \$1,146.77 per month, effective May 1, 2016. The tenant paid rent of \$1,107.77 in the months of January through August 2016, an underpayment of \$39 per month, and a total underpayment of \$312. The underpayment is ordered repaid over a period of 6 months.²⁶ The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.

Decreased Housing Services:

Mold: The tenant testified that she believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. There is no evidence of water intrusion, and Ms. Moroz noticed that no windows were open at the time of her inspection. The trees were presumably there when the tenants moved in, and the tenant and her family are responsible for proper ventilation. The claim is denied.

BBQs & Parties: For the reasons discussed above, the claim is denied.

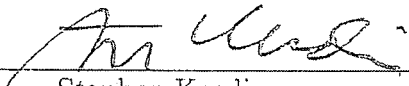
ORDER

1. Petitions T16-0197 & T16-0263 (Ramirez) are denied.
2. The rent, before a temporary increase due to underpaid rent, is \$918 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$13. This underpayment is added to the rent in March 2017.
3. The rent is temporarily increased by \$13 per month, to \$931, in the month of March 2017.
4. In April 2017, the rent returns to \$918 per month.
5. Claims of decreased housing services are denied.
6. The Anniversary Date for future rent increases is May 1.
7. Petitions T16-0198 & T16-0265 (Citalli Vargas) are denied.
8. The rent is \$988.73 per month, effective May 1, 2016.
9. Claims of decreased housing services are denied.
10. The Anniversary Date for future rent increases is May 1.

²⁶ Regulations, Section 8.22.110(F)

11. Petitions T16-0199 & T16-0264 (Gonzalez) are partly granted.
12. The rent, before a temporary decrease due to overpaid rent, is \$762.50 per month, effective May 1, 2016. However, the tenant has overpaid rent in the total amount of \$140.65. This underpayment is adjusted over a period of 3 months.
13. The rent is temporarily decreased by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.
14. In June 2016, the rent returns to \$762.50 per month.
15. The tenants may park either of their vehicles in their assigned parking space.
16. Claims of decreased housing services are denied.
17. The Anniversary Date for future rent increases is May 1.
18. Petitions T16-0200 & T16-0279 (Delia Vargas) are denied.
19. The rent, before a temporary increase due to underpaid rent, is the rent is \$1,146.77 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$312. This underpayment is adjusted over a period of 6 months.
20. The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.
21. In September 2017, the rent returns to \$1,146.77 per month.
22. Claims of decreased housing services are denied.
23. The Anniversary Date for future rent increases is May 1.
24. Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: February 14, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment ProgramTEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254**HEARING DECISION**

CASE NUMBERS: T16-0197 & T16-0263, Ramirez v. Padilla / SPJC, LLC
T16-0198 & T16-0265, Citalli Vargas v. SPJC, LLC
T16-0199 & T16-0264, Gonzalez v. Padilla / SPJC, LLC
T16-0200 & T16-0279, Delia Vargas v. SPJC, LLC

PROPERTY ADDRESSES: 1829 Myrtle St., Nos. 2, 3, 5, & 7, Oakland, CA

DATES OF HEARING: November 4 & December 1, 2016 & January 17, 2017

DATE OF INSPECTION: December 16, 2016

DATE OF DECISION: February 14, 2017

APPEARANCES:¹ Delia Vargas (Tenant, Unit #5)
Alejandro Flota (Tenant, Unit #5)
Roberto A. Flota Dzul (Tenant, Unit #5)
Edith Ramirez (Tenant, Unit #7)
Citalli D. Vargas (Tenant, Unit #2)
Haydee Gonzalez (Tenant, Unit #3)
Domingo Valencia (Tenant, Unit #3)
Karuna Holm (Witness for Tenants, by Telephone)
Laura Shoaps (Attorney for Tenants)
Javier Padilla (Owner)
Carlos Padilla (Owner)
Alana Grice Conner (Attorney for Owners)
Elizabeth Hart (Owner Representative)
Nathan Luben (Witness for Owners)
Nicole Randle (Witness for Owners)

¹ Delia Vargas appeared only on November 4 & December 1, 2016. Alejandro Flota, Edith Ramirez, Citalli Vargas, Karuna Holm and Nathan Luben appeared only on November 4, 2016. Roberto A. Flota Dzul appeared only on December 1, 2016. Noemi Gonzalez appeared only on November 4 and December 1, 2016. Alana Grice Conner, Nicole Randle and Marci Valdivieso appeared only on January 17, 2017.

Noemi Gonzalez (Interpreter)
Marci Valdivieso (Interpreter)

SUMMARY OF DECISION

The petition of tenant Ramirez is denied. The petition of tenant Citalli Vargas is denied. The petition of tenant Gonzalez is partly granted. The petition of tenant Delia Vargas is denied.

CONTENTIONS OF THE PARTIES

Tenant Ramirez filed petitions in April and May 2016, which allege that rent increases from \$695 to \$790, effective April 1, 2015, and from \$790 to \$918.99, effective May 1, 2016, exceed the CPI Adjustment and are unjustified or greater than 10%; that she first received the form Notice to Tenants (RAP Notice) on April 1, 2016; and that her housing services have been decreased due to inadequate ventilation in the bathroom; mold; yellow spots on a window; spiders; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the Ramirez petitions, which allege that the tenant was given the RAP Notice in February 2015 or earlier; the 2016 rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Citalli Vargas filed petitions in April and May 2016, which allege that a rent increase from \$954.54 to \$988.73 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to mold and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of Citalli Vargas, which allege that the tenant was given the RAP Notice on July 1, 2014; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Gonzalez filed petitions in April and May 2016, which allege that a rent increase from \$762.47 to \$827.51 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that she first received the RAP Notice on April 1, 2016; and that her housing services have been decreased due to an inadequate stove fan; cabinets in disrepair; roaches; mold; peeling paint; the owner's denial of permission for outdoor barbeques and parties; and reduction in parking services.

The owners filed responses to the petitions of tenant Gonzalez, which allege that the tenant was given the RAP Notice on March 26, 2015; the rent increase is justified by Banking; and deny that the tenant's housing services have decreased.

Tenant Delia Vargas filed petitions in April and May 2016, which allege that a rent increase from \$982.69 to \$1,146.77 per month, effective May 1, 2016, exceeds the CPI Adjustment and is unjustified or is greater than 10%, and that her housing services have been decreased due to mold; bedroom floors; and the owner's denial of permission for outdoor barbeques and parties.

The owners filed responses to the petitions of tenant Delia Vargas, which allege that the rent increase is justified by Banking and deny that the tenant's housing services have decreased.

THE ISSUES

- (1) When did tenant Ramirez receive the RAP Notice?
- (2) When did tenant Citali Vargas receive the RAP Notice?
- (3) When did tenant Gonzalez receive the RAP Notice?
- (4) Is a rent increase for tenant Ramirez justified by Banking and, if so, in what amount?
- (5) Is a rent increase for tenant Citali Vargas justified by Banking and, if so, in what amount?
- (6) Is a rent increase for tenant Gonzalez justified by Banking and, if so, in what amount?
- (7) Have the tenant Ramirez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (8) Have the tenant Citali Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (9) Have the tenant Gonzalez's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?
- (10) Have the tenant Delia Vargas's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

TENANT RAMIREZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The owners did not dispute this testimony.

Decreased Housing Services:

Bathroom Ventilation: The tenant testified that the ceiling fan in her bathroom does not work well. However, there is a window in the room. The tenant admitted receiving a statement from the owners in 2015 that maintenance requests must be in writing. However, she never gave written notice to the owners regarding the bathroom fan.

Mold: The tenant testified that there has been a recurring mold problem in her bathroom and bedroom closet for a number of years, and she has repeatedly notified the owners. The tenant believes that the mold is caused by excess humidity because the bathroom fan does not work. She opens the bathroom window each time someone takes a shower. The tenant submitted photographs of the bathroom wall and a corner of the bedroom closet, which she took in March 2016.² These photos depict mold on various wall surfaces.

² These Exhibits, and all others to which reference is made in this Decision, were admitted into evidence without objection unless otherwise noted.

On July 31, 2016, owner Javier Padilla wrote to the tenant and her husband: "On or about July 27th, Carlos [Padilla] spoke with your husband, Jose, and agreed on the following: Jose will paint the closet, as well as the shower stall. \$300 will include paint and any materials necessary to remedy the closet situation. For the moment, you are to send us a bill in the amount of \$300 for said services."³ The tenant testified that on August 2, 2016, Carlos Padilla gave her paint, and she painted the closet.

The owners submitted a number of photographs, which Javier Padilla testified he took during his annual inspections of the unit in March 2015 and June 2016.⁴ These photographs depict a considerable amount of clutter, including clothing and other items, both in bags and loose on the floor and in a closet. Javier Padilla testified that the unit also contained 10 parakeets and a large fish tank, which is prohibited since a fish tank can contribute to mold. He further testified that overstuffing closets reduces air circulation and can cause or contribute to the development of mold.

Finally, Mr. Padilla testified that, when he inspected the unit on June 28, 2016, he told the tenant's husband that the exhaust fans in the unit were dirty, and needed to be cleaned, which could be accomplished with a broom or brush. Mr. Padilla wrote this advice in a document entitled "Condition of Premises Addendum, dated the same day."⁵

On questioning from the owners, the tenant testified that the closet wall with mold shown on the photos that she submitted is on the other side of the bathroom; she denied keeping wet items in the closet.

The tenant testified that all contacts with the owners concerning mold have been by phone or in person, since Carlos Padilla is often in the building. Official Notice is taken of a Mediation Agreement in Case Nos. T14-0265 (Rodriguez v. SPJC, LLC), T14-0266 (Vargas v. SPJC, LLC) and T14-0267 (Vargas v. SPJC, LLC), which was signed by both the tenant and the owners on October 27, 2014. The owners cite Paragraph 11 of this Agreement, which says: "The tenants agree that they will provide all requests for repair to the owner in writing, absent an emergency."

On December 16, 2016, Linda Moroz, a Hearing Officer with the Rent Adjustment Program, inspected the tenant's unit, and the units of other petitioning tenants. Following her inspection, Ms. Moroz prepared a Declaration, a copy of which is attached as Attachment "A." Ms. Moroz writes: "I entered and walked through the entire unit. I did not see any mold or darker spots . . . anywhere in the unit. However, I noticed buckled paint in the closet ceiling in the bedroom that could have been due to water/moisture intrusion. The wall under the window in the bedroom felt wet. I also noticed water drops on paint in the bathroom ceiling."

Yellow Spots: This claim was withdrawn at the Hearing.

Spiders: This claim was withdrawn at the Hearing.

³ Exhibit No. 6A.

⁴ Exhibit Nos. 5A through 5M.

⁵ Exhibit No. 7.

BBQs & Parties: The tenant testified that she has lived in her unit in the subject 7-unit building for more than 10 years. For a long time, other tenants in the building and their friends would have parties – which included music – in the parking lot of the building. The parties would usually be attended by 30 to 40 people, and would last until 10:00 or 10:30 at night. Such parties were held an average of once a month, or approximately 20 parties a year. In or about February 2016, the owners told tenants in the building that they could no longer have such parties.

Owner Javier Padilla testified that he received complaints from people in neighboring properties that tenants would have parties in the parking lot with an estimated 70 people, which included music and drinking, and which would often last very late at night. He further testified that there were 3 large parties in late December 2015 and early January 2016, and on one occasion a party included a fire in a metal container in which a palette was cut up and burned. The tenants did not dispute this testimony. Therefore, in February 2016, he wrote to tenants in the subject building that they could no longer have parking lot parties. The owners have created a smaller paved area in which the tenants can have BBQs, but no parties. The owners testified that the newly designated BBQ area can accommodate 8 to 10 people.

Karuna Holm testified by telephone as a witness for the tenants. Ms. Holm testified that she lives at 1835 Myrtle Street – 2 addresses down from the subject building – in a home that she has owned since 2007. She stated that she has been aware of the tenants’ parties, and that they are not a problem; she enjoys how vibrant the neighborhood is, and the parties are consistent with the character of the neighborhood. Ms. Holm further testified that there is a street party on her block at least once every weekend, and the parties at the subject building are quieter than other parties on the block. On questioning from the owners, Ms. Holm testified that she has not actually gone into the parking lot during parties, but that she sees people on the street who go to and come from the parties.

