

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

**March 22, 2018
7:00 P.M.
CITY HALL, HEARING ROOM #4
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. L16-0094; Wiebe v. Tenants
 - b. L16-0070; Oakvel Enterprises, Inc. v. Tenants
 - c. E17-0002 & E17-0003; Husain v. Tenants
5. SCHEDULING AND REPORTS
6. ADJOURNMENT

Accessibility. This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandnet.com or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandnet.com o llame al (510) 238-3715 o 711 por lo menos cinco días

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hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 sshannon@oaklandnet.com 或致電 (510) 238-3715 或 711 California relay service。請避免塗搽香氛產品, 參加者可能對化學成分敏感。

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

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

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

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

CHRONOLOGICAL CASE REPORT

Case No.: L16-0094
Case Name: Wiebe v. Tenants
Property Address: 3515 Brighton Ave., 3 units, Oakland, CA
Parties: William Wiebe (Owner)
Alisa Highfill (Tenant)
Bernadette Quattrone (Tenant)
Collin Quillian (Tenant)
Marvin Gleaton (Tenant)
Steve Arnwine (Tenant)
Taylor Campion (Tenant)

OWNER APPEAL

<u>Activity</u>	<u>Date</u>
Owner Petition filed	December 19, 2016
No Tenant Response filed	-
Corrected Hearing Decision issued	July 5, 2017
Owner Appeal filed	July 25, 2017

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		2017 JUL 25 AM 8:58	
Appellant's Name <i>William Wiebe</i>		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) <i>3515 Brighton Avenue, Unit 1, 2, and 3 Oakland CA 94602</i>			
Appellant's Mailing Address (For receipt of notices) <i>278 Connecticut St. San Francisco, CA 94107</i>		Case Number <i>216-0094</i>	
		Date of Decision appealed <i>July 5, 2017</i>	
Name of Representative (if any) <i>N/A</i>		Representative's Mailing Address (For notices) <i>N/A</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. *please see attached.*
 - 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. *please see attached.*
 - 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. *please see attached.*
 - 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. *please see attached.*
 - 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. *please see attached.*
 - 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. *please see attached.*

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 3. Please number attached pages consecutively. *Please see attached.*

3 page Statement of Statement address 3 page photos of building

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on July 25, 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	<i>please see attached</i>	<i>Aisha Hill</i>
Address		<i>3515 Grand Ave #1 94602</i>
City, State Zip		<i>Berkeley CA 94602</i>
		<i>3515 Grand Ave #1</i>
		<i>Oakland, CA 94602</i>
Name		<i>Collin</i>
Address		
City, State Zip		

<i>Will R. Webb</i>	<i>7/24/17</i>
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.

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.

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<u>Name</u>	Alisa Highfill
<u>Address</u>	3515 Brighton Ave #1
<u>City, State Zip</u>	Oakland CA 94602
<u>Name</u>	Bernadette Quattrone
<u>Address</u>	3515 Brighton Ave #1
<u>City, State Zip</u>	Oakland CA 94602

	<u>7/25/2012</u>
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.

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7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached 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 02/25, 2012, 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	Steve Arnuine
Address	3515 Brighton Ave #3
City, State Zip	Oakland CA 94602
Name	Taylor Campion
Address	3515 Brighton Ave #3
City, State Zip	Oakland CA 94602

	DATE <u>2/25/2012</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

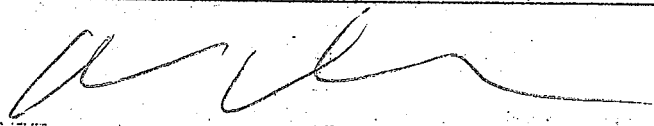
This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file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

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8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on July 21, 2012, 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	Collin Bullian
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94602
Name	Marvin Gleaton
Address	3515 Brighton Ave #2
City, State Zip	Oakland, CA 94602

	7/20/2012
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.

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HRRRB APPEAL GROUNDS STATEMENT

Wiebe v. Tenant - Petition # L16-0094

This ~~is~~ appeal is from the July 5, 2017 Corrected Hearing Decision ("Decision") in the above captioned petition denying a certificate of exemption under the "substantial rehabilitation" provision of the OMC § 8.22.030(B)(2). The appealing petitioner/owner is William Wiebe. The building is located at 3515 Brighton Ave in Oakland. The 3-unit 1920's building underwent a "down to studs" renovation with all new electrical, plumbing, HVAC, gas, insulation, sheetrock, doors, windows, trim/baseboard, paint (interior/exterior), floor tiling, 3 sets of kitchens (cabinets, countertops, appliances), bathrooms (tubs, toilets, vanities, tiling), hardwood floor replacement/refinishing, etc. Although I had a general contractor, I worked at the site daily and directly contracted with virtually all of the service providers.

This *uncontested* petition was heard by Hearing Officer Barbara Cohen. She determined that the minimum rehabilitation expenses needed for the building to be considered "substantially rehabilitated" was \$212,673. I submitted documented expenses of roughly \$300,000 supported by independent corroborating evidence showing either an invoice or payment or both, *but not always both*. These expenses did not include any amounts for my time or labor. The Hearing Officer accepted only \$116,008 in expenses rejecting any that did not have independent corroborating evidence for *both* the invoice and the payment. The Hearing Officer also deemed entire "categories" of expenses, which had been previously approved in multiple other recent "substantial rehabilitation" decisions, to be ineligible (appliances, construction insurance, etc.)

Identified Appeal Grounds

1. Improper Heightened Standard of Proof

- a. The Hearing Officer erred by finding that certain construction expenses - which were independently documented with corroborating evidence and supported by sworn testimony and statements - were *not sufficiently documented* because they did not have independent corroboration for *both* invoices and payments - a requirement which is inconsistent with the HRRRB's precedent in *Ulman v. Breen*, T04-0158 (which requires only that there be some form of "independent" "corroborating evidence" supporting a party's sworn testimonial or summary evidence). It is also inconsistent with other RAP hearing decisions which appear to have allowed expenses based only on the "credible" testimony of the petitioner/owner. See e.g., *Nguyen v. Tenants*, L15-0008.
- b. The Hearing Officer erred by finding that under the "*preponderance of the evidence*" standard there was insufficient evidence to meet the required burden of proof. Under controlling California law, the "*preponderance of the evidence*" standard requires only a showing that a fact or claim is "more likely to be true than not true." See *People v. Bryden*, No. A148203, 2017 WL 383389, at *2 (Cal. Ct. App. Jan. 27, 2017). Given the substantial independent corroborating evidence and supporting sworn statements/testimony provided on the one side and the lack of any contradictory evidence on the other side (or any evidence for that matter), the Hearing Officer's determination is not supported by substantial evidence. See *id.* ("[p]reponderance of the evidence means that the evidence on one side outweighs, preponderates over ... the evidence on the other side.").

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Improperly Disallowed Expense "Categories"

The Hearing Officer erred by concluding that certain expense *categories* were "not allowed," including, *inter alia*, (1) "appliance" costs, (2) the cost of "construction insurance," (3) construction-related transportation costs, and (4) any credit for "owner contributed labor" – all of which *have been allowed in one or more other RAP hearing decisions* See, e.g., *Mapel v. Tenant*, L16-0057 (allowing appliances), *Carta Holdings LLC v. Tenants*, L15-0034 (allowing appliances, construction insurance), *Nguyen*, L15-0008 (allowing appliances, owner contributed labor). The Hearing Officer did not offer any supporting citation and did not otherwise note the inconsistency with these or other RAP hearing decisions. In addition, many (if not all) of the excluded categories are specifically "included cost items" in the *Marshall & Swift* data that the City apparently uses in its Valuation Table (which in turn is used by RAP staff in determining the "substantial rehabilitation" expense threshold).

2. "Missing" Submitted Evidence

In response to the Hearing Officer's requests for certain documents at the end of the first hearing, I obtained the requested documents (within 24 hours of the hearing) – and confirmed that fact by email to the Hearing Officer. Thereafter, to the best of my belief and knowledge, I timely submitted them to RAP prior to rescheduled hearing date. Certain of those documents unquestionably were received and entered into the record. Others apparently were either not received or not properly entered into the record. As such, the Hearing Officer did not have any opportunity to consider them in her Decision. Two "confirming" documents that were include with these "missing" documents, a "zero-balance" statement from Restoration Management and a Declaration from Jesus Martinez, a painter/carpenter on the project were for over \$45,000 (almost half of the shortfall determined by the Hearing Officer).

3. Miscalculations, Omissions, and Classification Errors

There are a number of expenses which were inadvertently omitted or underreported or disallowed by the Hearing Officer in her Decision based upon computational, transcription, or classification errors which should be reviewed and corrected.

4. Due Process Issues

Given the Hearing Officer's use of a heightened (and undisclosed) standard of proof, the inconsistent treatment of similarly situated petitioners, and the limited public access to prior HRRB and RAP hearing decisions and/or written guidance on fundamental issues like the required documentation or allowable expenses, the current petition process raises significant issues of due process and fairness for HRRB/Appeal Panel review and consideration. See *People v. Ramirez* (1979) 25 Cal.3d 260, 268-69 (the California Constitution's due process include "freedom from arbitrary adjudicative procedures).

* * * * *

To address the Hearing Officer's concern regarding independent corroboration of *both* invoices *and* payments, I obtained "confirming" declarations (under penalty of perjury) from the main service providers whose expenses were disallowed. If considered, they would eliminate any remaining doubt and validate these previously submitted (and documented) expenses. I

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spoke with the RAP program analyst for my petition, who recommended that I also contact the RAP Manager, Connie Taylor, to request reconsideration. I am in the process of finalizing that request for reconsideration and supporting document. Absent that reconsideration, I would anticipate requesting an HRRB Appeal Panel evidentiary hearing to consider some of the issues noted above and to seek consideration of the additional "confirming" documents, as is authorized under OMC § 8.22.120B.4.

HRRRB Appeals Form

Please also note, that many of these appeal grounds listed above implicate multiple grounds listed in 1-5 of the HRRRB Appeals Form (and even arguably 6 & 7), in that the claims deal with issues relating to inconsistencies in application of the OMC, prior RAP decisions, and the HRRRB's own decisions, as well as issues under California case and statutory law. It also may implicate areas of policy which the HRRB may not have previously addressed (e.g., allowable expense categories, etc.) – even in the area of appropriate standard of proof (which should be clear from the HRRB's prior decision in *Ulman*, but which appears to be interpreted by the Hearing Officer in a manner that is contrary to *Ulman's* plain language) may raise novel issues for the HRRB/ Appeal Panel. Moreover, the Hearing Officer's application of a standard which purports to be "*preponderance of the evidence*" standard, but which appears in practice to be more akin to a "clear and convincing" standard or even higher, also raises multiple issues in the due process realm - fairness/opportunity to adequately prepare and present, notice, etc. which warrant HRRB deliberative consideration. It also clearly implicates whether the Hearing Officer's decision is supported by substantial evidence.

Please let me know when a hearing date is set so I can plan for briefing accordingly, my understanding from speaking with RAP staff is that I will have the opportunity to fully brief the appeal and provide relevant supporting materials up to 8 days before the hearing date. If that timeframe is not correct please let me know as soon as possible.