Ms. Moroz inspected the “BBQ” area, and wrote: “I walked to the back of the property outside and inspected the BBQ area. The designated BBQ area is located in the back corner along the right side of the property . . . It has a rectangular shape and there is a large tree in the middle of the area. The entire area except where the tree is has large paving tiles. I walked the perimeter of the area, counted the tiles and estimated its size to be about 22.5’ x 9’. The tree takes up about 8’ x 6’ of that BBQ area. The total estimated size of the usable BBQ area is about 155 square feet.”

TENANT CITALI VARGAS

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in the year 2014.

Rent History: The tenant withdrew her challenge to the rent increase from \$954.54 to \$988.73, effective May 1, 2016.

Decreased Housing Services:

Mold: The tenant testified that there is always mold in both bedrooms and the living room of her unit. She believes that the cause of the mold is that the apartment is always cold and humid, which is partly caused by poor insulation. Also, when it rains, she sees droplets of water on the walls in the bathroom. The tenant further testified that she told owner Carlos Padilla about the mold in 2014, and in 2015, the entire apartment was painted. The mold returned in February 2016, and she again informed Carlos Padilla. In response, he suggested that she clean the walls and purchase a de-humidifier. The tenant cleaned the walls; Mr. Padilla did no work in the unit. Mr. Padilla testified that when he inspected the unit in February 2016, no windows were open.

The tenant submitted photographs that she testified were taken by her inside her apartment in February 2016.⁶ These photos depict a great deal of mold on a bathroom wall and floor, a closet wall, and on a dresser. Several of the photos were sent as a text message attachment to Carlos Padilla on February 9, 2016. Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed several dark spots that looked like mold on the walls in the larger bedroom and a bedroom closet. There were also darker spots in the corner of the second, smaller bedroom and in the bathroom on the wall under the window."

The owners submitted a 6-page document, the first of which is entitled "Notice of Change of Terms of Tenancy," dated April 29, 2016.⁷ The tenant acknowledged that she received these documents. The "Mold and Mildew Addendum" states, in part: "Resident shall immediately notify Landlord of any moisture, standing water or water intrusion of any kind, or mold condition in order to provide Landlord an opportunity to evaluate the conditions and/or to make recommendations regarding appropriate actions. . . The Resident shall be solely responsible for properly ventilating the premises and exercising moisture control precautions." This document is entirely in English, and the tenant – whose primary language is Spanish – testified that she could not understand these documents.

Owner Javier Padilla testified that he conducts annual inspections of all units in the subject building, and promptly makes needed repairs. In July 2015, he provided all tenants with forms for maintenance requests, and the only such request regarding mold that he received from the tenant was in late 2015. He had the unit painted, and the problem appeared to have been resolved. Mr. Padilla submitted a document entitled "Maintenance Request," dated September 1, 2015; the tenant identified her signature on this document.⁸ The wording on this document is in Spanish, which was interpreted at the Hearing by the interpreter, Noemi Gonzalez. This document states, in pertinent part: "repair paint in kitchen."

Mr. Padilla also submitted a document entitled "Condition of Premises Addendum," regarding the tenant's unit, dated March 3, 2015.⁹ This document, signed by the tenant, does not state any problem with mold. He also submitted a similar document dated June 28, 2016, which is signed

⁶ Exhibit Nos. 8A through 8D.

⁷ Exhibit Nos. 10A through 10F.

⁸ Exhibit No. 12A

⁹ Exhibit Nos. 11A & 11B.

only by him.¹⁰ Mr. Padilla wrote on this document: “No black mold or any mold observed anywhere in unit.” He also wrote that he informed the tenant to clean the bathroom fan and window screens, and not to “overstuff” closets. The document does not otherwise contain any mention of mold. Javier Padilla testified that, after the unit was painted in 2015, he had no notice of any mold problem until he received a copy of the tenant’s second petition, which was mailed to him on May 26, 2016.

Javier Padilla further submitted a number of photographs that he testified he took on June 28, 2016.¹¹ Some of the photographs depict what appears to be mold on a window screen; numerous objects stuffed into a small closet; and a number of items on and draping onto the bathroom floor.

BBQs & Parties: The tenant submitted a copy of a lease for her unit, dated September 9, 2011.¹² The lease does not prohibit parties or BBQ’s.

TENANT GONZALEZ

RAP Notice: At the Hearing, the tenant testified that she received the RAP Notice in January or February 2015.

Rent History: The tenant testified that, as stated in her petitions, she moved into her unit in April 2012, at a rent of \$725 per month. The owners agreed with this testimony. The parties also agreed that the tenant paid monthly rent of \$762.50 from May through August 2016 and \$790.63 from September 2016 through January 2017.

Service of Rent Increase Notice: The tenant testified that a copy of the contested rent increase notice was stuck in the window of her unit; she never received another copy of the notice in the mail.

Witness Randle testified that she has been employed by the law firm Fried & Williams for the past 4 ½ years. Among her duties are the preparation and mailing of various notices on behalf of property owners. She follows an established procedure in doing this work, which includes the preparation and signing under penalty of perjury a Certificate of Mailing at the time a notice is mailed. She prepared and mailed copies of all rent increase notices to tenants in the subject building.

Ms. Randle identified her signature on a Certificate of Mailing for the contested rent increase notice and other documents, including RAP Notices in both English and Spanish, to the tenant on March 26, 2015.¹³ The owners also submitted a letter from Javier Padilla to the tenant’s husband, Domingo Valencia.¹⁴ This letter concerns the tenant’s alleged underpayment of rent,

¹⁰ Exhibit Nos. 13A & 13B.

¹¹ Exhibit Nos. 14A through 14H. The tenant’s attorney objected to the admission of these photos into evidence on the ground that they were too numerous. The objection was overruled, and the photos were admitted into evidence.

¹² Exhibit No. 9.

¹³ Exhibit No. J

¹⁴ Exhibit No. M

and is written entirely in Spanish. Another document submitted by the owners is the lease for the unit, signed by Mr. Valencia and Javier Padilla on April 21, 2012.¹⁵ The printed part of this lease is in English. However, following the numbered Paragraph 36 – headed “Other Terms” – are 3 sentences written in Spanish. Official Notice is taken of the tenant’s request for a Spanish-speaking interpreter to attend the Hearing.

Decreased Housing Services:

Stove Fan: The tenant testified that the kitchen fan was not working effectively, and she needed to open the kitchen window when she cooked. The tenant further testified that the fan was not working well when she moved in. The fan was replaced in November 2016.

Cabinets: This claim was withdrawn at the Hearing.

Roaches: This claim was withdrawn at the Hearing.

Mold: The tenant testified that about 1 ½ years ago she noticed mold in the bedroom and the bedroom closet in her ground-floor unit. She never notified the owners in writing about this problem. However, Carlos Padilla comes by regularly and she reports problems to him. The owners conducted an annual inspection of her unit in or about September 2016. She was not at home at the time of the inspection. However, her son was at home during the inspection, and her son told her that he pointed out the mold to the owners. The tenant’s son told her that the owners had told him to clean the mold; they did nothing with regard to this situation.

The tenant submitted a photograph of a wall and adjoining floor and portion of a closet in her bedroom, which she testified she took in or about July 2016.¹⁶ She testified that the wall is an exterior wall, with a garden on the other side of the wall, and this is the only room in which there was mold. The photo depicts a considerable amount of what appears to be mold on both the wall and floor. The tenant believes that the mold is due to inadequate construction of the outside wall, and the fact that there is a garden directly by the wall. She testified that the window in this room is almost always open. The tenant also testified that her unit has one bedroom and one bathroom, in which she lives with her husband and their 4 children.

Carlos Padilla testified that the wall next to the bedroom closet was covered during his inspection in June 2016, and he saw no mold at that time. He submitted a series of photographs of areas of the unit that he took in June 2016.¹⁷ These photos depict clothing, bedding, and other personal items fit tightly within a closet. Mr. Padilla further testified that Unit #1 – where the tenant did not file a petition – is also located on the ground floor of the building. Mr. Padilla testified that he has never seen mold in Unit #1, nor has the tenant in that unit ever reported mold.

¹⁵ Exhibit No. Q

¹⁶ Exhibit No. P. The owners objected to the admission of this photo into evidence because the location and date on which the photo was taken were unclear. The objection was overruled, and the photo was admitted into evidence.

¹⁷ Exhibit No. U.

As to this unit, Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I notice a few darker spots that looked like mold on one wall of the bedroom closet.

Peeling Paint: This claim was withdrawn at the Hearing.

BBQs & Parties: The tenant testified in accordance with the testimony of other petitioning tenants.

Reduction in Parking Services: The tenant testified that she was given one designated parking space at the start of her tenancy. At that time, she and her husband owned a pickup truck and a passenger car; they still own both vehicles. They would park one or the other vehicle in the assigned space, depending on whether it was a street sweeping day and other personal considerations. In mid-2015, the owners sent a letter to the tenant and her husband, which said that they could no longer park the pickup truck in their parking space.

During cross-examination of the tenants, the owners submitted two photographs which depict a large pickup truck in the building parking lot.¹⁸ One of the photos is date-stamped June 17, 2016, and the other is on a page on which the date May 4, 2016 is written. Although the truck is quite large, in both photos the vehicle is parked within the white lines painted on the pavement, and it does not appear to extend past the ends of these lines.

TENANT DELIA VARGAS

Rent History: At the Hearing, the tenant withdrew her challenge to the rent increase from \$982.69 to \$1,146.77, effective May 1, 2016. The parties agreed that the tenant had paid monthly rent, as follows: January through August 2016 - \$1,107.77; and September through December 2016 - \$1,146.77.

Decreased Housing Services:

Mold: The tenant testified that she has had a mold problem in her unit since 2010. She believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. She opens the bathroom window after showers are taken, and leaves the window open. The window is not open while a person is showering. The tenant testified that there is mold on the bathroom walls and also in the bedrooms and bedroom closet, on the 2 walls facing the outside. She opens windows in the bedrooms when she goes to work, and then closes them when she returns home.

The tenant further testified that she first notified the owners about this problem in the year 2014, when she filed Petition No. T14-0267, Vargas v. SPJC, LLC. That case was resolved in a Mediation Agreement dated October 27, 2014. As part of that agreement, the owners agreed to "remediate the mold conditions. The mold will be remediated by cleaning all moldy surfaces with a recommended chemical treatment, allowing the surfaces to dry, and then painting the surfaces with mold inhibiting primer and paint." The tenant testified that the owners complied with this Agreement.

¹⁸ Exhibit Nos. T1 & T2.

Owner Carlos Padilla inspected the unit in early 2016, at which time the tenant's husband, Mr. Flota Dzul, was at home. Mr. Flota Dzul testified that he showed Mr. Padilla mold in the bathroom. In response, Mr. Padilla told the tenant that he could simply wipe the mold off. The tenant also showed Mr. Padilla the bedroom walls and closet, but there was not much mold in these areas since Ms. Vargas had recently cleaned the areas. Mr. Padilla also asked the tenant if he needed paint. Mr. Flota Dzul further testified that he uses the bathroom fan during showers, and then turns it off. The tenant and his wife live in the unit with their 3 children. The mold problem is worse during the winter. When asked what the owners should do, Mr. Flota Dzul stated that the problem was lack of insulation, and that the owners should clean the mold as necessary.

The owners submitted a document entitled "Condition of Premises Addendum" regarding the tenants' unit, dated June 28, 2016.¹⁹ This document does not mention mold, but it was signed only by Javier Padilla, and not by either tenant.

Ms. Moroz writes: "I entered and walked through the entire unit. The windows were closed. I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling. I touched the bedroom wall under the window and it felt wet. I did not see any discolored or darker spots on that wall. It rained the night before the inspection. I also noticed water drops on the bathroom ceiling. I did not see any discolored or darker spots on the ceiling."

Bedroom Floors: This claim was withdrawn at the Hearing.

BBQs & Parties: The tenant testified that, before the owners said they could not have parties or BBQ's in the parking lot, most gatherings occurred approximately once a month, with no more than about 13 people (the petitioning tenants and their families), and lasting no later than 11:00 P. M. She recalled only one very big party, which involved approximately 70 people. On questioning by the owners, the tenant testified that 40 people at most would attend a party / BBQ, except for a special event.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

TENANT RAMIREZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2015.

Rent History: The tenant dismissed her challenge to the rent increase from \$905 to \$918 per month, effective May 1, 2016. She testified that she paid rent of \$918 each month from May through the date of the Hearing, except for the month of June 2016, in which she paid \$905. The tenant has underpaid \$13, which is added to the rent for March 2017. The rent for March 2017 will be \$931.

¹⁹ Exhibit No. D.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent²⁰ and may be corrected by a rent adjustment.²¹ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must have notice of a needed repair, and a reasonable period of time in which to make such a repair.

There is also a time limit for claiming decreased housing services. A tenant petition must be filed within 90 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.²²

However, when a tenant complains of ongoing problems with his or her unit, the Board has declared that such claims should not be completely denied if the tenant received the RAP Notice more than 90 days before the petition was filed. The tenant first received the RAP Notice in the year 2015, far more than 90 days before filing her petition alleging decreased housing services on May 24, 2016. Therefore, in accordance with the Regulations and Board decision,²³ the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which he filed her petition. Allowable claims of decreased housing services therefore begin on February 24, 2016.

Bathroom Ventilation: The Building Code requires a bathroom to have either a window or an exhaust fan. The tenant's unit has both a window and a fan. Further, the tenant did not submit any written report to the owners, and the problem may well have been caused by the need to clean the fan, which is normally the responsibility of a tenant. Therefore, the claim is denied.

Mold: Mold is the result of excess moisture in the air, which can result from either water intrusion from a window, roof leak water overflow from another unit in the building; poor ventilation; or a combination of such factors. An owner must correct a condition that allows water to enter a unit. However, there is no evidence of water intrusion in the tenant's unit. The tenant testified that she believes the mold in her unit is caused by the poorly functioning bathroom fan. However, she never notified the owners about this in writing, as she agreed in the Mediation Agreement. Javier Padilla conducted an annual inspection in June 2016, at which time he was informed about a mold problem. The following month, Mr. Padilla then arranged with the tenant's husband to clean and paint the affected areas. Further, when Ms. Moroz inspected the unit, she did not see "any mold or darker spots." For all of these reasons, the claim is denied.

BBQs & Parties: From the combined testimony of the petitioning tenants – and even ignoring the testimony of the owners – it is clear that there have been parties at least monthly, attended by as many as 70 people, with music playing, and lasting until at least 11:00 P.M. Such activities are clearly incompatible with a residential neighborhood, and the right to hold such

²⁰ O.M.C. Section 8.22.070(F)

²¹ O.M.C. Section 8.22.110(E)

²² O.M.C. Section 8.22.090(A)(2)

²³ Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

events can scarcely be implied in any residential rental agreement. The ability to have such parties was never part of the tenant's rental agreement, and denying tenants the ability to do so does not decrease their housing services. The claim is denied.

Conclusion: The rent for the tenant's unit is \$918 per month, effective May 1, 2016. The tenant has underpaid rent of \$13, which should be added to the March 2017 rent payment.

TENANT CITALI VARGAS

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in the year 2014.

Rent: Before considering the tenant's claim of decreased housing services, the rent is \$988.73 per month, effective May 1, 2016.

Decreased Housing Services:

Mold: The tenant testified that the mold in her unit is caused by poor insulation and the fact that her apartment is often cold. Neither of these factors is within the control of the owners. Carlos Padilla testified that during an inspection of the unit in February 2016, no windows were open. Ms. Moroz also noticed that no windows were open at the time of her inspection. The tenant has not sustained her burden of proof that mold in her unit is caused by some act or failure to act on the part of the owners. Therefore, the claim is denied.

BBQs & Parties: For the reasons set forth in the discussion above, this claim is denied.

TENANT GONZALEZ

RAP Notice: Based upon the tenant's testimony, it is found that the tenant received the RAP Notice in early 2015.

Service of Rent Increase Notice: Ms. Randle's testimony, supported by the Proof of Service that she signed, was believable. On the other hand, the tenant testified in a straightforward way, and there is no reason to disbelieve her testimony. The California Evidence Code is instructive, and states that a letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.²⁴ The testimony of both the tenants and Ms. Randle was credible, and it is possible that the mailing was lost or otherwise not delivered to the tenant. However, an owner can do nothing more than mail a notice a notice, and assume that it is delivered. It is therefore found that copies of the contested rent increase notice were both posted and mailed to the tenant.

However, it is clear that the tenant is essentially a monolingual Spanish speaker, and this fact was well known to the owners. At times, they wrote to the tenant in Spanish, and they sent a Spanish language version of the RAP Notice to the tenant. The contested rent increase notice is entirely in English.

²⁴ Evidence Code Section 641.

Civil Code Section 1632 states, in part:

Any person engaged in a trade or business who negotiates primarily in Spanish . . . orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement and prior to the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, which includes a translation of every term and condition in that contract of agreement: . . . (3) A lease . . . for a period of longer than one month . . . covering a dwelling . . .

(g) The term “contract” or “agreement,” as used in this section, . . . includes any subsequent document making substantial changes in the rights and obligations of the parties.

The contested rent increase notice is a “document making substantial changes in the rights and obligations of the parties.” Therefore, this notice, which should have been given in Spanish, is invalid. Before considering the tenant’s claims of decrease housing services, the rent is \$762.50 per month, effective May 1, 2016. The tenant paid rent of \$790.63 in the months of September 2016 through January 2017, and it is assumed that she also paid this amount in February 2017. Therefore, she overpaid rent of \$28.13 per month, a total of \$140.65.

The overpayment is ordered repaid over a period of 3 months.²⁵ The rent is temporarily reduced by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.

Decreased Housing Services:

Stove Fan: The Building Code does not require a kitchen fan and, since the fan was essentially the same when the tenant moved in, her housing services were not decreased. Therefore, the claim is denied.

Mold: The tenant testified that she believes that mold in her unit is caused by poor construction of the outside wall and the fact that there is a garden next to the wall. There is no evidence of water intrusion. On the other hand, there is evidence of inadequate ventilation in the unit. Ms. Moroz noticed that no windows were open at the time of her inspection. As discussed above, under such circumstances, there is really nothing that the owners can be required to do with regard to the mold problem, and the claim is denied.

BBQs & Parties: For the reasons discussed above, the claim is denied.

Reduction in Parking Services: Based upon the testimony and photographs in evidence, it is found that the tenants’ truck does not extend outside the marked parking space which is a part of their housing services. Therefore, the tenants may park either of their vehicles in that space.

²⁵ Regulations, Section 8.22.110(F)

However, since the tenants have continued to park both vehicles in the assigned parking space, the tenants are not entitled to monetary restitution.

TENANT DELIA VARGAS

Rent: Since the tenant withdrew her challenge to the rent increase, the rent is \$1,146.77 per month, effective May 1, 2016. The tenant paid rent of \$1,107.77 in the months of January through August 2016, an underpayment of \$39 per month, and a total underpayment of \$312. The underpayment is ordered repaid over a period of 6 months.²⁶ The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.

Decreased Housing Services:

Mold: The tenant testified that she believes that there are two causes for the mold: trees outside her bathroom and steam on the bathroom ceiling after people take showers. There is no evidence of water intrusion, and Ms. Moroz noticed that no windows were open at the time of her inspection. The trees were presumably there when the tenants moved in, and the tenant and her family are responsible for proper ventilation. The claim is denied.

BBQs & Parties: For the reasons discussed above, the claim is denied.

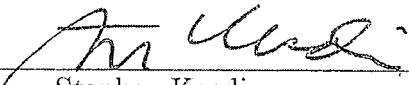
ORDER

1. Petitions T16-0197 & T16-0263 (Ramirez) are denied.
2. The rent, before a temporary increase due to underpaid rent, is \$918 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$13. This underpayment is added to the rent in March 2017.
3. The rent is temporarily increased by \$13 per month, to \$931, in the month of March 2017.
4. In April 2017, the rent returns to \$918 per month.
5. Claims of decreased housing services are denied.
6. The Anniversary Date for future rent increases is May 1.
7. Petitions T16-0198 & T16-0265 (Citalli Vargas) are denied.
8. The rent is \$988.73 per month, effective May 1, 2016.
9. Claims of decreased housing services are denied.
10. The Anniversary Date for future rent increases is May 1.

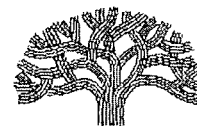
²⁶ Regulations, Section 8.22.110(F)

11. Petitions T16-0199 & T16-0264 (Gonzalez) are partly granted.
12. The rent, before a temporary decrease due to overpaid rent, is \$762.50 per month, effective May 1, 2016. However, the tenant has overpaid rent in the total amount of \$140.65. This underpayment is adjusted over a period of 3 months.
13. The rent is temporarily decreased by \$46.88 per month, to \$715.75 per month, beginning with the rent payment in March 2017 and ending with the rent payment in May 2017. However, if the owners wish to pay the tenant the restitution in one lump sum, they have the authority to do so. If the owners pay the tenant such restitution, the tenant must stop deducting the \$46.88 a month.
14. In June 2016, the rent returns to \$762.50 per month.
15. The tenants may park either of their vehicles in their assigned parking space.
16. Claims of decreased housing services are denied.
17. The Anniversary Date for future rent increases is May 1.
18. Petitions T16-0200 & T16-0279 (Delia Vargas) are denied.
19. The rent, before a temporary increase due to underpaid rent, is the rent is \$1,146.77 per month, effective May 1, 2016. However, the tenant has underpaid rent in the total amount of \$312. This underpayment is adjusted over a period of 6 months.
20. The rent is temporarily increased by \$52 per month, to \$1,198.77 per month, beginning with the rent payment in March 2017 and ending with the rent payment in August 2017.
21. In September 2017, the rent returns to \$1,146.77 per month.
22. Claims of decreased housing services are denied.
23. The Anniversary Date for future rent increases is May 1.
24. Right to Appeal: **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: February 14, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

DECLARATION OF SITE INSPECTION

CASE NUMBERS: T16-0199, T16-0264, T16-0200, T16-0279

PROPERTY ADDRESS: 1829 Myrtle St., Units #2, #3, #5, #7, Oakland, CA

DATE OF INSPECTION: December 16, 2016, at 10:00 a.m.

I, Linda M. Moroz, declare as follows:

I am the Hearing Officer with the City of Oakland Rent Adjustment Program. In that capacity, I conducted a site inspection of the above-referenced units relating to Tenant Petitions T16-0199, T16-0264, T16-0200 and T16-0279.

Inspection of Unit #2

The Unit #2 is located on the ground floor. I entered and walked through the entire unit. The windows were closed. I noticed several dark spots that looked like mold on the walls in the larger bedroom and a bedroom closet. There were also darker spots in the corner of the second, smaller bedroom and in the bathroom on the wall under the window.

Inspection of Unit #3

The Unit #3 is located on the ground floor. I entered and walked through the entire unit. The windows were closed. I noticed a few darker spots that looked like mold on one wall of the bedroom closet.

Inspection of Unit #5

The Unit #5 is located on the first floor, directly above the Unit #2. I entered and walked through the entire unit. The windows were closed. I noticed a few darker spots that looked like mold on one part of the wall in the bedroom closet near the ceiling. I touched the bedroom wall under the window and it felt wet. I did not see any discolored or darker spots on that wall. It rained the night before the inspection. I also noticed water drops on the bathroom ceiling. I did not see any discolored or darker spots on the ceiling.