Thank you in advance for your consideration of this appeal. Given my significant work on this project, the Hearing Officer's Decision came as a strong and discouraging blow - it is hard to see years of toil and financial investment dismissed as naught.... I tried to be as accurate, truthful, and responsive in my submissions and testimony. I know, without a shadow of a doubt that the project at 3515 Brighton more than meets the requirement for a "substantial rehabilitation." The hundreds of receipts, invoices, cancelled checks and other independent corroborating documents reflect that on their face (and the recent declarations from the tradespeople only further confirm the accuracy of those previously documented and submitted expenses and the veracity of my sworn statements and testimony). I continue to believe that the "truth" matters – even in this day and age – and I appreciate and am grateful for the opportunity to show the HRRRB/Appeal Panel of the merits and justness of this appeal.

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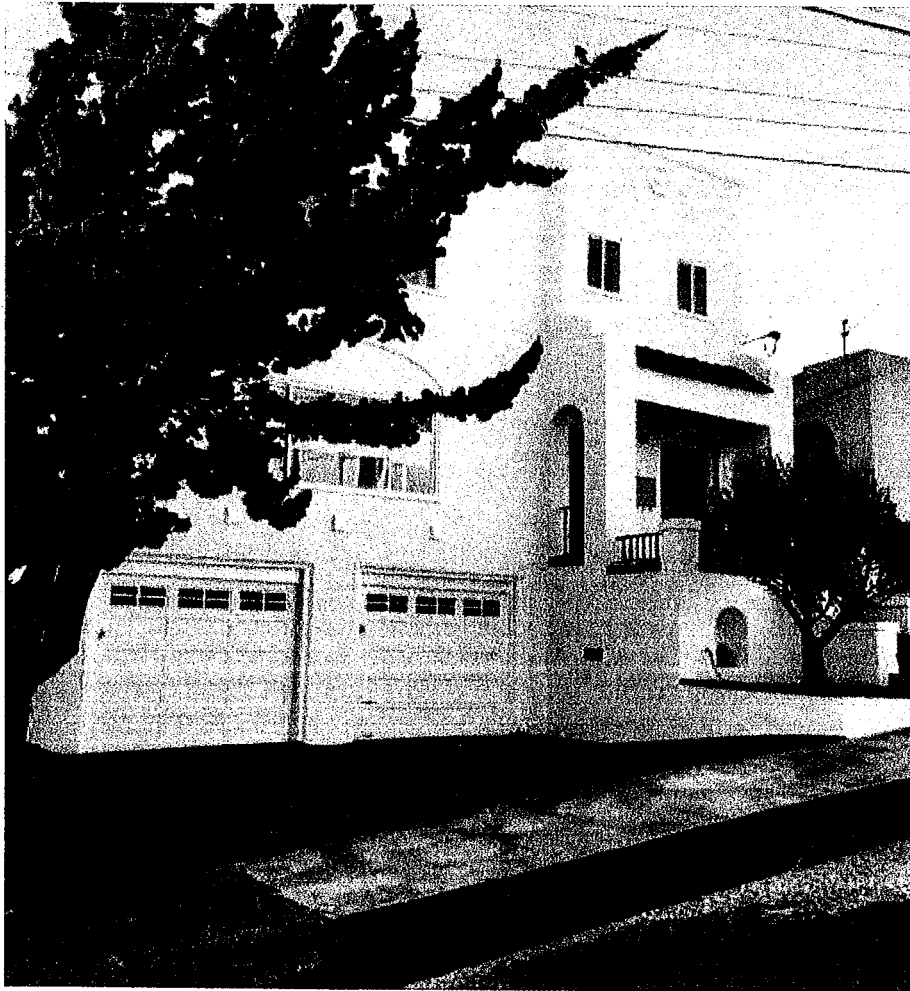
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~~APPEAL~~ EXHIBIT A

Before, During & After Photos
3515 Brighton Ave, Oakland CA



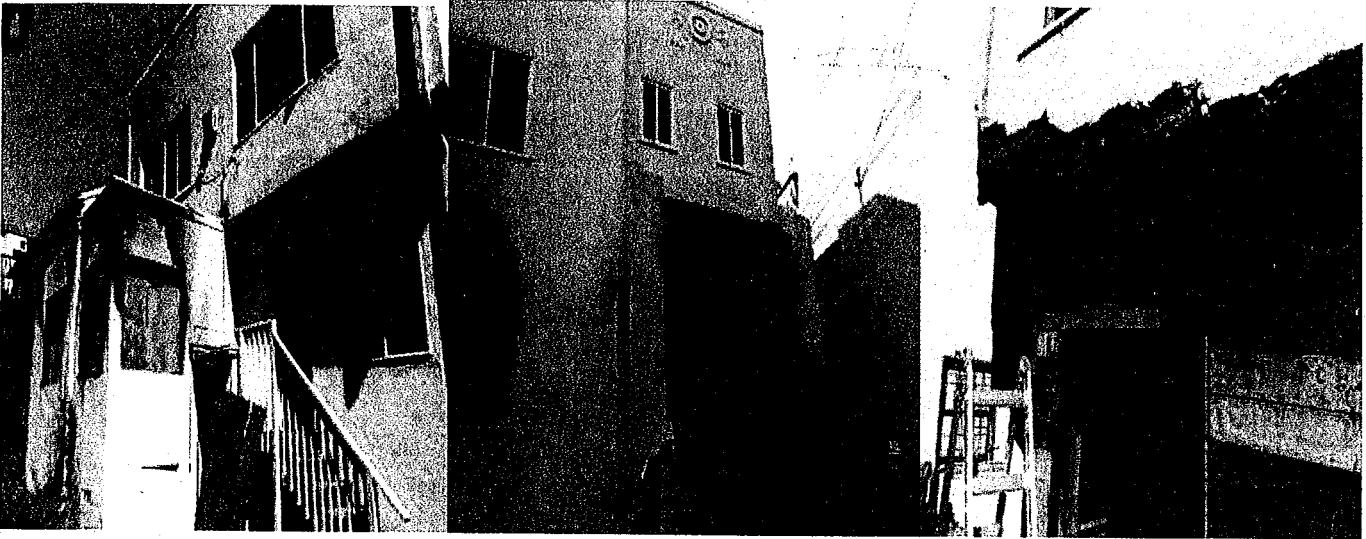
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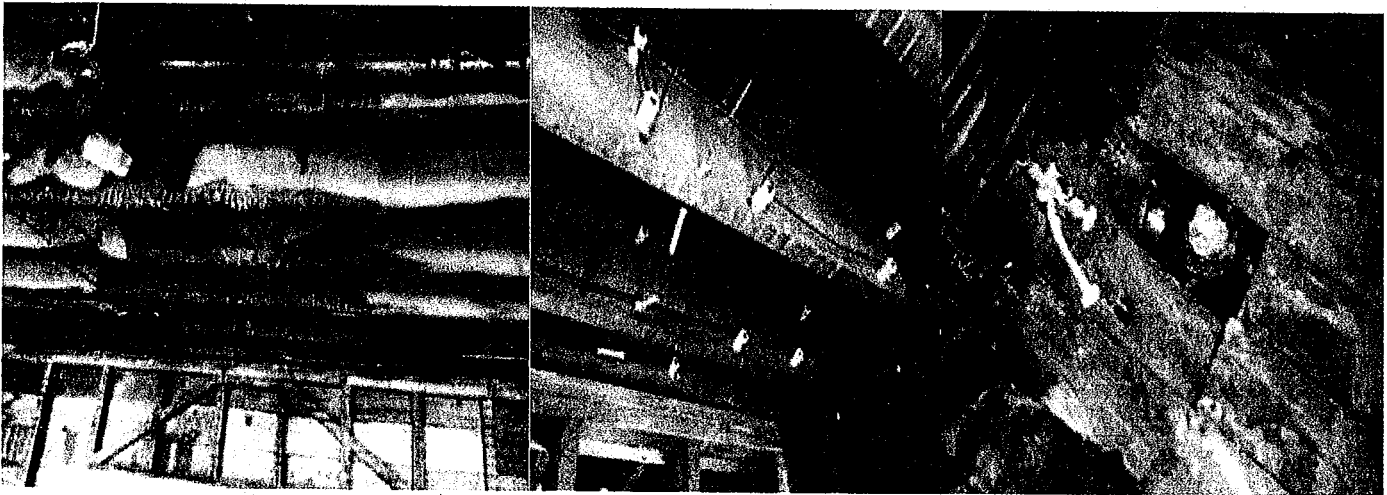
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"Before" Photos – 3515 Brighton Ave



Exterior Damage: windows, doors, stairs, stucco, termite damage and dry rot, etc.

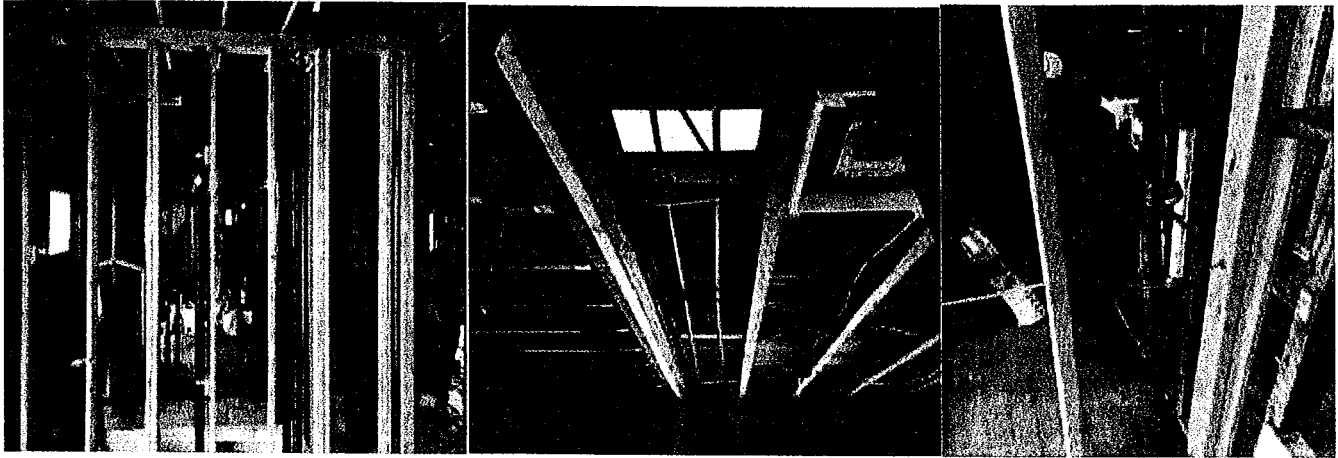


Interior Gutted: damaged joists, exposed knob & tube wiring, no insulation, damage gas and cast iron pipes, leaking galvanized water pipes, damaged subfloors, etc. - uninhabitable.