00255

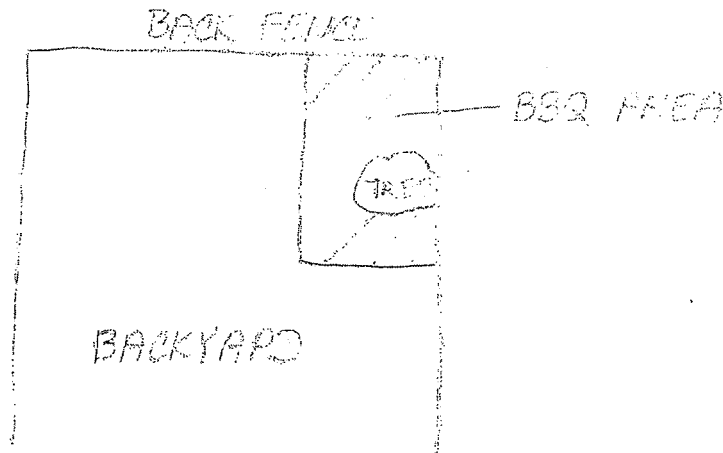
Attachment "A" p. 1

Inspection of Unit #7

The Unit #7 is located on the first floor. I entered and walked through the entire unit. The windows were closed. I did not see any mold or darker spots that would look like mold or any discoloring of the paint anywhere in the unit. However, I noticed a buckled paint in the closet ceiling in the bedroom that could have been due to water/moisture intrusion. The wall under the window in the bedroom felt wet. I also noticed water drops on paint on the bathroom ceiling.


BBQ Area

I walked to the back of the property outside and inspected the BBQ area. The designated BBQ area is located in the back corner along the right side of the property when looking from the street towards the back of the property. It has a rectangular shape and there is a large tree in the middle of the area. The entire area except where the tree is has large paving tiles. I walked the perimeter of the area, counted the tiles and estimated its size to be about 22.5' x 9'. The tree takes up about 8' x 6' of that BBQ area. The total estimated size of the usable BBQ area is about 155 square feet: $22.5 \times 9 = 202.5$ minus $8 \times 6 (48) = 154.5$. The chart below shows the layout.

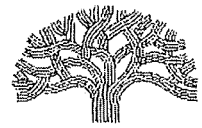


I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 19, 2017



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



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment ProgramTEL (510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

CORRECTION OF CLERICAL ERROR

CASE NUMBERS: T16-0199 & T16-0264, Gonzalez v. Padilla / SPJC, LLC

PROPERTY ADDRESS: 1829 Myrtle St., No. 5, Oakland, CA

DATE OF CORRECTION OF CLERICAL ERROR: March 24, 2017

INTRODUCTION

A Hearing Decision was issued in these cases on February 14, 2017. On March 7, 2017, tenant Haydee Gonzalez filed an appeal. The basis of her appeal is that the Hearing Decision improperly calculates the amount of the tenant's overpayment. Upon review of the Decision, it is found that this contention is correct. The tenant overpaid \$168.78, not \$140.65. The Hearing Decision is amended to state the correct amount of the tenant's overpayment. The parties are ordered to resolve the difference of \$28.13 between themselves. The Hearing Decision is otherwise unchanged.

This Correction of Clerical Error is an entirely new Hearing Decision, and there is a new time period within which to file an appeal, as stated below.

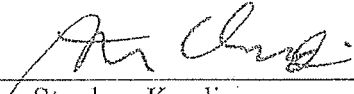
ORDER

1. The Hearing Decision is corrected to state that tenant Gonzalez overpaid rent in the amount of \$168.78.
2. The parties shall resolve the difference of \$28.13 between themselves.
3. **Right to Appeal:** **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached

201703257

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 24, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

00258

Tile 0197 M6/BK3 OK

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp.</p> <p>SEP 11 2011</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Edith Ramirez</i>	Rental Address (with zip code) <i>1829 myrtle street #7 Oakland CA 94607</i>	Telephone <i>(510) 333-6481</i>
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <i>Javier Radilla</i>	Mailing Address (with zip code)	Telephone <i>(510) 750-3327</i>

Number of units on the property: 7

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

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

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

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

Date you moved into the Unit: 2002 Initial Rent: \$ \$ 300 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 4-1-16. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
4-1-16	5-1-16	\$905	\$918	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

018260

IV. VERIFICATION: The tenant must sign:

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

Edith Ramirez
Tenant's Signature

4-19-16
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

010261

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. MAY 23 2014 9:33
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16- 0197

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC, LLC	Complete Address (with zip code) 2500 Grant Avenue San Lorenzo, CA 94580	Phone: <u>(510) 278-1291</u> Email: <u>javierpadilla-opc@sbcglobal.net</u>
Your Representative's Name (if any) Alana Grice Corner Fried & Williams, LLP Liz Hart	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Phone: <u>(510) 625-0100</u> Fax: <u>(510) 550-3621</u> aconner@friedwilliams.com Email: <u>liz.hart1801@gmail.com</u>
Tenant(s) name(s) Edith Ramirez	Complete Address (with zip code) 1829 Myrtle Street, #7 Oakland, CA 94607	(510) 333-6481

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 2 / 8 / 06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on May 1, 2013.

The tenant's initial rent including all services provided was \$ 760.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants?
Yes X No I don't know If yes, on what date was the Notice first given? July 1, 2014

Is the tenant current on the rent? Yes X No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/30/16	5/1/16	\$ 905.54	\$ 918.99	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2/28/15	5/1/15	\$ 760.00	\$ 905.54	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
5/1/2016	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

5/26/16
Date

VII. MEDIATION AVAILABLE


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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

5/26/16
Date

T16-02123 MS/BKB

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

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

TENANT PETITION

Please print legibly

Your Name Edith Ramirez	Rental Address (with zip code) 1829 Myrtle St. # 7 Oakland CA 94607	Telephone (510) 333-6481
Your Representative's Name NA	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Javier Padilla SPJC LLC	Mailing Address (with zip code) 2500 Grant Ave. San Lorenzo CA 94580	Telephone (510) 278-1291

Number of units on the property: 7

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

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

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

TENANT PETITIONER IS MONOLINGUAL SPANISH SPEAKER AND REQUESTS AN INTERPRETER FOR MEDIATION AND HEARING. TENANT ALSO REQUESTS CONSOLIDATION WITH T16-01917

IV. VERIFICATION: The tenant must sign:

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

Edith Ramirez
Tenant's Signature

5/24/2016
Date

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

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

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

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

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

Edith Ramirez
Tenant's Signature

5/24/2016
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Tenant Petition
 Edith Ramirez
 1829 Myrtle Ave. #7

**PLEASE NOTE: TENANT IS MONOLINGUAL SPANISH SPEAKER AND
 REQUIRES A TRANSLATOR FOR MEDIATION AND HEARING**

Addendum A- Changed Conditions

Please note: on or about April 1 2015 the landlord appeared at Tenant's door and showed her what she believes to be was a "banking calculator" sheet. At the bottom of the sheet, was the amount \$790. At that time, the landlord instructed her that she was to start paying \$790.00 effective May 1, 2015. He then took the document with him, not leaving a copy with the Tenant. On or about April 1, 2016 the landlord handed the Tenant a folder containing:

- Proposed new lease terms which are materially and substantially different from previous terms and which are being contested in this petition – (attached),
- A notice of rent increase,
- And a purported notice of rent increase from April 2015 increasing Tenant's rent from \$790.70 to \$918.99. Not only did the tenants never receive this notice, at no point in the past year has the landlord inquired or demanded \$918.99 in rent.

Addendum B-Decrease in Services

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Loss of Service
BATHROOM:				
1. Inadequate ventilation; the bathroom is persistently humid and the walls are spongy when you touch them. There is a window, which the tenants open while they are showering and leave it open after in order to try and have the room dry. There is also a ceiling fan which the tenants also turn on during a shower and leave on after in the hopes that it will dry the room.	Since commencement of tenancy.	Advised verbally for first time no later than May 2015. Moreover, the landlord was on constructive notice upon renting out the unit in this condition.	NA	5%
BEDROOM: 2. The closet has black mold in it.	Since commencement of tenancy.	Verbally on multiple occasions; the landlord has seen photos; moreover the landlord was on constructive notice upon renting out the unit in this condition.	NA	10%

Tenant Petitioner
Edith Ramirez

1001 Myrtle St
7

CITY OF OAKLAND



Department of Housing and Community Development
Rent Adjustment Program

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

<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	1-Jan-2006	MUST FILL IN D9, D10, D11 and D14	Case No.:		CHANGE YELLOW CELLS ONLY
Effective date of increase	1-May-2016		Unit:	7	
Current rent (before increase and without prior cap. improve pass-through)	\$790				
Prior cap. imp. pass-through	\$ -				
Date calculation begins	1-Jan-2006				
Base rent when calc.begins	\$695				

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

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
1/1/2016				1.7%	\$ 14.71	\$ 879.88
1/1/2015				1.9%	\$ 16.13	\$ 865.17
1/1/2014				2.1%	\$ 17.46	\$ 849.04
1/1/2013				3.0%	\$ 24.22	\$ 831.58
1/1/2012				2.0%	\$ 15.83	\$ 807.36
1/1/2011				2.7%	\$ 20.81	\$ 791.53
1/1/2010				0.7%	\$ 5.36	\$ 770.72
1/1/2009				3.2%	\$ 23.73	\$ 765.36
1/1/2008				3.3%	\$ 23.69	\$ 741.63
1/1/2007				3.3%	\$ 22.94	\$ 717.94
1/1/2006				-	-	\$695

Calculation of Limit on Increase

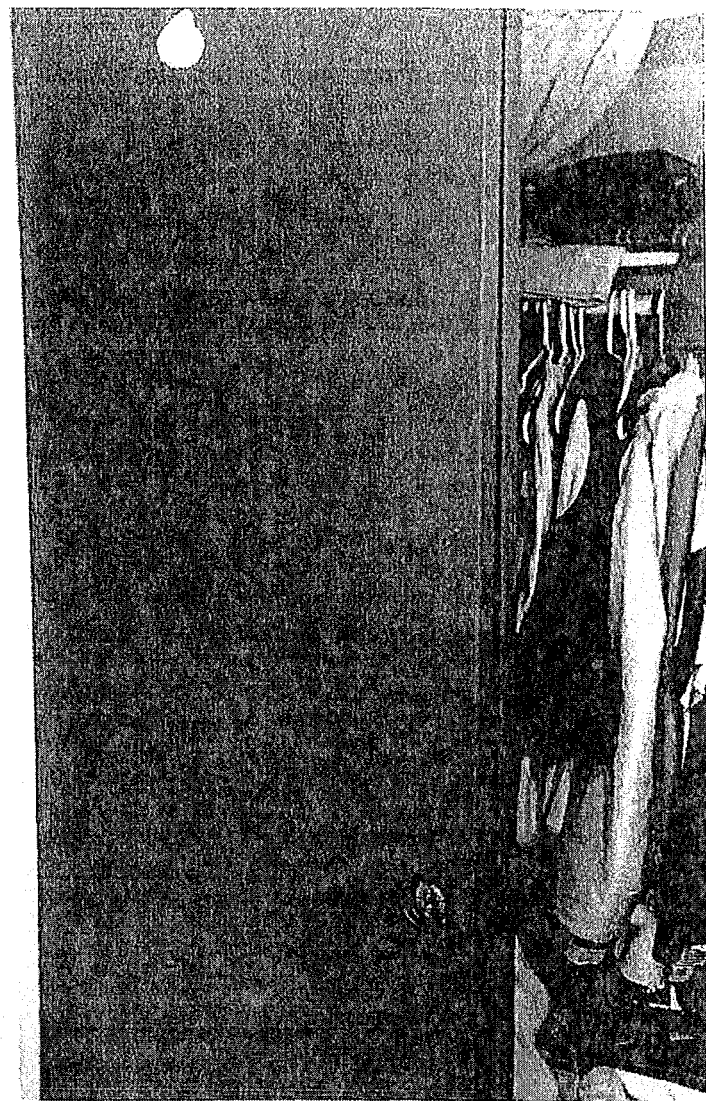
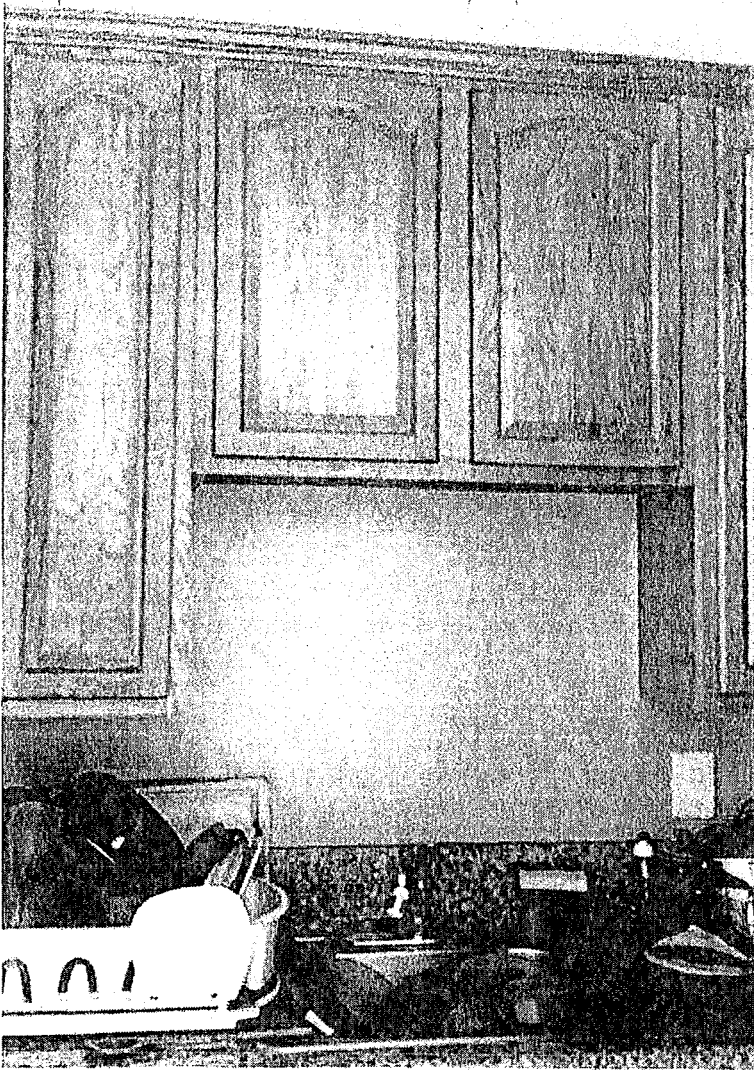
Prior base rent	\$790.00
Banking limit this year (3 x current CPI and not more than 10%)	5.1%
Banking available this year	\$ 40.29
Banking this year + base rent	\$ 830.29
Prior capital improvements recovery	\$ -
Rent ceiling w/o other new increases	\$ 830.29