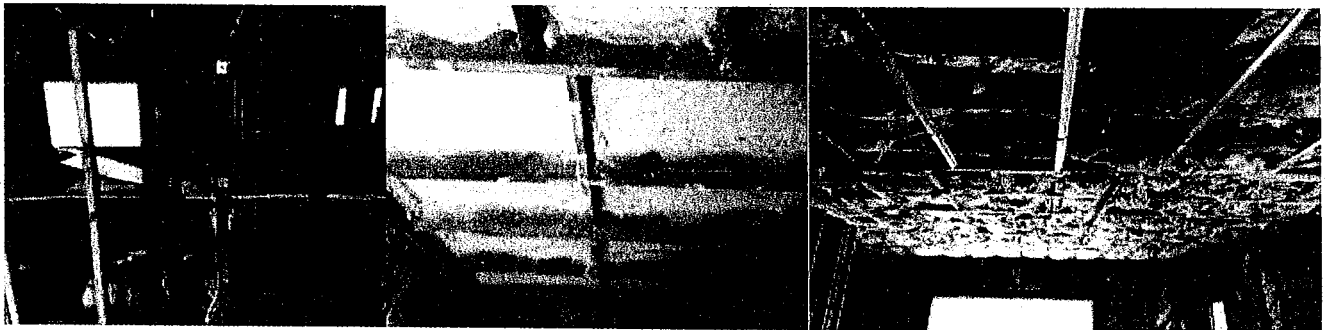
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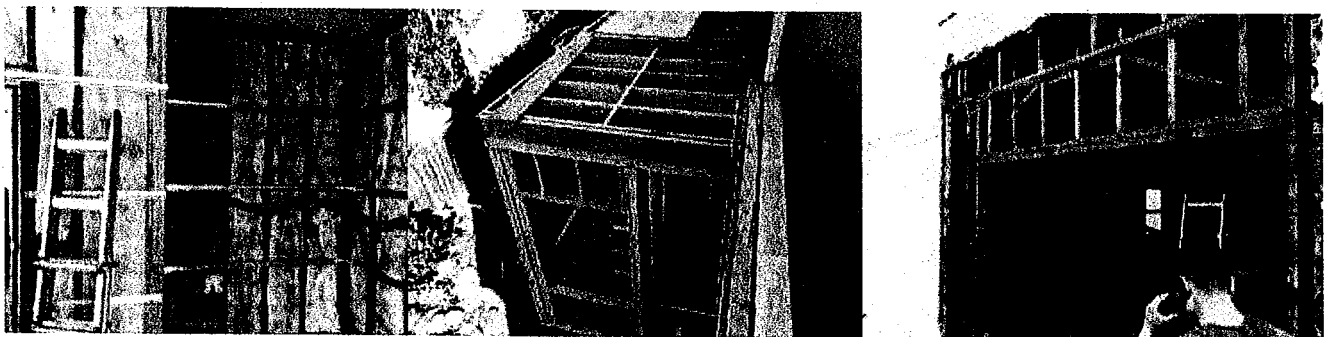
"Work In Progress" Photos- 3515 Brighton Ave



After demolition/abatement work, new walls, new cast iron pipe, new cooper pipes, new gas lines, new recessed lighting (in fireproof box), new Romex electrical wiring, new reinforcing beam, new joist hangers(also note unfinished subfloors).



New electrical boxes and spray foam insulation (in new addition), batten insulation for soundproofing (with RC metal sound channels) exterior wall thermal insulation, and new addition, etc.

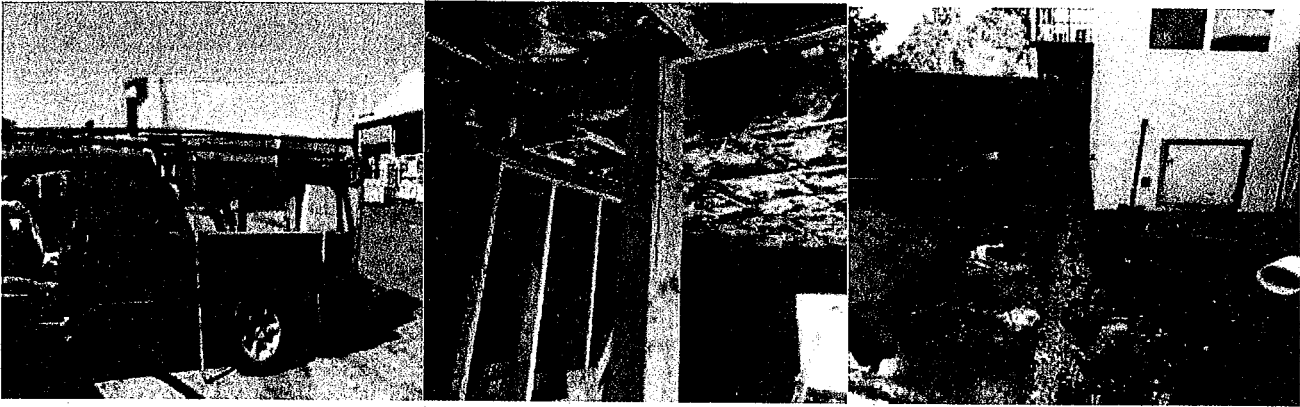


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"Work in Progress" Photos (cont.) – 3515 Brighton Ave



Kitchen Cabinets Load on William Wiebe's Truck, Structural post & beams, drain for building's roof downspouts.



Gen. Contractor hanging new cabinets, new kitchen backsplash tiles, sink, faucet, countertop, new furnace exhaust.

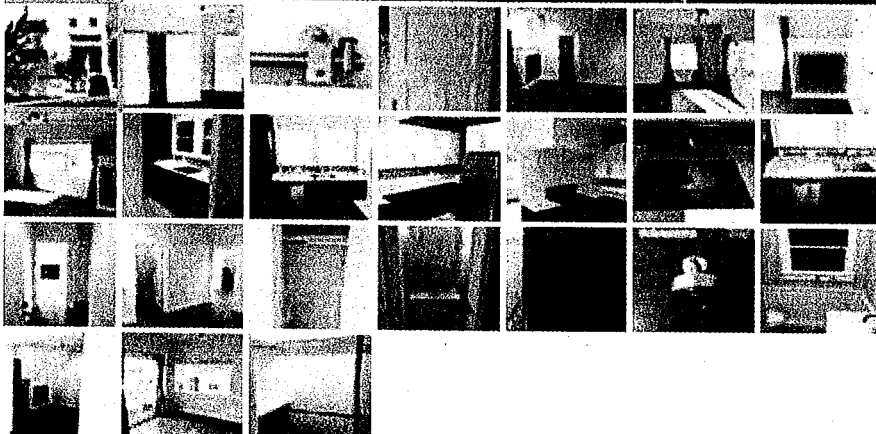


New oak hardwood floors pre-stain and varnishing, new hot water tanks, framing new addition upper floor.

L16-0094

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"After" Photos - 3515 Brighton Ave



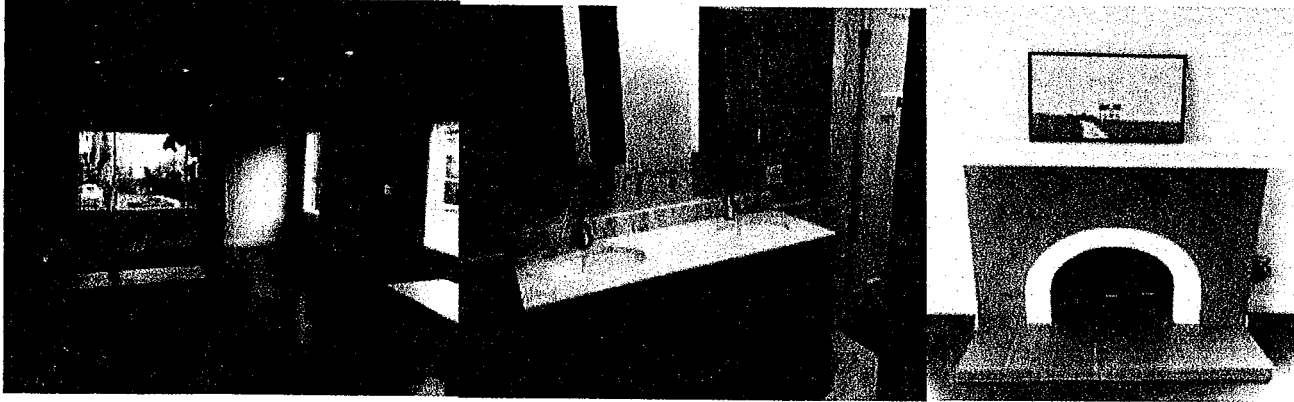
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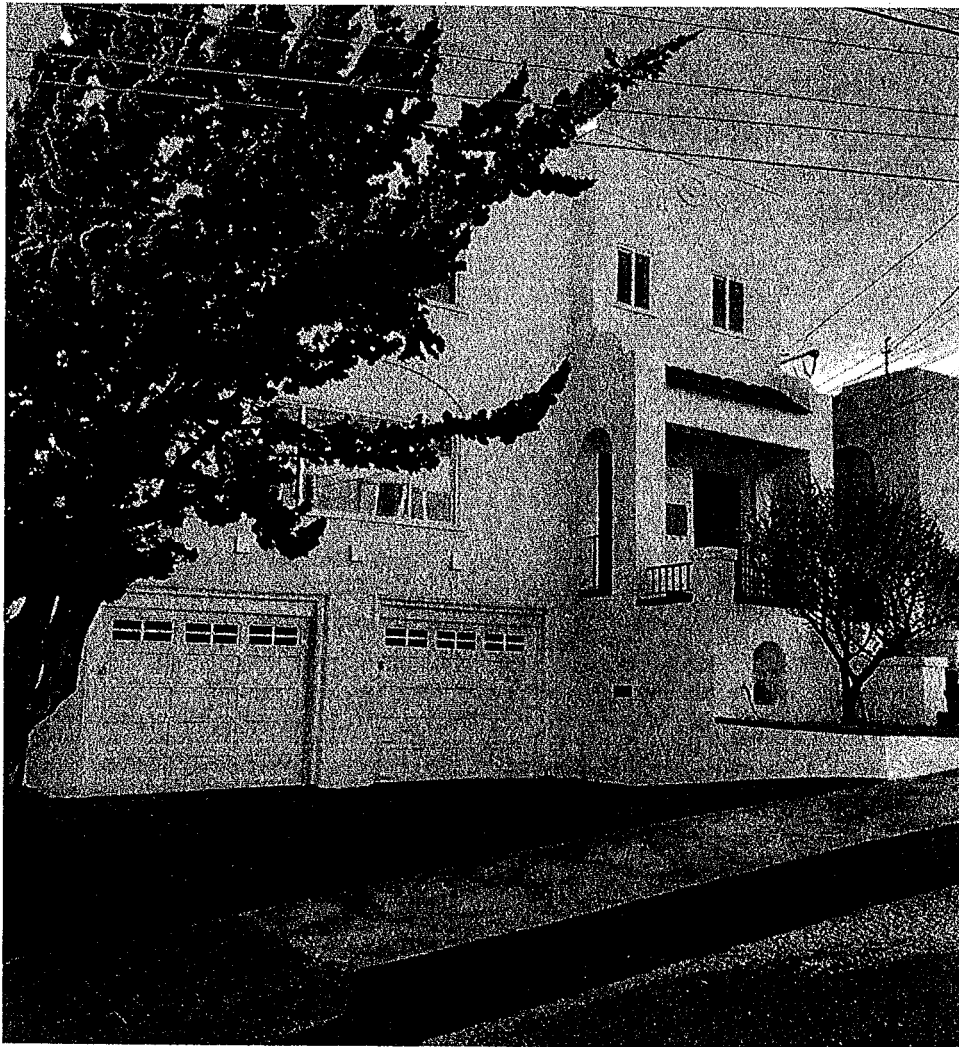
"After" Photos (cont.) - 3515 Brighton Ave



L16-0094

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HRRRB Appeal - Petitioner's Brief
Petition # L16-0094



3515 Brighton Ave Oakland
Wiebe v. Tenant – # L16-0094

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I. Overview

On July 5, 2017 Hearing Officer Barbara Cohen denied my *uncontested* “substantial rehabilitation” petition seeking a certificate of exemption for a 3-unit building at 3515 Brighton Ave, Oakland pursuant to OMC 8.22.030A.6. I timely filed my appeal to the HRRRB on July 25, 2017. I believe that the Hearing Officer’s decision (the Decision) was wrong for the following *six* reasons:

1. First and foremost – because I did incur sufficient expenses necessary for a “substantial rehabilitation,” and I provided “independent,” “corroborating evidence” to support those expenses along with my sworn statements/testimony. In fact, as detailed below, these expenses were well in excess of the minimum threshold amount necessary to qualify the building as “substantially rehabilitated.” To remove *any* remaining uncertainty as to those expenses, I also secured additional documents (sworn 3rd declarations from the service providers, etc.) which unambiguously confirm the previously submitted claims. See Attachment I - *Summary Table and “Confirming” Documents*. I filed and provided these “confirming” documents to Ms. Taylor, the Manager of Oakland’s Rent Adjustment Program (RAP) on July 28, 2017 in support of my request for reconsideration;
2. Because the Hearing Officer erred (1) by finding that certain expenses were *not sufficiently documented* under the HRRRB’s decision in *Ulman v. Breen*, T04-0158 (which requires only that there be some “independent” “corroborating evidence” supporting a party’s sworn testimonial or summary evidence); and (2) by finding that the *uncontested* evidence I presented, which was supported by “independent” “corroborating evidence” and by my sworn testimony and statements was insufficient under the “*preponderance of the evidence*” standard (which, under governing California law, only requires the party with the burden of proof to show that a fact or claim is “more likely to be true than not true”) to prevail;
3. Because evidence, which I prepared in response to the Hearing Officer’s request at the end of the hearing in April and which to the best of my belief and knowledge I timely submitted to RAP, was apparently either not actually received or not properly entered into evidence, and as such the Hearing Officer did not have an opportunity to consider it in her Decision;
4. Because certain expenses were unquestionably omitted, underreported, or mistakenly disallowed by the Hearing Officer in her Decision based upon computational, transcription, and classification errors by RAP staff (and/or the Hearing Officer) in the spreadsheet which was incorporated in the July 5th Decision and should be corrected;
5. Because the Hearing Officer erred by concluding that certain expense “*categories*” were “not allowed,” including (1) “appliance” costs, (2) the cost of “construction insurance,” (3) project-related transportation costs, and (4) credit for “owner-contributed labor” – all of which *have been allowed in one or more recent RAP hearing decisions* and some (if not all) of which are specifically “included cost items” in the *Marshall & Swift* data that the City apparently uses in its Valuation Table (which in turn is used by RAP in determining the “substantial rehabilitation” expense threshold); and finally
6. Because the improperly heightened standard of proof used by the Hearing Officer, the inconsistent treatment of similarly situated petitioners, and the limited public access to prior HRRRB and RAP hearing decisions and the dearth of written RAP guidance raise significant due process and fundamental fairness issues. See *People v. Ramirez*, 25 Cal.3d 260, 268-69 (1979) (California Const. Art. 1 § 7’s due process clause includes “freedom from arbitrary adjudicative procedures”).

II. Background

I am a retired, long-term Bay Area resident. The 3515 Brighton Ave property (where I lived for many years) is my only rental property. It is a 3-unit building built in the 1920s (see Attachment II – (“Before, During, and After” photos of 3515 Brighton Ave building). As a rental property owner, I strive to be a good landlord and have never had any tenant issues raised with the RAP or otherwise.¹ The building at 3515 Brighton had been unoccupied since a fire in July 2014. Since then, I worked diligently to rehabilitate and renovate the building so that it could once again house tenants. It has been my consuming focus, and something I am proud that we achieved in February 2017. The building underwent a “down to studs” renovation with all new electrical, plumbing, HVAC, gas, insulation, sheetrock, doors, windows, trim/baseboard, paint (interior & exterior), floor tiling, three (3) new kitchens (all new cabinets, countertops, appliances), new bathrooms (all new tubs, toilets, vanities, tiling), hardwood floor replacement/refinishing, etc. See Attachment II (photos). The process was not easy: struggling to reach a settlement with the insurance carrier, drafting plans, obtaining permits, hiring numerous tradespeople, and doing much of the actual work of rehabilitating the building myself. Fortunately, I had good tradespeople helping, and I had personal experience, having previously worked as a union concrete finisher and as a painter, tiler, and journeyman carpenter doing construction as I worked my way through high school to a post-graduate degree.

In support of this *uncontested* petition, I gathered all the relevant documents that I had and organized them into broad categories (e.g., plumbing, electrical, sheetrock, lumber, etc.) to help facilitate RAP staff review. I submitted hundreds of receipts, cancelled checks, and other “independent” “corroborating” evidentiary items. These documents, on their face, confirmed that the expenses I incurred were *well over* the \$212,673 required for a “substantial rehabilitation” designation² (totaling roughly \$300,000). At the hearings, I endeavored to answer all the Hearing Officer’s questions openly and honestly and (as discussed below in section III point 3 below) to supply her with those specific additional items that she requested at the end of the first hearing. No tenants attended the hearings or otherwise challenged any aspect of the petition, even though the Hearing Officer, on her own accord, postponed the original April hearing to June in order to allow the new tenants (who did not move into the building until well after the work was completed and the petition filed) an opportunity to participate (which, again, no one did).³ The Hearing Officer made no material adverse credibility findings

¹ I also affirm that my RAP fees are paid and current, as is my Oakland Business Tax.

² This “threshold expense amount” is calculated based upon (i) the square footage of the building and (ii) 50% of the average new construction cost. See OMC 8.22.030B.2.a. This \$212,673 minimum expense was determined by the Hearing Officer and is not in dispute. See Decision at 20. As discussed below, these submitted expenses did *not* include any amounts for the literally *thousands* of hours I personally spent working on the project.

³ This petition was originally filed in December 2016. In my discussions with RAP staff on this issue prior to filing, I was told that since there were no tenants, they would simply mail notices marked to “tenants” to each unit at 3515 Brighton, and retain the returned envelopes as proof of notice – which apparently happened. In the interest of openness/transparency with my new prospective tenants, however, I also explicitly notified each of them in writing (in their respective *draft* leases) that there was a pending petition with RAP for a certificate of exemption from Oakland’s Rent Ordinance. No tenant voiced any concern or objection. As such, I was quite surprised when Hearing Officer Cohen proposed canceling the April hearing with no prior notice on the day of the hearing. At the time, I told the Hearing Officer about the notice I had given to the new tenants, but it was only after I requested the legal basis for her decision canceling the hearing - given that no one on the RAP staff or in any of the RAP materials had advised about such a requirement) that she reluctantly agreed to hold a conditional April hearing (with the proviso that if any of the tenants actually did appear at the rescheduled hearing, the entire April hearing would be nullified). Again, other than the potentially prejudicial delay, inconvenience, and lack of legal citation, I had no objection to the current tenants being given notice, as manifested by my *voluntarily* providing each of them with notice of the pending petition prior to their entering into their respective leases.

regarding my testimony; in fact, during the hearing she observed how helpful it was that I understood the expenses and project so well.

On June 30, 2017,⁴ the Hearing Officer denied my petition for a certificate of exemption under the "substantial rehabilitation" exemption because she deemed certain rehabilitation expenses that I submitted (and supported with "independent" "corroborating evidence" in the form of bills, invoices, statements, canceled checks, etc. and my sworn statements and testimony) were *insufficiently documented* primarily because they were not *always* supported by *both* (i) a written invoice and (ii) payment proof. See Decision at 20-21.⁵ The Hearing Officer also rejected certain other "*categories*" of expenses, such as "appliances" (stoves, dishwashers, refrigerators, washer/dryers, for each unit), "course of construction" insurance, project-related transportation expenses, and a variety of other expenses which the Hearing Officer acknowledged were part of "the project," but that she determined were not "allowable" expenses because they were not "done on the structure of the building," see Decision at 13, even though these categories of expenses had been allowed in multiple other recent "substantial rehabilitation" petitions by multiple other hearing officers. As a result, she accepted only \$116,008 of the roughly \$300,000 in *documented* expenses that I submitted. The difference between the minimum threshold expense amount of \$212,673 and the \$116,008 in "allowed" expenses is **\$96,665**. This is the additional amount of expenses that would be needed for the building to be considered "substantially rehabilitated."⁶

In addition to this HRRRB appeal, on July 28, 2017, I also filed a motion for reconsideration with the RAP. This request included the "confirming" documents showing that the claimed expenses were in

⁴ On July 5, 2017, the Hearing Officer, on her own accord, withdrew her original decision and issued a "Corrected Hearing Decision" correcting various typographical and date errors she had made in the Decision and adding an Exhibit "B" which had been inadvertently omitted from the original Decision. See Decision at 1. References to the RAP "Decision" in this document are to the "corrected" Decision.

⁵ Prior to filing my petition, I met with RAP staff on several occasions and made repeated requests for written guidance (as I did at the April hearing) – so that I could better understand the specific requirements for the petition including any evidentiary requirements - no one from RAP was ever able to provide or point me to any such materials. After the Decision, I again asked various RAP staff if there were any such written guidelines or materials and was told there were none, save for the general reference to past HRRB decisions (and RAP hearing decisions) – which as discussed below in the "due process" section – are available for public review only in a very limited way. Moreover, while the Hearing Officer did indicate her desire for additional documentation at the truncated April hearing (including for certain additional proofs of invoices or payments), it was *never* my understanding that her (and the RAP's) position was that *any* expense which did not contain *both* an *independently documented* invoice and payment receipt would be summarily disallowed, as appears to be the case. I truly believed the handful of documents that she requested at the end of that hearing (and which I obtained with 24 hours) were the totality of the additional supporting documentation necessary for consideration of the expenses I submitted – which, again, on their face were more than sufficient to meet the required threshold expense amount. Even Hearing Officer Cohen's requirement for having *both* a payment and bill/invoice does not appear to always be consistently applied. See e.g., *Hailu v. Yarbough*, T01-0486 (Hearing Officer Cohen accepted/credited expenses from petitioners showing what "they spent" noting that petitioners must provide evidence of "what was spent, not what was billed" but nevertheless analyzing whether the threshold was met under either method – amount billed *or* amount paid – and ultimately deciding they did not qualify under either).

⁶ In this document, "Record Exhibit" citations are to the RAP staff generated "exhibit" and "page" numbers documents in the casefile. I have cited them here primarily based upon the references contained in the Decision and its Exhibit A, but because I have only limited access to the casefile, I have not specifically confirmed their accuracy. Citations to "Attachments" are citations to the materials in the casefile submitted as part of my request for RAP reconsideration submitted on July 28, 2017. Hearing Transcript I & II citations are to the relevant record hearing in April and June respectively followed by the hour, minute, and second location of such reference.

fact fully substantiated and allowable expenses (which in total were well in excess of the required threshold amount). A response from RAP to this request for reconsideration is pending.⁷

III. Law & Facts In Support of this HRRRB Appeal.

This *section III* tracks the *six* points raised on page one.