Notes:

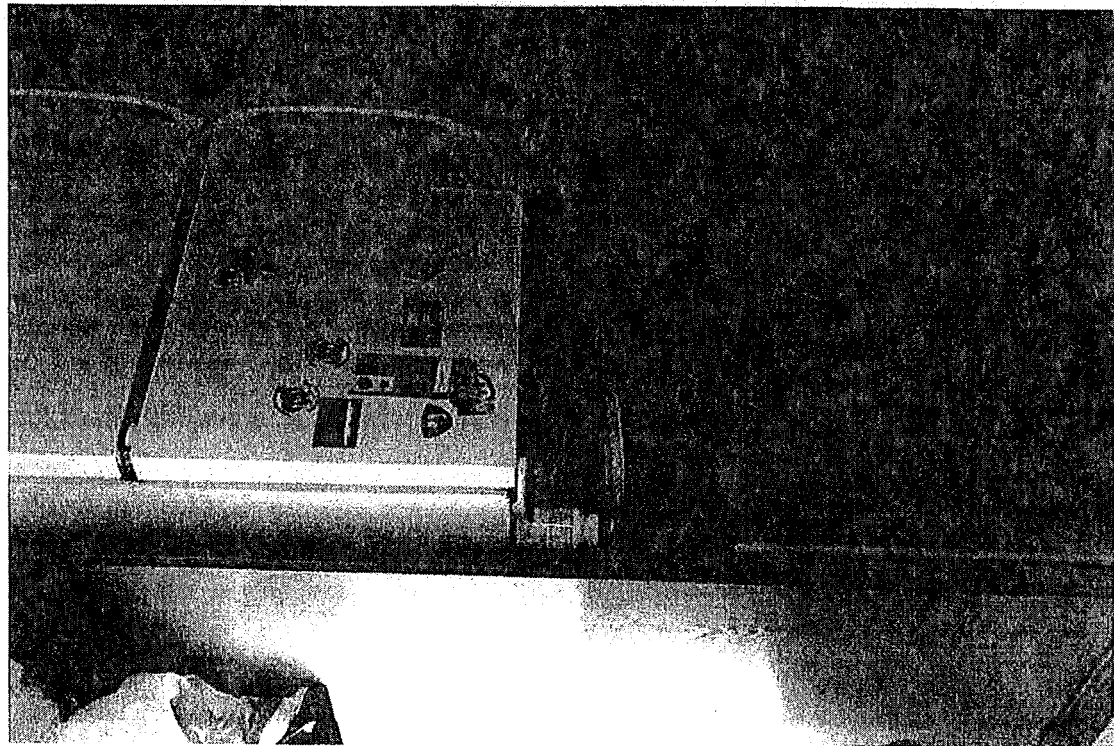
1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases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

Revised April 30, 2015

000289



Tenant Petitioner
Edith Ramirez
1829 Myrtle St. # 7



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

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

For filing stamp.

2013.05.11 11:13

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

CASE NUMBER T 16- 0263

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC LLC	Complete Address (with zip code) 2500 Grant Avenue San Lorenzo, CA 94580	Phone: _____ Email: <u>javierpadilla-opc@sbcglobal.net</u>
Your Representative's Name (if any) Alana Grice Conner, Esq. Liz Hart	Complete Address (with zip code) Fried & Williams, LLP 1901 Harrison St. 14th Floor Oakland, CA 94612	Phone: <u>510-625-0100</u> Fax: <u>510-550-3621</u> Email: <u>info@rentboardmatters.com</u> <u>aconner@friedwilliams.com</u>
Tenant(s) name(s) Edith Ramirez	Complete Address (with zip code) 1829 Myrtle St. #7 Oakland, CA 94607	

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 2/08/06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on May 1st, 2013.

The tenant's initial rent including all services provided was \$ 760 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants? Yes No I don't know If yes, on what date was the Notice first given? 2/28/15 or earlier

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/30/16	5/1/16	\$ 905.54	\$ 918.99	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2/28/15	5/1/15	\$ 760.00	\$ 905.54	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
5/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

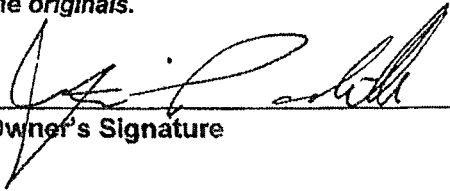
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File Review. You should have received a copy of the petition (and claim of decreased services) filed by your tenant with this packet. Other documents provided by the tenant will not be mailed to you. You may review additional documents in the RAP office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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

6/30/16
Date

VII. MEDIATION AVAILABLE

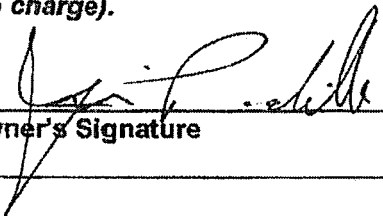
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Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

6/30/16
Date

Ramirez v. SPJC
T16-0263

II. RENTAL HISTORY

The landlord served the petitioning tenant with a rent increase in February of 2015 along with a Notice to Tenants as required. The tenant did not challenge the increase. The tenant paid \$905 beginning (DATE) and continues to pay that amount.

On or about March 30, 2016, the landlord served a rent increase along with a Notice to Tenants as required.

III. DECREASE IN HOUSING SERVICES

Addendum A - Changed conditions

The landlord has the right to change the terms of tenancy under the law.

Response to Addendum B

Edith Ramirez and Jose Rivera
1829 Myrtle St. Unit #7

Bathroom

Item 1.

Landlord is not aware of inadequate ventilation in bathroom. No written or verbal notice has been provided to Landlord. On July 7th 2015, all Tenants were given a letter stating that it was their responsibility to notify in writing of any needed repairs. Said letter also included a copy of the Maintenance Request form to be used. On March 31st of 2016, a new lease was given to Tenant which included a Mold and Mildew Addendum listing the various things that should be done as part of Tenant's responsibilities to avoid mold and mildew in the bathroom. Bathroom has a window and an operating fan. Tenant has a certain amount of responsibility to keep the unit well ventilated by making sure window is opened and fan is turned on as needed. If insufficient, Tenant should also regulate the amount of hot water being used and length of use when showering.

Bedroom

Item 2.

Landlord is not aware of any black mold in the closet. No written or verbal notice has been provided. No mold was noted upon the property inspection performed on March 3rd of 2015 but a picture was taken of the overstuffed bedroom closet. Very poor housekeeping was noted on said inspection and mentioned to tenant. Pets were also an issue, as Tenant was reminded that she was allowed to have only two birds and to keep area of cage clean. A large amount of birds were noted and the area was dirty, including floor and window sill. On Friday June 24th 2016 at approximately 11:00 am Tenant (Mrs. Ramirez) approached Landlord. In the conversation, Landlord mentioned to Tenant that he was unaware of any mold in the closet, or any of the other items mentioned in her petition. The overstuffed closet from the March 2015 inspection was mentioned and Tenant admitted that it was full, still full and that she had nowhere else to put things. Landlord mentioned that the Mold and Mildew Addendum listed the various things that could be done as part of Tenant's responsibilities to avoid mold and mildew. Specifically, it mentions keeping things away from walls and keeping closet door open in order to avoid mold issues.

Item 3.

Landlord is not aware of any yellow spots in bathroom window. No written or verbal notice has been provided to Landlord.

Entire Unit

Item 4.

Landlord is not aware of any spider infestation. No written or verbal notice has been provided to Landlord. On Tuesday June 21st, Omega Pest Control showed up as scheduled, after Tenant had been

properly served to treat unit for a potential spider issue. One of the tenants opened the door. When told the reason for the visit, Tenant stated, "Nah, we don't have any of that here." Technician said that he had a work order to treat the unit. When Tenant was told that he would have to leave the unit for two hours after treatment, Tenant refuse to admit technician in to treat unit.

Apartment Building

Tenant has not been denied permission to have BBQs. An area has been designated specifically for this. On June 5th, Tenant was provided with a new Rental Agreement which included an Open-Flame and Cooking Device Addendum which states, "Devices are to be kept and used in area behind parking spaces #6 & #7, away from building structures & vehicles".

With regards to the claim that tenant is not allowed to have parties, I was at the site on February 19th after a Notice to Cease had been served on Tenants from units #2, 3, 5 & 7, for issues and complaints regarding tenant's participation in excessive parties and disturbances throughout the month of December and January. I was met by the above mentioned Tenants from units #2, 3, 5 & 7 about their continued desire to have parties and I explained to them that due to the lack of control in the events that they'd had, because of complaints associated with said events and because of the lack of space to make those types of events suitable, no parties would be allowed in the common areas. If Tenants had been having the types of parties that we started to become aware of in 2015 and early 2016 much earlier on, we were not aware it. If so, it would not have been allowed as of that time. After an incident with another Tenant who held a large party that got out of control in early 2015, a letter went out to all tenants informing them that there were strict rules about parties.

Other Items of mention.

- A. Tenant currently has an unpaid late fee in the amount of \$75.00 for payments received late in April, May and June of 2016. A notice was mailed to her on June 5th. On Friday June 24th Tenant said she would pay within a couple of weeks.

Ramirez v. SPJC
T16-0263

II. RENTAL HISTORY

The landlord served the petitioning tenant with a rent increase in February of 2015 along with a Notice to Tenants as required. The tenant did not challenge the increase. The tenant paid \$905 beginning (DATE) and continues to pay that amount.