1. Consideration of Additional "Confirming" Documents

On appeal (and in my motion for reconsideration), I request that I be permitted to submit for consideration the additional "confirming" documents in Attachment I (primarily sworn 3rd party declarations and other "confirming" documents) which unambiguously resolve any remaining perceived evidentiary deficiencies (e.g., missing invoices or missing proofs of payment).

In support of this request, I would note that in my initial discussions with RAP staff, I was informed that the process typically was *not* inherently adversarial (particularly in *uncontested* situations like mine); instead I was told it is simply a process to allow the City to establish as *accurately and fairly* as possible if there has been sufficient rehabilitation work performed on a building such that it is entitled to a certificate of exemption.⁸ In the absence of written guidelines, I relied on these oral statements and representations. This position is also consistent with the goals of Section 8.22.010D of OMC, under which the Oakland City Council expressed its desire to "reduce ... the adversarial nature of rent adjustment proceedings."

This is my first experience with this type of administrative review, and it has been unexpectedly difficult and stressful. Given the lack of written RAP guidance and conflicting information I was verbally given by RAP staff, I (obviously) did not fully comprehend the apparent expectations/requirements of the process. As noted above, while I did submit independent, corroborating evidence substantiating expenses well in excess of the \$212,673 threshold, these documents were typically in the form of (i) invoices/billing statements (or their equivalent) or (ii) cancelled checks (or their equivalent) and often both, *but not always both*, which appears to be the issue. To address this concern, I have now secured additional "confirming" documents (e.g., sworn declarations, etc.) verifying the work and payment in full and confirming the expenses I previously submitted. See Attachment I (*Summary Table and "Confirming" Documents*). Given the initial guidance I received from RAP staff (and the lack of written RAP guidance) and my own miscomprehension of the rigid evidentiary approach to be applied, I request that these additional documents be accepted for submission and consideration. Moreover, as noted, this proceeding is *uncontested*. As such, allowing these "confirming" documents to be considered on remand (or upon reconsideration) does not raise any issues of "fairness" to the opposing party, as there is no "opposing" party in this petition. I also believe that these documents are probative in that they are *wholly consistent* with the documents and sworn testimony I previously submitted and strong evidence of the veracity of those previous statements and submissions.

⁷ Section 11521(a) of the Cal. Gov. Code grants administrative agencies, such as the RAP, the power to reconsider "all or part of [a] case on its own motion or on petition of any party" within "30 days after the delivery or mailing of a decision." Moreover, Cal. Gov. Code section 11521(b) also allows for "all the pertinent parts of the record and such additional evidence and argument as may be permitted to be considered as part of the motion for reconsideration" (emphasis added). In addition, RAP's own regulations also permit the RAP Manager or the RAP "Staff" more generally "to intervene in matters [of Certificates of Exemption] for the purpose of better ensuring that *all facts* relating to the exemption are presented to the Hearing Officer." OMC Regulation 8.22.030.C.1.b.

⁸ This RAP staff position was expressed to me when I first contacted the RAP program in late November or early December 2016 and spoke with Mr. Costa at a drop-in meeting in RAP's offices.

The vast majority of these “confirming” documents are *not* offered in support of any new expense claims (or new “categories” of expenses), but instead are just providing additional support and confirmation for existing expense claims that I previously (and timely) submitted or raised. Again these “confirming” documents are supported by the *original* “independent” and “corroborating evidence” (invoices, cancelled checks, etc.) that I previously submitted. Given these circumstances, allowing these “confirming” documents to be considered in this *uncontested* petition (to simply validate that the previously submitted claimed expenses are true and accurate) would further the goal of ensuring that all *actual and allowable* expense items be included in determining whether there has been sufficient rehabilitation work performed on a building such that it is entitled to a certificate of exemption. It also is in keeping with OMC Regulation 8.22.030.C.1.b and its stated purpose of “ensuring that *all facts* relating to the exemption are presented to the Hearing Officer” (emphasis added).⁹

2. Sufficiency of the Evidence under *Ulman I* and the “Preponderance of the Evidence” Rule

Apart from the request above, I believe the Hearing Officer erred in her Decision (i) by finding that the documented expenses I submitted were *not sufficiently documented* under the HRRRB’s decision in *Ulman v. Breen*, T04-0158 (heard 11/18/2004 “*Ulman I*”); and (ii) by finding that the *uncontested* “independent” “corroborating evidence” that I provided (along with my sworn statements and testimony) were insufficient under the “*preponderance of the evidence*” standard to prevail or “predominate” over any evidence “on the other side” – especially given the uncontested nature of the proceeding and the lack of any evidence submitted “on the other side”. As such, I believe that the Hearing Officer’s determination is not supported by substantial evidence or by applicable HRRRB or California case law.

a. HRRRB’s Holding in *Ulman I*

Under the HRRRB’s precedential decision in *Ulman I*, “a party in interest” (e.g., an owner/petitioner seeking to “substantiate” expenses) cannot rely *solely* on his “own testimony or summaries prepared in anticipation of the hearing,” but instead, he must also provide some “independent” “corroborating evidence” in order to have his sworn testimony or statements consider in support his claimed expenses. *See id.* Under the plain language of *Ulman I*, however, once this “independent” evidence (an invoice, a cancelled check, 3rd party testimony or declaration, etc.) has been proffered, then it *and* any sworn statements and testimonial evidence from the “party in interest” becomes part of the body of evidence that the Hearing Officer must analyze in making her determination. *See Ulman I* at 2 (remanding case to determine if there was “corroborating evidence” to support the testimonial evidence of the expenses and the building’s square footage). As detailed below, to the extent the Hearing Officer interpreted *Ulman I* to require “independent” “corroborating evidence” of each element of a claimed expense, such an interpretation (a) is contrary to the plain language in the decision; (b) would effectively render the holding in *Ulman I* meaningless; and (c) is inconsistent with prior RAP hearing decisions.¹⁰

⁹ Allowing consideration of these “confirming” documents would also conserve administrative resources and potentially alleviate the need for the HRRRB to address/resolve some of the potentially more difficult issues raised in this appeal, such as whether the standard of review utilized was appropriate under *Ulman I* and California case law, whether all documents were properly entered into the record, whether the “disallowance” of certain categories of expenses (e.g., “appliances,” “construction insurance,” etc.) was appropriate in light of the multiple other RAP hearing decisions which reach the opposite conclusion, whether there are additional computational or classification errors in the Decision, and finally more broadly, whether the current RAP process and practices meet due process and pass constitutional muster for “freedom from arbitrary adjudicative procedures.”

¹⁰ Even if this heightened standard were somehow deemed permissible, it would still violate due process and fundamental fairness requirements because it is not adequately disclosed to petitioners (either in any RAP written guidelines or in HRRRB precedent). *See* Appeal Brief section III.6. (discussing due process claims).

First, as noted, this heightened interpretation of *Ulman I* is not supported by the plain language in *Ulman I*, which requires only that there be “independent” “corroborating evidence” before sworn testimony and statements can be offered in support of an incurred expense. See *Ulman I* at 2.¹¹ *Ulman I* sets no quantum or other elemental requirement on the character of this evidence other than it simply must just be “independent” and “corroborative.”

Second, if it were truly necessary to prove each element *only* through “independent” evidence (e.g., to have both independent proof of an “invoice” and independent proof of payment) then there would be no need for sworn “testimony” or “summaries” to prove the expense, because the independent “corroborating” evidence would have already proven it. Such a result would render the holding in *Ulman I* meaningless and is not a reasonable reading of *Ulman I* (as it does not comport with the plain language in *Ulman I* and as discussed below has not been followed in practice in other RAP hearing decisions). By contrast, the middle path that the HRRB adopted and articulated in *Ulman I* is the more reasonable and appropriate approach. Namely to require some initial “independent” “corroborating evidence” to be introduced before allowing a party’s “testimony” or “summaries prepared in anticipation of the hearing” to be considered as supporting evidence of a claimed expense. See *id.* This approach allows a petitioner (again, after he or she have submitted some “independent” “corroborating evidence”) the opportunity to “make his or her case” before the hearing officer, who can then assess the credibility and accuracy of the supporting testimony and any prepared summary - along with whatever “corroborating evidence” was supplied – and make a determination if it is (or isn’t) credible and weigh it against any contrary or opposing evidence under the “*predominance of the evidence*” rule. This approach provides both a practical check on any potentially inappropriate self-serving testimony from a party in interest and is reasonable. See *Ulman I* at 2 (remanding the case for consideration of the petitioner’s “corroborating evidence” supporting the testimony about the claimed expenses). Even in the RAP’s own *Appeals Decision Index*, which is a short summary created by RAP staff of certain HRRRB decisions, it describes the holding in *Ulman I* as simply requiring that “[a]n owner must provide evidence beyond testimony and summaries prepared in anticipation of the hearing”¹² – which I did.

Third, in practice RAP hearing officers do not always require “independent” “corroborating evidence” before accepting a party’s sworn testimony to prove an allowable incurred expenses or other material elements of a “substantial rehabilitation” petition. For example, in *Nguyen v. Tenants*, L15-0008 at 4, it appears that the Hearing Officer credited the owner/petitioner for \$42,964 in “owner-contributed” labor (to reach his required minimum threshold expense of \$212,951) based only on his “credible” testimony that he had “extensive experience in construction” and worked supervising his workers for 10 months. In marked contrast, I was expressly told by RAP staff prior that *no credit* could be given for owner-contributed labor (let alone being told that it could be substantiated by “credible” testimony alone) and was never offered the opportunity to make such a claim even though I repeatedly noted the issue at the hearing with the Hearing Officer. See e.g., Hearing Transcript II at 0:34:00; Decision at 2 (noting my testimony about the work I did on the project); see also *Tengeri v. Allen Associates*, T00-0132 (a party’s reasonable reliance on erroneous information by RAP staff was basis for remanding case for to submission of additional evidence and decision on the merits). This disparate treatment also raises issues of due process and fundamental fairness discussed below.

¹¹ In the context of statutory interpretation, the California Supreme Court has held that “[i]f the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in absurd consequences.” *Sierra Club v. Superior Court*, 57 Cal. 4th 157, 165, 302 P.3d 1026, 1031 (2013). Here, the plain language in the HRRRB’s *Ulman I* is clear, unambiguous, and does not result “in absurd consequences.” As noted above, the only “absurd consequence” would be to construe the language in such a way as to make its holding meaningless.

¹² See <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak053551.pdf> at 28.

b. The “Preponderance of the Evidence” Standard

Once the testimonial evidence (supported by “corroborating evidence”) has been introduced, the Hearing Officer’s “analysis” and “weighing” of that evidence is performed. Whether a petitioner has met his or her burden of proof to show that the building is exempt from the Rent Ordinance is determined under the “preponderance of the evidence” standard. *Ulman v. Breen*, T04-0158 at 1 (heard 2/23/2006 “*Ulman II*”) (HRRRB decision finding that the appropriate standard of review is the “preponderance of the evidence” standard). In this Decision, Hearing Officer Cohen also explicitly confirmed that the “preponderance of the evidence” standard was the applicable standard of review for “substantial rehabilitation” petitions like mine. See Decision at 12 (noting standard is “preponderance of evidence”).

Both Federal and California state courts have consistently held that “the ‘preponderance of the evidence’ standard simply requires the trier of fact to decide whether the existence of a fact is more probable than its nonexistence.” *Concrete Pipes & Prods, Inc. v. Constr. Laborers Pension Trust for S. Calif.*, 508 US 602, 622 (1993) (applying California state law); *Kennedy v. S. Calif. Edison Co.*, 268 F3d 763, 770 (9th Cir. 2001). In *People v. Bryden*, the Court of Appeals stated that “[a] party required to prove something by a ‘preponderance of the evidence’ need prove only that it is more likely to be true than not true. Preponderance of the evidence means that the evidence on one side outweighs, preponderates over ... the evidence on the other side ...” No. A148203, 2017 WL 383389, at *2 (Cal. Ct. App. 2017) (emphasis added and internal citations and quotations omitted). These holdings are well-settled under California law and govern both judicial and quasi-judicial administrative proceedings. For example, the model California Civil Jury Instructions § 200 states “in civil cases, the party who is required to prove something need prove only that it is more likely to be true than not true.”¹³

c. Application of *Ulman I* and the “Preponderance of the Evidence” Rule to My Petition

Applying the *Ulman I* and the “preponderance of the evidence” standard is a two-step process. See generally Decision at 12 (citing both *Ulman I* and the preponderance of the evidence standard).

The first step, as noted above, is to determine if there is any “independent” “corroborating evidence” supporting a claimed expense. If so, then, under *Ulman I*, sworn “testimony or summaries prepared in anticipation of the hearing” can be introduced as evidence of the claimed expenses. See *Ulman I* at 2. In my petition, virtually every claimed expense I submitted was supported by some form of “independent” “corroborating evidence” (a bill, a statement, a canceled check, etc.). See Decision Exhibit A (spreadsheet of submitted expense items noting which ones were supported by payment, invoice or both).¹⁴ As such, under *Ulman I*, my sworn statements and testimony regarding those

¹³ As you may be aware, there are three main standards of proof used in judicial or quasi-judicial settings, (i) “preponderance of the evidence,” (ii) “clear and convincing,” and (iii) “beyond a reasonable doubt.” Each standard is relatively self-explanatory based on its respective name, but the “preponderance of the evidence” standard is the lowest threshold of the three and simply requires a showing that a fact or claim is “more likely to be true than not true” and that the evidence on one side “predominates” over the evidence offered by the other side. See 1 Witkin, California Evidence (4th ed. 2000) Burden of Proof and Presumptions.

¹⁴ In her Decision, the Hearing Officer justified requiring “independent” evidence of both a bill and a payment by asserting that “it is common knowledge that many invoices are renegotiated after work is done.” Decision at 13. In this case, however, that assertion is easily belied by (i) the numerous bills I previously submitted that *did* have both the statement and showed that I paid *exactly* what was billed, (ii) my sworn statements and testimony (that I paid all claimed expenses in full), and (iii) now by the “confirming” declarations and other documents in Attachment I - *all* of which match the amounts that I had previously submitted/claimed and had previously corroborated with “independent” evidence as required under *Ulman I*; see also OMC § 8.22.110 (requiring that “[t]he decision of the examiner shall be based entirely on evidence placed into the record.”) Here, again, there was no evidence in the record of any pattern or practice of billing “renegotiation”—in fact, just the opposite.

expenses (along with the "corroborating evidence"), then became part of the evidentiary record to be assessed by the Hearing Office, under the "*preponderance of the evidence*" standard in "step two."

Under step two, the Hearing Officer must determine if the petitioner's claimed expenses are "more likely to be true than not true." *Bryden at 2*. To make this determination, the Hearing Officer must "weigh" the evidence presented on both sides and determine which side's evidence "predominates over... the evidence on the other side" based upon the totality of the evidence. *See id.* Here, there is a voluminous record of "independent" and "corroborating evidence" (which on its face exceeds the required threshold expense amount) and along with my sworn testimony and statements detailing the claimed expenses, which provide a strong (and overwhelming) basis for finding that such expenses are "more likely to be true than not true." *See id.* Moreover, as noted, the petition was *uncontested*; there was no appearance or participation by any tenants or any contrary "evidence [presented] on the other side." *Id.* Given these circumstances, it was error for the Hearing Officer to not find that the claimed expenses were "more likely to be true than not true" and that the evidence I provided "predominate[d]" over the (non-existent) "evidence on the other side," particularly when viewed in the context of the whole record, the hundreds of pieces of "corroborating evidence" (over 400+ separate bills, statements, checks, etc.), my almost 4 hours of detailed testimony, and the obvious and extensive rehabilitation work (documented through the permit history, photos shown to the Hearing Officer, and my sworn testimony). *See Bryden at 2; see also Attachment II - photos.* Accordingly, substantial evidence does not support the Hearing Officer's Decision. This analysis assumes that the record is limited to only those documents and testimonial evidence in the record as of the June hearing. Obviously if the additional "confirming" documents are considered, this determination becomes even easier.

3. Additional Documentation Submitted (I believe) but Not Included in the Record/Decision

At the conclusion of the initial hearing on April 10, 2017, the Hearing Officer requested that I provide *four* specific additional documents confirming (i) the square footage of the building, (ii) that the work was "finaled," (iii) that the \$28,964.61 Restoration Management Company (RMC) bill had been paid, and (iv) an electronic copy of the summary spreadsheet that I had previously prepared and provided in hard copy. *See* Hearing Transcript I at 02:04:52. Earlier the Hearing Officer had also indicated a concern with the lack of an "invoice" for the personal services for Mr. Jesus (Chuy) Martinez, a painter and carpenter on the project. In support of Mr. Martinez's expense, I had submitted a series of *weekly* canceled checks (typically issued on Fridays) covering the relevant time of construction (typically with notations on the checks that they were for "Brighton work") along with my sworn statements and testimony confirming and detailing his work on the project.¹⁵ *See* Record Exhibit 19, at 3-15.

To address these requests, immediately after the hearing, I contacted the City of Oakland Building Department and the Alameda County Assessor's Office and obtained official statements confirming respectively that the project was "finaled" and that the square footage of the building was exactly as I had previously claimed it to be. Later that day I also contacted Mr. Martinez and arranged for him to sign a declaration (under penalty of perjury) confirming his work at 3515 Brighton, his terms of service (\$23 per hour plus lunch), and that he had been paid in full. *See* Attachment I at 2 (Jesus Martinez Declaration and a screen shot of my April 10th text message arranging to meet with him to sign the

¹⁵ Please note that during the course of his work, Mr. Martinez's father became ill, and Mr. Martinez requested a couple emergency loan/advances to help provide treatment to his father. I did so, and we agreed that he could repay the interest-free loans over time through his work typically every other week (in \$100 or \$200 increments that were subtracted from my subsequent payments to him) – which he did. I only raise this issue because in the Decision the Hearing Officer observes that one of the checks to Mr. Martinez was noted as a "loan." *See* Decision at 8. But again, these "loans" were all "advances" for work which he later did on the project.

document). That night, I also emailed RMC requesting proof of payment. That following day, RMC provided a "service statement" (dated April 11, 2017) showing the \$28,964.61 amount billed with a "zero" balance amount due. See Attachment I at 3 (*RMC - Zero Balance Statement*).¹⁶ These documents *fully* supported and confirmed the exact figures I claimed in the "corroborating evidence" that I had submitted and in my sworn testimony/statements. See Record Exhibit 3 at 3, 6 & 7.

Thus, within 24 hours of the Hearing Officer's request, I obtained each item of additional evidence that the Hearing Officer had requested at the end of the April hearing. See Hearing Transcript I at 02:04:52. With these documents in hand, I truly believed that I had been fully responsive to her request for additional supporting documents. That following day, on April 11, 2017, I sent the Hearing Officer an email with an electronic copy of my spreadsheet attached (as requested) and in the email I wrote:

Please note, I submitted yesterday a print out from the Alameda County Assessor's office confirming the building square footage at 2,848 sq. ft. (as represented in my petition). I also had copies of the permits showing them all as "final" printed at the DBI desk on the second floor and submitted those as well.

In terms of your other requests, I also obtained confirmation from RMC that the \$28,964.61 invoice for demo/asbestos abatement work has been paid in full with a zero balance, same for the \$510 Phoenix Environmental bill for asbestos testing. I also got a signed affirmation from Jesus Martinez confirming his work.

I closed the email to her by again reiterating my willingness to provide any other supporting documents she needed to confirm the submitted expenses or otherwise substantiate the petition. See Attachment III *Missing Documents Evidence* at 1 (April 11, 2017 email) Ms. Hearing Officer Cohen confirmed her receipt of this email but made no request for additional supporting documentation.¹⁷

In anticipation of the June hearing, on or about May 1, 2017, I provided these documents and a variety of additional receipts I had gathered¹⁸ to Laurel Beeler, my "significant other," and asked her to scan the documents and email me scanned copies and printout hard copies for submission, which she did (in 3 separate scanned batches). Ms. Beeler has provided a signed declaration attesting to these actions. See Attachment III *Missing Documents Evidence* at 2 (Beeler Declaration and confirming email screen shots), I have also included a screenshot of my Gmail account "inbox" showing receipt of the 3 sets of scanned documents from Ms. Beeler on May 2nd). "Scan 1" was a 27-page scan with various additional receipts; "Scan 2" was a 15-page scan and contained the RMC and Phoenix statements/receipts (among many other); "Scan 3" contained the declaration from Mr. Martinez. See Attachment III *Missing Documents Evidence* at 3 (copies of the 3 sets of scanned documents). Ms. Beeler has attested that she also provided me with a "hard copy" printout of all three sets for filing with the RAP. See Attachment III *Missing Documents Evidence* at 2. As I declared in my sworn request for RAP reconsideration, to the best of my knowledge and belief under penalty of perjury, I then submitted hardcopies of all scanned materials to RAP staff at their 6th floor office at 250 Frank Ogawa Plaza in

¹⁶ I also contacted Phoenix Environmental (who provided the asbestos testing) for payment confirmation because the Hearing Officer had earlier noted the lack of proof of the \$510 payment for them as well. (See Hearing Transcript I at 00:35:45; See Attachment I (Phoenix Zero Balance Statement)).

¹⁷ I did not attach the RMC, Phoenix, and Martinez statements to the email, because Ms. Cohen had requested that I not send anything other than the spreadsheet to that email address. See Hearing Transcript I at 2:05:30.

¹⁸ My initial submission of documents only covered the period to roughly mid-December 2016. These additional documents covered expenses incurred since then or older receipts which I had managed to find or retrieve.

Oakland in early May in advance of the June hearing. It is clear from the record that RAP received at least some of the documents contained in those scans. See Record Exhibit 33 (which match receipts contained in Scan 1), but it is not clear if they received/processed all the scanned documents.

At the June hearing, I believed that Hearing Officer Cohen had received *all* those documents because she did not raise any issue about them (or their absence) - despite her having specifically requested them at the prior hearing (See Hearing Transcript I at 02:04:52) and my having explicitly noted their existence in my April 11th email to her. In the Decision, however, the Hearing Officer does not appear to have had the benefit of these documents (specifically those documents contained in Scan 2 and Scan 3 verifying the RMC, Phoenix statements, and Mr. Martinez's declaration). See Decision at 14 & 17 (denying \$28,965 RMC bill and the \$16,525 in labor expense for Mr. Martinez, but oddly approving the Phoenix bill for \$510 - even though she had asked for additional documentation of payment at the April hearing - See Hearing Transcript I at 00:35:50).