On or about March 30, 2016, the landlord served a rent increase along with a Notice to Tenants as required.

III. DECREASE IN HOUSING SERVICES

Addendum A - Changed conditions

The landlord has the right to change the terms of tenancy under the law.

T16-0198 MS/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2016 APR 20 11:12:04
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>C. Halli Vargas</i>	Rental Address (with zip code) <i>1829 Myrtle St #2 Oakland CA, 94607</i>	Telephone <i>(510) 326-6234</i>
Your Representative's Name <i>NA</i>	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <i>SPJC LLC</i>	Mailing Address (with zip code) <i>2500 Grant Ave San Lorenzo, CA, 94580</i>	Telephone <i>(510) 278-1291</i>

Number of units on the property: 7

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

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

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

010279

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

Date you moved into the Unit: September 2011 Initial Rent: \$ 895 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 4/1/2016. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>4/1/16</u>	<u>5/1/16</u>	<u>\$954.54</u>	<u>\$988.73</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

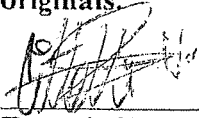
If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying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

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

0250

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

4/20/16
Date

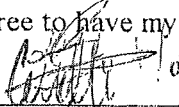
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

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

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

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

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



Tenant's Signature

4/20/16
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. 2011 02 25 11:38:34
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16- 0198

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC, LLC	Complete Address (with zip code) 2500 Grant Avenue San Lorenzo, CA 94580	Phone: <u>(510) 278-1291</u> Email: <u>javierpadilla-opc@sbcglobal.net</u>
Your Representative's Name (if any) Alana Grice Conner Fried & Williams, LLP Liz Hart	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Phone: <u>(510) 625-0100</u> Fax: <u>(510) 550-3621</u> <u>aconner@friedwilliams.com</u> Email: <u>liz.hart1801@gmail.com</u>
Tenant(s) name(s) Citlalli Vargas Arturo Hernandez	Complete Address (with zip code) 1829 Myrtle Street, #2 Oakland, CA 94607	<u>(510) 336-6234</u>

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 2 / 8 / 06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on September 2011.

The tenant's initial rent including all services provided was \$ 895.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? July 1, 2014

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/29/2016	5/1/2016	\$ 954.54	\$ 988.73	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Per Mediation	5/1/2015	\$ 935.00	\$ 954.54	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Per Mediation	7/1/2014	\$	\$ 935.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>5/1/2016</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

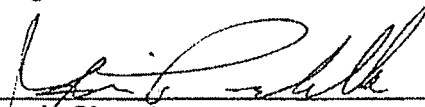
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

5/26/16
Date

VII. MEDIATION AVAILABLE

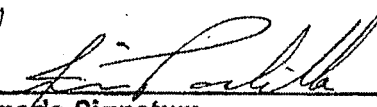
Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

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

Mediation will be scheduled only if both parties request it -- after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition. (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

5/26/16
Date

T16-0245 MS/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp: 2014 OCT 24 PM 3:02
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Citlalli Vargas	Rental Address (with zip code) 1829 Myrtle St. # 2 Oakland CA 94607	Telephone (510) 325-6234
Your Representative's Name NA	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Javier Padilla SPJC LLC	Mailing Address (with zip code) 2500 Grant Ave. San Lorenzo CA 94580	Telephone (510) 278-1291

Number of units on the property: 7

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

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

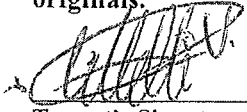
	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).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

TENANT PETITIONER IS MONOLINGUAL SPANISH SPEAKER AND REQUESTS AN INTERPRETER FOR MEDIATION AND HEARING. TENANT ALSO REQUESTS CONSOLIDATION WITH T16-0198

0236

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

5/24/16

Date

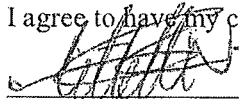
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

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

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

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

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



Tenant's Signature

5/24/16

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

**PLEASE NOTE: TENANT IS MONOLINGUAL SPANISH SPEAKER AND
 REQUIRES A TRANSLATOR FOR MEDIATION AND HEARING**
Addendum A- Changed Conditions

On or about April 1, 2016 the landlord handed the Tenant a folder containing:

- Proposed new lease terms which are materially and substantially different from previous terms and which are being contested in this petition – (attached),
- A notice of rent increase.

Addendum B- Decrease in Services

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Loss of Service
ENTIRE UNIT 1. Black mold throughout the unit.	Since commencement of tenancy	The tenant continues to clean it with bleach and a liquid which is supposedly for mold. The landlord has been shown pictures, has known about the condition for years and has yet to remedy the situation.	NA	20%
APARTMENT BUILDING The landlord has denied tenant permission to have a barbeque even though other tenants are permitted. Moreover, the tenant has been barbequing since she first entered the building back in 2002. Moreover, tenant (along with other tenants who are petitioning recent rent increases) always had parties without any complaints. Now the landlord is refusing to allow the tenant to continue having the barbeques and parties she has previously been permitted to have.	Approximately December 2015	Landlord notified tenant.	NA	15%

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp.
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16 - 0265

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC, LLC	Complete Address (with zip code) 2500 Grant Avenue San Lorenzo, CA 94580	Phone: (510) 278-1291 Email: javierpadilla-opc@sbcglobal.net
Your Representative's Name (if any) Alana Grice Conner Fried & Williams, LLP Liz Hart	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Phone: (510) 625-0100 Fax: (510) 550-3621 aconner@friedwilliams.com Email: liz.hart1801@gmail.com
Tenant(s) name(s) Citlalli Vargas Arturo Hernandez	Complete Address (with zip code) 1829 Myrtle Street, #2 Oakland, CA 94607	(510) 336-6234

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 2 / 8 / 06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on September 2011.

The tenant's initial rent including all services provided was \$ 895.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM** ("RAP Notice") to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? July 1, 2014

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/29/2016	5/1/2016	\$ 954.54	\$ 988.73	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Per Mediation	5/1/2015	\$ 935.00	\$ 954.54	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Per Mediation	7/1/2014	\$	\$ 935.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>5/1/2016</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

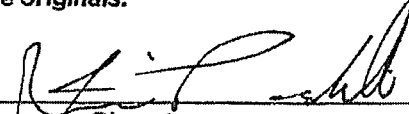
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

6/30/16
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

6/30/16
Date

Response to Addendum B

Arturo Hernandez and Citlali Vargas
1829 Myrtle St. Unit #2

Item 1.

Landlord is not aware of any black mold throughout the unit. No written or verbal notice has been provided. In late 2014, the unit was primed with 'kilz' and painted throughout, using colors of the Tenant's liking. No mold was noted upon the property inspection performed in March of 2015 and when asked if anything else needed repairs, Tenant stated that everything was fine. In July of 2015, all Tenants were given a letter stating their responsibility to notify in writing of any needed repairs, which included a blank copy of the form to be used. The only Maintenance Request form received by Tenant was in September of 2015 regarding peeling paint on a kitchen wall. The cosmetic item was taken care of. On May 5th of 2016, tenant was provided with a new Rental Agreement that included a Mold and Mildew Addendum which states tenant's responsibility to notify of any problems. No such notice was received from tenant either written, as required, or verbal.

Second item regarding Apartment Building

Tenant has not been denied permission to have BBQs. An area has been designed specifically for this. On May 5th, Tenant was provided with a new Rental Agreement which included an Open-Flame and Cooking Device Addendum which states, "Devices are to be kept and used in area behind parking spaces #6 & #7, away from building structures & vehicles".

With regards to the claim that tenant is not allowed to have parties, I was at the site on February 19th after a Notice to Cease had been served on Tenants from units #2, 3, 5 & 7, for issues and complaints regarding tenant's participation in excessive parties and disturbances. For subject Tenant, said notice also included the issue of subletting the unit. While doing a scheduled walk through of Tenant's unit to confirm that Tenant had complied with the second notice to cease the subletting of the unit, I was met by the above mentioned Tenants from units #2, 3, 5 & 7 about their continued desire to have parties and I explained to them that due to the lack of control in the events that they'd had, because of complaints associated with said events and because of the lack of space to make those types of events suitable, no parties would be allowed in the common areas. If Tenants had been having the types of parties that we started to become aware of in 2015 and early 2016 much earlier on, we were not aware. If so, it would not have been allowed as of that time.

Other items of mention

1. Tenant continues to carry on buying and selling things from the street actively out of his unit, allowing unauthorized people into the premises. He has been warned since 2014. Merchandize has been observed in the unit in the past and various individuals have been observed on different occasions going to his door offering to sell him items.
2. Tenant also continues to leave mops and buckets, etc. hanged on the security bars or obstructing walkways causing potential evacuation hazzards.

Tk. 0199 MS/BKB

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp 2015 JUN 20 11:12:11</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Haydee Gonzalez	Rental Address (with zip code) CA. 94607 1829 Myrtle St Oakland	Telephone (510) 328 0745
Your Representative's Name NA	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Javier Padilla SPIC LLC	Mailing Address (with zip code) 2500 Grant Ave San Lorenzo, CA 94580	Telephone (510) 278-1291

Number of units on the property: 7

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

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

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

010294

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

Date you moved into the Unit: April - 2012 Initial Rent: \$ 725.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 03-28-16. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>03-28-16</u>	<u>5-1-16</u>	<u>\$ 762.47</u>	<u>\$ 827.51</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

00295

IV. VERIFICATION: The tenant must sign:

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

Hayden

Tenant's Signature

04-20-16

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. 2016 MAR 25 PM 3:24
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16 - 0199

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC, LLC	Complete Address (with zip code) 2500 Grant Avenue San Lorenzo, CA 94580	Phone: <u>(510) 278-1291</u> Email: <u>javierpadilla-opc@sbcglobal.net</u>
Your Representative's Name (if any) Alana Grice Conner Fried & Williams, LLP Liz Hart	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Phone: <u>(510) 625-0100</u> Fax: <u>(510) 550-3621</u> aconner@friedwilliams.com Email: <u>liz.hart1801@gmail.com</u>
Tenant(s) name(s) Haydee Gonzalez	Complete Address (with zip code) 1829 Myrtle Street, #3 Oakland, CA 94607	(510) 328-0745

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 2 / 8 / 06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on April 2012 (per tenant petition)

The tenant's initial rent including all services provided was \$ 725.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? March 26, 2015

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/30/2016	5/1/2016	\$ 790.63	\$ 827.51	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3/26/2015	5/1/2015	\$ 745.00	\$ 790.63	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
5/1/2016	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

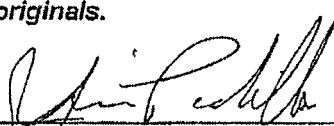
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

5/26/16

Date

VII. MEDIATION AVAILABLE


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

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

Mediation will be scheduled only if both parties request it -- after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition. (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

5/26/16

Date

T16-0264 MS/BKB

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp.</p> <p style="text-align: center;">APR 27 2014 3:01</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Haydee Gonzalez	Rental Address (with zip code) 1829 Myrtle St. # 3 Oakland CA 94607	Telephone (510) 328-0745
Your Representative's Name NA	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Javier Padilla SPIC LLC	Mailing Address (with zip code) 2500 Grant Ave. San Lorenzo CA 94580	Telephone (510) 278-1291

Number of units on the property: 7

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

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

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

TENANT PETITIONER IS MONOLINGUAL SPANISH SPEAKER AND REQUESTS AN INTERPRETER FOR MEDIATION AND HEARING. TENANT ALSO REQUESTS CONSOLIDATION WITH T16-0199

IV. VERIFICATION: The tenant must sign:

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

[Signature]
Tenant's Signature

5/24/16
Date

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

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

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

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

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

[Signature]
Tenant's Signature

5/24/16
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Tenant Petition
 Haydee Gonzalez
 1829 Myrtle Ave. #3

**PLEASE NOTE: TENANT IS MONOLINGUAL SPANISH SPEAKER AND
 REQUIRES A TRANSLATOR FOR MEDIATION AND HEARING**

Addendum A- Changed Conditions

Please note: on or about March 28, 2016 Tenant's husband discovered on the ground next to a window a Notice of Rent Increase that purported to raise tenants' rent from \$762.47 to \$790.63 based on capital improvements and banking in February 2015. Not only did the tenants never receive this notice, at no point in the past year has the landlord inquired or demanded \$790.63 in rent.

Addendum B-Decrease in Services

Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
KITCHEN:				
1. Since tenants commenced their tenancy, the oven/stove fan does not adequately ventilate the kitchen. Moreover, despite tenants' best efforts to maintain the kitchen, including cleaning approximately once a week, there is an inordinate amount of buildup on the cabinets.	Since commencement of tenancy.	Advised verbally on multiple occasions.	NA	5%
2. Cabinets are in disrepair. They are falling and then when the tenants clean the cabinets the paint starts to peel. This is a safety concern in light of their children's presence in the unit.	Approximately January 2015.	Advised verbally on or about June 2015 and on at least one other occasion.	NA	5%
ENTIRE UNIT:				
4. Cockroach infestation. The landlord at one point fumigated but stopped doing so in late 2015.	For approximately 2 years.	Verbally on multiple occasions.	NA	10%

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp.
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16 - 0264

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC, LLC	Complete Address (with zip code) 2500 Grant Avenue San Lorenzo, CA 94580	Phone: <u>(510) 278-1291</u> Email: <u>javierpadilla-opc@sbcglobal.net</u>
Your Representative's Name (if any) Alana Grice Conner Fried & Williams, LLP Liz Hart	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Phone: <u>(510) 625-0100</u> Fax: <u>(510) 550-3621</u> <u>aconner@friedwilliams.com</u> Email: <u>liz.hart1801@gmail.com</u>
Tenant(s) name(s) Haydee Gonzalez	Complete Address (with zip code) 1829 Myrtle Street, #3 Oakland, CA 94607	 (510) 328-0745

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 2 / 8 / 06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on April 2012 (per tenant petition)

The tenant's initial rent including all services provided was \$ 725.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? March 26, 2015

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/30/2016	5/1/2016	\$ 790.63	\$ 827.51	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3/26/2015	5/1/2015	\$ 745.00	\$ 790.63	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	2013	\$ 725.00	\$ 745.00	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>5/1/2016</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

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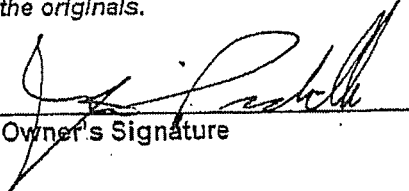
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

6/30/16
Date

VII. MEDIATION AVAILABLE

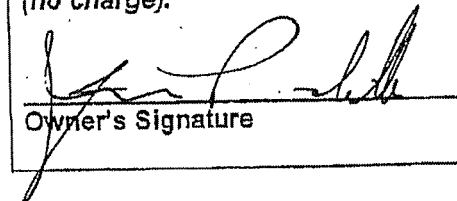
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Mediation will be scheduled only if both parties request it -- after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition. (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

6/30/16
Date

Valencia/Gonzalez v. SPJC
T16-0264

I. RENTAL HISTORY

The rent increase does not exceed 10%. This is a banked rent increase. The increase was served and filed. The Notice to Tenants was served with the rent increase in March 2015.

III. DECREASE IN HOUSING SERVICES

Addendum A - Changed conditions

The landlord has the right to change the terms of tenancy under the law.

Response to Addendum B

Domingo Valencia and Haydee Gonzalez
1829 Myrtle St. Unit #3

Kitchen

Item 1.

Landlord is not aware of the oven/stove fan being an issue. No written or verbal notice has been provided. Fan operates and ventilates. On July 7th of 2015, all Tenants were given a letter stating that it was their responsibility to notify in writing of any needed repairs. Included with said letter was a blank copy of the form to be used. The only written request, which was not written on the form that had been provided, received from Tenant was in December of 2015 regarding a minor seeping water leak in the toilet tank base. The leak was taken care of.

There are reasons why the kitchen may be greasy, grindy and dirty, but it is not due to the fan and the dirtiness isn't just limited to the kitchen. Tenant has been told repeatedly to keep the unit clean, as noted in the Summary of the inspection that took place on March 3rd, 2015. This housekeeping issue has been mentioned to the Tenant on several occasions by both landlords and most recently on February 19th, 2016 when said Tenant and five other Tenants approached landlord about their desire to continue having parties in the parking lot. The statement that the Tenant made that she cleans the kitchen at least once a week is false. Even if tenant cleaned once a week it would not be enough, based on the use that the tenant gives it. Tenant cooks a lot, uses a lot of grease and oil in her foods and does a poor job of cleaning.

There appears to be too many occupants in the one bedroom unit. Upon becoming subsequent Tenants (supposedly) of the unit, around June of 2012, approximately three months after Mr. Valencia's nephew had signed the initial Rental Agreement, Mr. Valencia stated on his Rental Agreement that there were two adults and one child occupying the unit. Since then, he and his wife had only one child. On June 24th of 2015, all Tenants were asked to confirm the number of people residing in each unit after we had dealt with other cases of unauthorized subleasing. Haydee stated that there were two adults, one child and one new born. It has been since confirmed that there are two adults and four children. For a small one bedroom unit, six people is inadequate and we believe that this is the reason that the Tenants lied on the Rental Agreement. Further, it has been our recent belief that Mr. Valencia's nephew was only a front to get Mr. Valencia into the unit in 2012.

Item 2.

Landlord is not aware of the cabinets being in disrepair. No written or verbal notice has been provided. Tenant has a certain amount of obligation to keep the unit in good condition including tightening cabinet screws to prevent actual damage to cabinets and using proper cleaning products. Unit #3 was one of the few not to have the kitchen remodeled within the past five years. The reason for this is that it had one of the better kitchens prior to Mr. Dominguez moving in. The bathroom had been re-done, just prior. An inspection of the unit will take place soon.

Item 4.

At the time of the receipt of this notice, Landlord was not aware of any cockroach infestation. No written or verbal notice had been provided. Around September of 2014, approximately, we became aware that three units were affected. We scheduled regular treatment of the affected units starting October 17th of 2014 and it continued into early 2015. On March 17, 2015 Tenant did not answer the door to have unit serviced. On May 26th another attempt was made to service the unit and Tenant had not emptied the cabinets as required. On June 2nd another attempt was made to service the unit but Tenant did not answer door. Recently, after receiving Tenant's Petition an appointment was scheduled to service the unit. On June 21st a technician showed up at approximately 1:45. Tenant had prepped the cabinets and the area got sprayed. Afterward I obtained the number of the technician, who happened to be the same person that had serviced the unit in the past, Nathan Luben. (Please see my hand written notes.) Mr. Luben explained that the area was dirty and that there were lots of food scraps all over the kitchen. Despite that, he said, he saw that it was slightly better than what it used to look like. He suggested follow up treatment, but stated that before he was called back, tenant needed to clean up the kitchen well and not have so much food scrap everywhere.

Item 5.

Landlord is not aware of any black mold throughout the unit. No written or verbal notice has been provided. No mold was noted upon the property inspection performed on March 3rd of 2015. Tenant was told to remove the large boxes that obstructed the hallway for safety reasons so that we could replace the thermostat which was now broken and missing the cover. Tenant was not charged for this. Tenant was also told to remove a chest away from the window safety release latch in the bedroom. On June 24th a follow up visit to do some minor repairs took place. Afterward, Tenant was asked if everything else was fine, Tenant stated that, "Yes" everything was fine. On June 3rd of 2016, tenant was provided a new Rental Agreement that included a Mold and Mildew Addendum which states tenant's responsibilities in preventing mold and also to notify of any problems. No such notice was received from tenant either written, as required, or verbal.

Item 6.

Landlord is not aware of any peeling paint. No written or verbal notice has been provided. No peeling paint was noted during the property inspection performed on March 3rd of 2015. On June 3rd of 2016, tenant was provided a new Rental Agreement that included a Lead Paint Disclosure and a Lead Paint Pamphlet.

Apartment Building

Item 7.

Tenant has not been denied permission to have BBQs. An area has been designated specifically for this. On June 5th, Tenant was provided with a new Rental Agreement which included an Open-Flame and Cooking Device Addendum which states, "Devices are to be kept and used in area behind parking spaces #6 & #7, away from building structures & vehicles".

With regards to the claim that tenant is not allowed to have parties, I was at the site on February 19th after a Notice to Cease had been served on Tenants from units #2, 3, 5 & 7, for issues and complaints regarding tenant's participation in excessive parties and disturbances throughout the month of December and January. I was met by the above mentioned Tenants from units #2, 3, 5 & 7 about their continued desire to have parties and I explained to them that due to the lack of control in the events that they'd had, because of complaints associated with said events and because of the lack of space to make those types of events suitable, no parties would be allowed in the common areas. If Tenants had been having the types of parties that we started to become aware of in 2015 and early 2016 much earlier on, we were not aware it. If so, it would not have been allowed as of that time. Mr. Valencia had already been given a Notice to Cease in early 2015, approximately, for holding a large party of approximately 70 people with live music that went on until the late hours of the night. There were complaints of a fight breaking out involving people that had had too much to drink and sounds of broken glass bottles. The place was a mess the day after with trash, pieces of decorative paper and broken bottles everywhere, but Tenants were in the process of cleaning up when landlord arrived to see about the complaints that had been received. Mr. Valencia became aggressive and disrespectful when asked about the party, stating that he had a right to throw his parties because he paid his rent. He was told that small gatherings that did not disrupt others were fine, but not what he had held the night before. Tenant also ended up cleaning up the front area of decorative paper pieces, empty cups and bottles, etc. even after refusing to do so, stating that that was not his problem because "the kids and the wind had blown those items to those areas and it wasn't his responsibility. It was evident that the guests were all over the premises. A letter went out to all tenants within a week after that, informing them that no more parties of over approximately 25 guests would be allowed and that all tenants had to respect quiet hours, etc.

With regards to the claim that parking services have been reduced (handwritten item on Petition), Mr. Valencia has always known that he is not to perform mechanical work on the premises as stated on his Rental Agreement but still has, on several occasions, over his stay. He had been told to remove the mechanic ramps from the parking area and has just removed them in June of 2016. He had been told about the oil stained parking stall since early 2016. He was mailed a written warning for the oil stains on June 15th. He has been told verbally and in writing with notes being left on his truck and on his door about not parking his commercial truck inside the premises since early 2015 yet continues to do so, as recently as May 4th and June 16th of 2016. A written notice was mailed to him about the commercial truck on June 15th. The new Rental Agreement given to him on June 3rd included a Parking/Garage Rental Agreement which addresses all said items.

Other Items of mention.

- A. Tenant currently has an unpaid late fee in the amount of \$25.00 for the month of January 2016. Payment was received by landlord on the 6th of January. The first Late Fee Notice was sent on January 8th. A call was placed to him around March where tenant said it was not his problem and refused to pay. A second notice went out on June 13, 2016.

Tenant has a long history of Late payments going back to July of 2014. By early 2015, Tenant accumulated a total of \$125.00 in Late Fees. By early 2015, after many notices and a couple of phone calls, Tenant paid late fees by mid 2015.

Rent for the month of May 2015 was not received until the end of May. Landlord called Mr. Valencia shortly after 5th of the month to let him know that the payment had not been received. Mr. Valencia got extremely hostile and insulting, stating that it was not his problem, but mine. He stated that he'd mailed the Money Order, that it was the Post Office's problem then, "...so talk to them and don't bother me anymore". Not wanting to make much of the issue and knowing that Haydee had just recently had a child, I made a couple more calls in which Mr. Valencia continued being hostile to make him understand his responsibility to pay. I managed to convince Mr. Valencia, speaking calmly to him and explaining to him that it actually *was* his problem and that only *he* could go to where he purchased the money order to see if it had cleared. No copies of the Money Order receipt were ever produced. I told Mr. Valencia nicely that it was not his intention to evict him, which he had the right to do, but if he didn't cooperate he would have no choice. Around the 20th of May Mr. Valencia finally agreed to and straightened things and I was finally able to deposit the May payment in June.