From the information I have,¹⁹ it is unclear whether the absence of these documents in the record was due to a filing oversight/error on my part or in RAP's processing of these documents.²⁰ In any event, there is ample evidence of my good faith effort to be responsive to the Hearing Officer's requests and to obtain the requested documents in a diligent and timely manner (within 24 hours of the Hearing Officer's request at the April 10th hearing). As such, *and given the uncontested nature of the proceeding*, I request that these "missing" documents be considered on appeal (or on remand) or as part of a RAP reconsideration - as they were produced before the June Hearing and were only excluded from consideration because of an unknown filing error (again a full set of these documents is attached as See Attachment III at 3). These documents are relevant not only because they support/confirm the specific amount I previously claimed and supported with "corroborating evidence," but they are also probative and worthy of consideration because they more broadly validate the veracity of my earlier representations and testimony regarding these claimed expenses.

4. Miscalculations, Omissions, and Classification Errors in the Decision

It appears that certain expenses were omitted, underreported, or disallowed by the Hearing Officer Cohen in her Decision based upon computational, transcription, and classification errors. See Decision Exhibit A. While I have *not* undertaken a full line-by-line computational re-review of the spreadsheet attached to the Decision as Exhibit A or the hundreds of receipts incorporated into the RAP's Decision (nor do I think it is necessarily required for RAP staff or myself to do so in order to determine if there are sufficient allowable expenses to qualify the building as a "substantial rehabilitation"), there are several notable errors or omissions in the Decision that should be reviewed and corrected.

a. "Paint Category" Errors

The first example is in the "Paint" category, where the *total* "allowable amount" was determined by RAP staff to be \$2,597. See Decision Exhibit A at 2-3. A simple addition of each line item listed as an "allowable amount", however, totals \$3,899, not \$2,597 as erroneously stated in the Decision See Decision at 20 (and it's Exhibit A); *see also* Attachment I at 7 (detailing this error). It is not clear (to me) the source of this error; while a few items were disallowed (totaling \$116) and the Hearing Officer,

¹⁹ I have requested that the casefile be pulled for my review, but I did not retain a hard copy of the submitted documents, as I had the originals and scans sent by Ms. Beeler.

²⁰ While generally I would have a fairly high degree of confidence in the filing practices of an organization like RAP, as noted below, the number of issues and errors associated with this "corrected" Decision gives one pause.

without comment, omitted a \$63 receipt/proof of payment, see Decision Exhibit A at 2; Record Exhibit 5 at 12 (Home Depot receipt), neither of these items accounts for this large discrepancy.

In addition, *and wholly independent of the issue above*, as a sample "test," I re-reviewed the RAP staff's actual entries of the "Paint" receipts into their spreadsheet and discovered more errors. First, a \$785 paint receipt was erroneously entered in as a \$79 dollar receipt.²¹ See Record Exhibit 5 at 13; Attachment I at 7. A similar problem occurred with another paint receipt for \$241, which was incorrectly entered as \$70. See Record Exhibit 5 at 16; Attachment I at 7 (copies of the misreported receipts). As a result, the "allowable amount" of expenses in this category, which should have been \$4,839, instead was erroneously reported as \$2,597, a significant underreporting in just one category.

b. Dump Fees & Demo Labor Misclassifications & Errors

Page 1 of Decision Exhibit A lists various demolitions "dump fees" as "drainage rock" expenses and denies them as un-allowed "landscaping" expense. At the initial hearing in April, the Hearing Office mistakenly thought that they were invoices from "Oakland Landscaping Supply." See Hearing Transcript I at 00:37:33. On their face, these receipts, however, stated that they were disposal fees from "Commercial Waste & Recycling LLC." It appears that the Hearing Officer was misled by an ad on the bottom of the invoices for a company called "Oakland Firewood & Landscaping Supply" (to be fair, the advertisement was prominent and did make it somewhat confusing). At this first hearing, when asked about them, I reviewed the receipts and explained to her that they were dump fees (as I had previously handwritten on each receipt), which the Hearing Officer appeared to understand and accept. See Hearing Transcript I at 00:37:50. For some reason, at the second hearing in June, the Hearing Officer again queried this same expense and again mistakenly described the receipt as coming from "Oakland Landscaping Supply," which she then suggested could be "for dirt?". See Hearing Transcript II at 00:02:35. Given the verbal description she provided, and seeing one of the receipts, the only item sold "by the ton" from a "landscape supplier" used on the project would be "drainage rock." In the Decision, itself, the Hearing Officer continues to misidentify these receipts as coming from "Oakland Landscape Supply." See Decision at 14; see also Decision Exhibit A at 1; see *also* Attachment I at 7. This \$2,133 error was more than the total amount of expenses allowed for this entire category.

In a similar vein, the Hearing Officer also incorrectly recorded a \$4,450 payment to Pablo Filipe for demolition work as a receipt for only \$450 – a difference of an additional \$4,000 – see Decision Exhibit A at 12 & ex.19 at 1.²² The Hearing Officer acknowledged in a footnote to her Decision that it could be a receipt for \$4,450 but found it "ambiguous" (although I disagree with that characterization, I have attached a larger printout copy of the receipt which *unambiguously* shows that it was for \$4,450 (and I also have included a declaration under penalty of perjury from Mr. Filipe confirming the \$4,450 amount and that it was paid in full).²³ See Attachment I - *Pablo Felipe Declaration* at 4.

²¹ These RAP staff errors appear to have occurred when a "total *discount*" amount shown on the relevant "Lowe's" receipt was inadvertently entered instead of the "total *payment*" amount. This is potentially problematic as many "Lowe's" receipts were submitted in numerous different categories.

²² To facilitate paying his crew, Mr. Felipe requested to be paid in cash. As you know, Oakland is a "sanctuary city." While I did not ask the contractor, Mr. Felipe (or his crew), about their immigration status, I do know from working alongside them that they originally hail from the Guatemalan Highlands, an area of the world historically known for political violence and refugees. Moreover, low income immigrants – regardless of their immigration status – often have difficulty opening and maintaining banking services. As such, I was happy to comply with his request for a cash payment (and is why I asked for him to provide me with the written receipt).

²³ Moreover, to the extent the Hearing Officer also denied a separate \$2,600 payment to Mr. Felipe (which I paid and documented by electronic check) because it was for work *prior* to the issuance of the permit, it does not seem

c. "Unreadable" Ashby Lumber Receipt

Finally, Decision Exhibit A at page 10 lists a \$698 Ashby Lumber bill as "unreadable" and gives it \$0 credit. The invoice, which is actually quite "readable," clearly shows the purchased items, their cost, and even the taxable amount and CA lumber tax. The only reason I can surmise for it being rejected as "unreadable" is that a second page (which had *no purchased items* on it, but did contain the "total" was not included). I had, however, handwritten that total (\$698) at the top of the invoice's first page (which again matched exactly the invoice total on the second page of the receipt). For avoidance any further confusion, I have included the 2nd page along with the original submission page as See Attachment I – *Ashby Lumber Receipt* at 8.

* * * * *

Because I have not conducted a detailed review into each of the 32 categories of expenses listed on Decision Exhibit A, I am not sure if there are other similar issues in these other categories which would warrant a full line-by-line re-review of all expenses (by either RAP staff and/or myself). As noted above, however, if the handful of disallowed but independently corroborated expenses in Attachment I were accepted (either with or without the additional "confirming" documents), they would be more than sufficient to meet the required expense threshold and would avoid the need for anyone (myself or RAP staff) to have to undertake the burdensome task of a complete re-review of each in Decision Exhibit A.

By noting these various errors, I do not mean to be overly critical of the work of the RAP staff. I recognize their hard work and understand how daunting a task it is to review this voluminous amount of evidentiary material (I think there were upward of 400 different receipts). I also understand that things can and do occasionally get missed or confused – and that mistakes happen; none of us is perfect.²⁴ My goal throughout this process - which I believe (and hope) is the same shared by the HRRB (and the RAP staff) is (to the best of our abilities) simply make sure that all "allowable" expenses are *completely and accurately* captured to make a *fair and accurate* assessment of whether or not the rehabilitation project meets the expense threshold necessary for a certificate of exemption. I am confident if that can occur, it will confirm that the project meets (and indeed exceeds) the expense threshold.

5. Disallowed "Categories" of Expenses

In her Decision, Hearing Officer Cohen denied a number of expenses - not because of the adequacy of the evidence supporting those expenses - but because they fell within certain "*categories*" of expenses that she deemed to be "not allowable cost item[s]." See Decision at 13. In the discussion below, I focus on the larger (dollar-wise) categories, though I believe that many smaller "categories" were inappropriately excluded as well.²⁵ Significant excluded categories include: (a) appliance costs,

warranted. I would note that OMC Regulation 8.22.030.B.3 does not address the issue of work performed prior to the issuance of the permit, it only requires that "work be completed within a two (2) year period after the issuance of the building permit for the work unless the Owner demonstrates good cause for the work exceeding two (2) years." Thus for example, the fact that architectural drafting, structural engineering and other expenditures are undertaken prior to the actual permitting does not invalidate such costs (or even require a showing of good cause for their acceptance). See *e.g., Carta Holdings LLC*, L15-0034 permitting architectural and engineering fees as allowable expenses. Likewise the asbestos abatement and other demolition work done in anticipation of, but performed prior to, the issuance of the renovation permit should not be automatically excluded. As noted above, after the fire, I worked diligently to secure the necessary funds for the work, perform the site remediation, obtain the City inspections and work permits, and complete the work as quickly as possible.

²⁴ Even the "corrected" Decision, fixing errors and omissions shouldn't be considered problematic as it evidences the desire of the Hearing Officer to get things "right" – even if it means revision and re-issuing of the Decision.

²⁵ Curtain rods are just one example of these smaller, but I believe, inappropriately denied categories. In her Decision, the Hearing Officer, without citation, declared that "curtain rods are not attached to the building and not

(b) construction insurance costs, (c) transportation expenses (bridge tools/mileage cost to the jobsite or supplying materials or hauling waste to recycling), and (d) credit for "owner-contributed" labor.

The first three are examples of categories that were explicitly and (I believe) inappropriately denied by the Hearing Officer in a manner inconsistent with prior RAP precedent (which allowed such expenses) while the last, "owner-contributed" labor, is an issue which I repeatedly raised with RAP staff, both prior to filing my petition (where I was told by RAP staff that it was *not* an expense that could be credited) and at the hearing (where my work was acknowledged by the Hearing Officer, but not credited or even noted to me that it was a category of expense that *could* be credited, despite, as I now have learned, there being established RAP precedent allowing for such work to be credited).

Finally, there are also a couple of miscellaneous "categories" of expenses that were denied that are worth noting because they illustrate the "heightened" evidentiary standard used by the Hearing Officer: (i) her disallowance of \$21,200 in sheetrock work because the invoice/agreement was documented *by an SMS text message* outlining the terms (price, scope of work, etc.) rather by some other form of writing even though it was also supported by evidence check payments, and (ii) another expense that was rejected because the payment proof was a *handwritten* "Paid" notation on the invoice - even though I testified that it was signed by the service provider and the handwriting was clearly different than my own. These heightened evidentiary standard employed by the Hearing Officer throughout her review and assessment and are not requirements supported by statute or case law (HRRRB or judicial) and are inconsistent both with prior RAP precedent and (in the case of "handwritten" notations) inconsistent with the Hearing Officer's own treatment of other expenses in this petition.