- B. Tenant has chairs and other items under stairwell which he has been told to remove. Tenant continues to ignore landlord.
- C. Tenant continues to hang items on window safety bars and leaves items on walkways. A letter was sent on March 20, 2015 asking Tenant not to hang things from security bars and to keep walkways clear at all times; another letter was sent on January 8th, 2016; another letter on June 8th and finally, it has been stated on the new Rental Agreement.
- D. On December 21st 2015 Tenants took down smoke detectors and took batteries out of unit. Tenants have been told on numerous occasions not to tamper with the smoke detectors.

Tile - 0200 MS / BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp: 2015 JUN 29 PM 12:11
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Delia Vargas</i>	Rental Address (with zip code) <i>1829 Myrtle St Oakland CA 94607</i>	Telephone <i>(510) 689 6157</i>
Your Representative's Name <i>N/A</i>	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <i>Javier Padilla SPJC LLC</i>	Mailing Address (with zip code) <i>2500 Grant Ave. San Lorenzo CA 94580</i>	Telephone <i>(510) 278 -1291</i>

Number of units on the property: 7

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

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

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

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

Date you moved into the Unit: Febrero-2010 Initial Rent: \$ 895.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 3-28-16. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>3-28-16</u>	<u>5-1-16</u>	<u>\$ 1,107.69</u>	<u>\$ 1,146.77</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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

Delia Vargas
Tenant's Signature

04-20-16
Date

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

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

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

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

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

Delia Vargas
Tenant's Signature

04-26-16
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase? <input type="checkbox"/> Yes <input type="checkbox"/> No
		From	To	
3/28/16	Rescinded	\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
5/1/2016	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

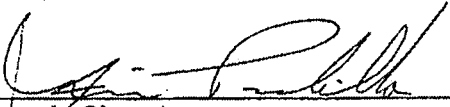
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

5/26/16

Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition. (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

T16-0299 MS/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2017/07/31 AM 10:40
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Delia Vargas	Rental Address (with zip code) 1829 Myrtle St. # 5 Oakland CA 94607	Telephone (510) 689-6157
Your Representative's Name NA	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Javier Padilla SPJC LLC	Mailing Address (with zip code) 2500 Grant Ave. San Lorenzo CA 94580	Telephone (510) 278-1291

Number of units on the property: 7

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

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

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

TENANT PETITIONER IS MONOLINGUAL SPANISH SPEAKER AND REQUESTS AN INTERPRETER FOR MEDIATION AND HEARING. TENANT ALSO REQUESTS CONSOLIDATION WITH T16-0200

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

2016/01 8/10/10

Date you moved into the Unit: 2/1/2010 Initial Rent: \$ 895.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 7/1/2014. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
4/1/2016	5/1/2016	\$ 982.69	\$ 1,146.77	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Tenant is not contesting prior rent		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
increases. Moreover, Tenant is also		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
paying \$125/month towards capital		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
improvement costs that were passed		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
through to Tenant.		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

List case number(s) of all Petition(s) you have ever filed for this rental unit: T16-0200; T14-0267

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

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IV. VERIFICATION: The tenant must sign:

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

Dalia Vargas
Tenant's Signature

5/26/2016
Date

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

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

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

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

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

Dalia Vargas
Tenant's Signature

5/26/2016
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Tenant Petition
 Delia Vargas
 1829 Myrtle Ave. #5

**PLEASE NOTE: TENANT IS MONOLINGUAL SPANISH SPEAKER AND
 REQUIRES A TRANSLATOR FOR MEDIATION AND HEARING**

Addendum A- Changed Conditions

On or about April 1, 2016 the landlord handed the Tenant a folder containing:

- Proposed new lease terms which are materially and substantially different from previous terms and which are being contested in this petition (including but not limited to the terms regarding guests) – (attached),
- A notice of rent increase (Notice). The Notice advised Tenant that her rent was increasing effective May 1st. However, in early May the Tenant and Landlord spoke on the phone at which time he advised the Tenant that her rent increase was not going to take effect until August 2016. Tenant has paid the rent of \$982.69 (plus \$125 for capital improvements) for May but the Landlord has not yet cashed her check as of today.

Addendum B- Decrease in Services

Description of Decreased Service	Date this Service was Lost	Date Tenant Notified Landlord and how	Fixed	Loss of Service
ENTIRE UNIT 1. Black mold throughout the unit.	Since commencement of tenancy	Tenant continues to clean it with bleach. The landlord has known about the condition for years and has yet to remedy the situation.	NA	20%
BEDROOMS 2. The floor in both bedrooms is in need of replacing. In some places you can lift the floor.	For approximately 2 years.	The tenant and/or her husband advised the Landlord multiple times. He has also seen the condition of the floors but refuses to replace the floors.	NA	5%
APARTMENT BUILDING The landlord has denied tenant permission to have a barbeque even though other tenants are permitted. Moreover, the tenant has been barbequing since she first entered the building back in 2010. Moreover, tenant (along with other tenants who are petitioning recent rent increases) always had parties without any complaints. Now the landlord is refusing to allow the tenant to continue having the barbeques and parties she has previously been permitted to have.	Approximately 12/2015	Landlord notified tenant.	NA	15%

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. 2010 JUN 08 PM 4:10
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16- 0279

OWNER RESPONSE

Please print legibly.

Your Name Javier Padilla SPJC LLC	Complete Address (with zip code) 2500 Grant Ave. San Lorenzo, CA 94580	Phone: _____ javierpadilla-opc@sbcglobal.net Email: _____
Your Representative's Name (if any) Alana Grice Conner Liz Hart	Complete Address (with zip code) Fried & Williams LLP 1901 Harrison St. 14th Floor	Phone: <u>510-625-0100</u> Fax: <u>510-550-3621</u> aconner@friedwilliams.com Email: _____ liz.hart1801@gmail.com
Tenant(s) name(s) Delia Vargas Alejandro Flota	Complete Address (with zip code) 1829 Myrtle St. #5 Oakland, CA 94607	

Have you paid for your Oakland Business License? Yes No Number 2284553
(Provide proof of payment.)

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

There are 7 residential units in the subject building. I acquired the building on 02 / 08 / 06.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on February 2010.

The tenant's initial rent including all services provided was \$ 895 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 7/1/14 per Mediation

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3/29/16	5/01/16	\$ 1,107.69	\$ 1,146.77	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
This May 1st, 2016 Rent Increase was rescinded - see Letter		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases_)	Increased Housing Service Costs	Capital Improve-ments	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>5/1/16</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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


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

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

6/30/16
Date

VII. MEDIATION AVAILABLE

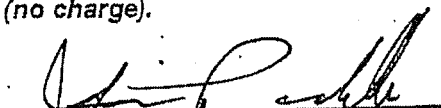
Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition. (Rent Board Regulation 8.22.100.A.)

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

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



Owner's Signature

6/30/16
Date

**Fried
&Williams**
Attorneys at Law

Alana Grice Conner
aconner@friedwilliams.com

April 1, 2016

Alejandro Flota
Delia Vargas
1829 Myrtle Street, #5
Oakland, CA 94607

RE: Rescission of Notice of Termination of Tenancy

Dear Tenants:

Please be advised that the owner is rescinding the Notice of Change to Terms of Tenancy with an effective date of May 1, 2016 served on Mr. Flota on March 28, 2016 and served on Ms. Vargas on March 29, 2016.

If you have any questions or concerns, please call me at 510-625-0100.

Sincerely,
FRIED & WILLIAMS LLP



Alana Grice Conner

cc: Javier Padilla

Vargas v. SPJC
T-16-0279

II. JUSTIFICATION FOR RENT INCREASE

The rent increase notice was rescinded. The monthly rent was paid and all rent checks have been cashed by the landlord.

III. DECREASED HOUSING SERVICES

Addendum A - Changed conditions

The landlord has the right to change the terms of tenancy under the law.

Response to Addendum B

Alejandro Flota and Delia Vargas
1829 Myrtle St. Unit #5

Item 1.

Landlord is not aware of any black mold throughout the unit. No written notice has been provided. No mold was noted upon the property inspection performed on March 3rd of 2015. Afterward, Tenant was asked if anything else needed repair. Mr. Flota stated that everything was fine. On July 7th 2015, all Tenants were given a letter stating that it was their responsibility to notify in writing of any needed repairs. On January 14th 2016, Mr. Flota complained to Landlord while on the premises. Landlord went in to check bathroom and noticed that someone had just taken a shower and the ceiling and walls were covered with water drops. Landlord took a towel and wiped down what appeared to be surface mold, which came off. Landlord told Mr. Flota he needed to open the window when showering, to clean out the fan intake and that it was his responsibility to keep the walls (clean of any water drops). On April 26th, Tenant was given A copy of the Mold and Mildew Addendum which states tenant's responsibilities in preventing mold and also states Tenant's responsibility to notify of any problems, a blank Maintenance Request form, and other documents related to Tenant's refusal to provide a key to the unit (See Notice to Cease dated June 14th). On May 4th of 2016, tenant was provided a new Rental Agreement that included another copy of the Mold and Mildew Addendum. No notice has ever been received from Tenant either written, as required, regarding any mold issues.

On Friday June 24th of 2016, at approximately 6:00 p.m. Tenant allowed landlord access to view alleged mold. The mold shown to landlord was minimal and such was acknowledged by Mr. Flota. Mr. Flota stated that he would clean the area and notify us in writing if there was a problem.

Item 2.

Landlord is not aware of any lifting of the floor. No written or verbal notice had been provided to landlord. No lifting of the floor was noted during the property inspection performed on March 3rd of 2015.

On Friday June 24th, at approximately 6:00 pm Tenant allowed landlord access to view floor in question and noticed no signs of lifting. Floor is in fair condition and not in need of replacing. Mr. Flota agreed that floor is functional. In a Mediation Agreement that took place on September 3rd 2015, Tenants requested that owner not seek any unit specific capital improvement rent increases for two years.

Apartment Building

Tenant has not been denied permission to have BBQs. An area has been designated specifically for this. On June 5th, Tenant was provided with a new Rental Agreement which included an Open-Flame and Cooking Device Addendum which states, "Devices are to be kept and used in area behind parking spaces #6 & #7, away from building structures & vehicles".

With regards to the claim that tenant is not allowed to have parties, I was at the site on February 19th after a Notice to Cease had been served on Tenants from units #2, 3, 5 & 7, for issues and complaints regarding tenant's participation in excessive parties and disturbances throughout the month of

000230

December and January. I was met by the above mentioned Tenants from units #2, 3, 5 & 7 about their continued desire to have parties and I explained to them that due to the lack of control in the events that they'd had, because of complaints associated with said events and because of the lack of space to make those types of events suitable, no parties would be allowed in the common areas. If Tenants had been having the types of parties that we started to become aware of in 2015 and early 2016 much earlier on, we were not aware it. If so, it would not have been allowed as of that time. Mr. Valencia in #3 had already been given a Notice to Cease in early 2015, approximately, for holding a large party causing disturbances and complaints. A letter went out to all tenants within a week after that, informing them that no more parties of over approximately 25 guests would be allowed and that all tenants had to respect quiet hours, etc.

Other Items of mention.

- A. Tenant has a long history of breaking rules and being argumentative and disrespectful. Currently there is a Notice to Cease in place served on June 16, 2016 that includes the following: refusal to allow access to unit, refusal to give landlord a copy of the key to unit, Parking improperly, Hanging items from rail and window safety bars and failure to sign new lease agreement. Tenant only provided landlord with a key for landlord to make a copy, only after landlord asked Tenant for key. This occurred most recently on June the 24th, the final day of the Seven Day Notice. The other items continue to be an issue. Tenant continues to ignore landlord.

- B. On March 24th of 2015, Tenant admitted that there were five additional people living in the unit for a total of nine. It was discovered that the subtenants had been in the unit for approximately one year. During the month of April three notices were sent and a couple of phone conversations took place but subtenants remained. Tenants were served with a Notice to Perform a month later. During mediation landlord disproved Tenant' false claims of Decrease in Services as an attempt to fight eviction. Landlord did not push for eviction.

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