I discuss each of these "categories" in turn and in more detail below.

a. Appliances

Hearing Officer Cohen denied any "appliance" expenses based on her determination that they were *not* "structural improvements" and therefore the "costs expended for appliances are not allowable cost items." See Decision at 13. The Hearing Officer provided no statutory, regulatory, or case law citations in support of this conclusion. In my limited review of other RAP hearing decisions, however, it appears that her position is contrary to the position adopted by multiple other hearing officers in a number of

an allowable expense." Decision at 15. Under California law, however, curtain rods, like the ones used at 3515 Brighton Ave, which are screwed/attached into walls, are *explicitly* considered a "fixture" and are a permanent part of the building. See *Pacific Mortg. Guaranty Co. v. Rosoff*, 20 Cal App. 2d. 363, 385 (1937); see also Cal. Civ. Code § 660 which provides: "A thing is deemed to be affixed to land when it is attached ... by means of cement plaster, nails, bolts, or screws." Thus even under a *very narrow* interpretation of allowable expenses which only included things that are "affixed" to the structure (a restrictive interpretation which is *not* supported by the OMC or its regulations and is contradicted by past RAP decisions), curtain rods should be included, as should stoves, and built-in dishwashers, microwaves ovens, disposals, and other attached appliances. Blinds which are screwed into the window frame would also qualify under this restrictive interpretation. (I also believe that curtains that are purchased exclusively for use in the building should also be included). See *Carta Holdings*, L15-0034 (crediting a "CostPlus" expense for what is described by the Senior Hearing Officer as "lobby furniture").

Another example is bottled potable water, which I purchased for the crews, which the Hearing Officer also disallowed, even though for much of the project, we did not have water at the site. By law, both OSHA and CAL OSHA *require* that workers to be provided with potable drinking water (at no expense to them). CALOSHA regulation T8CCR 3395(c) states the following: "[workers] shall have access to potable drinking water meeting the requirements ... that it be fresh, pure, suitably cool, and provided free of charge." To me, it wasn't about the regulation, it was just the right thing to do, but (in my opinion) it should also have been treated as a legitimate allowable expense. Similarly, for some of the service providers, like Jesus Martinez, I provided their lunch as part of their non-cash compensation. Under IRS Publication 5137, the expense of such fringe benefits is a legitimate business expenses and deduction. Again, because the dollar amount of these items is low, and are unlikely to be dispositive in meeting the required threshold, I have not focused on them in this appeal.

other “substantial rehabilitation” decisions.²⁶ Specifically, in *Nguyen v. Tenants*, L15-0008 at 3, the Hearing Officer credited as an “allowable” expense the building owner’s receipts from “Santa Clara Appliances,” “Appliance Repairs,” and “Best Buy” – which were all presumably for appliances or appliance servicing costs. Likewise, in *Carta Holdings LLC v. Tenants*, L15-0034 at 5, the RAP’s Senior Hearing Officer was even more explicit, permitting over \$16,327 in expenses from a company called “Appliance Parts Distributor” which she listed under her “description” heading as “Appliances.” In *Mapel v. Tenant*, L16-0057 at 2 & 3, the Hearing Officer allowed appliance expenses from “Airport Home Appliances” and “on a Roll Appliance Service.” The RAP hearing decisions in *Nguyen*, *Carta Holdings*, and *Mapel* are all recent RAP hearing decisions (decided in 2015, 2016, and 2017 respectively). Notably, these contrary decisions were issued by two different Hearing Officers, including the RAP’s Senior Hearing Officer.²⁷ In further support of the position that appliance expenses are a reasonable and legitimate expense item, I also contacted CoreLogic, which produces and maintains the *Marshall & Swift Residential Cost Handbook* database, which I understand is used by the City of Oakland’s Bureau of Building in creating their Construction Valuation table (which in turn is used by RAP staff to determining the “substantial rehabilitation” expense threshold under the RAP ordinance). See Decision Exhibit B (noting the use of CoreLogic’s *Marshall & Swift* data). At CoreLogic, I spoke with a Mr. Xaq Bychowski on their technical support team, who confirmed that “appliance” costs were one of the cost items included in the Handbook for calculation cost estimates. Because I do not personally subscribe to CoreLogic’s *Marshall & Swift* database, he could not give me any specific data, but he was able to confirm that it was part of the cost variables included in the Handbook and sent me a confirming email message. See Attachment I CoreLogic *Denied Categories* at 19 – Bychowski Email. Given its use in determining the required minimum expense threshold amount (i.e., the minimum expense a petitioner must document in order to qualify one’s building as “substantial rehabilitated”), I believe that it is reasonable to include that expense as an allowable expense item - for a more appropriate “apples to apples” comparison – as apparently do several other RAP hearing officers, including the “Senior Hearing Officer.”

b. “Course of Construction” Insurance

As part of the rehabilitation work, I secured “course of construction” insurance while the project was under construction. This type of insurance is commonplace while a building is under construction or undergoing a “substantial rehabilitation.” This insurance incorporates the additional risk and potential liability involved in such a project. As shown in Attachment I at 18 (Construction Insurance), the annual “course of construction” insurance premium for 3515 Brighton during the rehabilitation was \$7,249 and \$7,079 respectively in 2015 and 2016. The Hearing Officer disallowed this expenses “category” in its entirety stating that “[c]onstruction insurance is not a cost to the building.” Decision at 18. Again, the Hearing Officer offered no supporting citation for this position. In *Carta Holdings LLC*, L15-0034 at 5, however, the RAP’s Senior Hearing Officer allowed the petitioner/owner to claim an \$8,756 “Constr. Insurance policy” as an allowable expense. As with appliance costs above, Mr. Bychowski from CoreLogic also confirmed that construction insurance was also an “included cost” item used in its *Marshall & Swift Handbook* which, again, is apparently indirectly used in determining the rehabilitation

²⁶ Because of the limited public access to RAP hearing decisions and HRRRB decisions imposed by RAP, I can speak only to the handful of decisions that I have been able to review to date. If, however, they are at all reflective of the other decisions to which I have not yet had access, I can only assume that inconsistencies and issues will become evident as any administrative or judicial review process unfolds.

²⁷ These decisions unquestionably support the Appeal Grounds #2 on the HRRRB Appeals Form, showing that the Decision is “inconsistent with the decisions issued by other Hearing Officers.” This inconsistent treatment also raises significant due process issues and implicates the fundamental fairness of the RAP’s adjudicatory process.

expense threshold. See Decision Ex. B. Given the clear RAP precedent and its apparent use in determining the threshold expense amount, I believe that it is reasonable and appropriate to include that expense as an allowable expense item – as apparently does RAP's Senior Hearing Officer. See *Carta Holdings LLC* at 5.

c. Transportation Expenses

In support of this expense, I submitted independently documented bridge toll expenses records (FastTrack statements) (as "corroborating evidence") and mileage calculations (based on the IRS code approved mileage allowances) for travel to and from the jobsite, to suppliers, and to recycling. As I testified (and as is confirmed in JTM's, my general contractor's, affidavit), I worked at the jobsite "daily" and was also primarily responsible for procuring building supplies and materials to keep the trades' work going (electrical, plumbing, HVAC, etc.). This work often involved multiple daily trips to various suppliers. I used my truck (a maroon 1999 Dodge Ram – shown in Attachment II) to take building material waste to various recycling centers or to pick up bulky items - or my Toyota Prius - when picking up smaller items or just traveling to the jobsite. I believe that these travel expenses were (1) reasonable and independently documented by corroborating evidence (FastTrack receipts, supplier store purchase receipts, dump fee receipts, etc.) and (2) necessary for the completion of the substantial rehabilitation work at 3515 Brighton Ave, and as such should be included as an "allowed" expense.²⁸

d. Owner-Contributed Labor

None of my labor spent on the project was credited in support of the "substantial rehabilitation" petition. When I initially spoke with RAP staff in late 2016, I was explicitly told that such an expense claim would not be "allowable" (because of verification/valuation issues). Nevertheless, I did raise this issue on several occasions during both hearings. See e.g., Hearing Transcript II at 0:34:00 (where I note that even if I were paid only "minimum wage," it would be "tens of thousands of dollars"). I also provided "independent" "corroborating" evidence" in the form of FastTrack records, tracking my travel to and from the jobsite and the literally hundreds of receipts from Lowes, Home Depot and numerous other suppliers showing my multiple trips to suppliers, as well as by my sworn testimony and statements attesting to this work and by the 3rd party declaration from Michael Northover, the owner of the JTM Developments LLC, (the general contractor), confirming my daily presence at the jobsite. See Decision Exhibit A (and supporting Record Exhibits); see also Attachment I at 6 "JTM Declaration." In reviewing other recent RAP decisions on "substantial rehabilitation" for this motion/appeal, I learned that there is established RAP precedent for allowing a "labor" credit for owner work based upon the percentage materials and service provider cost in an amount up to 25% of those costs. See *Nguyen v. Tenants*, L15-0008 at 4 (granting the petitioner credit of over \$42k towards meeting his \$212k threshold for his 10 month work "supervising" his labors). This RAP practice of crediting for owner-contributed labor was not disclosed to me either by RAP staff (in responses to my specific inquiry), or in any of the RAP materials, or by the Hearing Officer when I made my repeated statements during the hearing about the substantial work I did on the project. Again, as noted above, I had been explicitly told just the opposite by RAP staff - that credit for such work was *not* be allowed. Given these circumstances at any HRRRB evidentiary hearing or upon remand (if need be) or upon RAP reconsideration, I request the opportunity to seek such credit for my work towards satisfying the \$212,673 expense threshold. See

²⁸ In addition to the general transportation costs, during one trip a plumbing supplier, my Prius front window was shattered when an employee of the supplier improperly loaded some cooper pipe. I eventually paid \$300 for the replacement of the windshield myself and included that as an expense item since the vehicle was damaged while loading supplies for the project. I would have done the same if I had borrowed the General Contractor's truck and it was similarly damaged. The Hearing Officer also denied this repair expense.

Tengeri v. Allen Associates, T00-0132 (a party's reasonable reliance on erroneous information by RAP staff was basis for remanding case for to submission of additional evidence and decision on the merits).

e. Denial of "Proof of Payment" if Payment Notation ("Paid") was Handwritten

JC Ironworks custom-built and installed a small steel balcony railing for \$550. The Hearing Officer denied this because the payment was confirmed by a *handwritten* "Paid" notation on the invoice - even though I testified under oath that it was signed by the service provider and the handwriting was clearly different than my own. See Record Exhibit 21 at 6; Hearing Transcript II at 00:44;20. The Hearing Officer denied the expense in its entirety on the grounds that there was "no proof of payment." The Hearing Officer concluded that a handwritten "paid" notation on an invoice was insufficient because "anyone could write the word 'paid' on an invoice."²⁹ See Decision at 17. Again, the Hearing Officer offered no supporting citation for her position, which is not even internally consistent within her own Decision, where she approved numerous invoices with the handwritten notation "paid" on them.³⁰ Moreover, in this instance, one does not need to be a handwriting expert to readily see that *my* handwriting, which as the Hearing Officer noted in her Decision (on page 17) is on many of the documents³¹ - including this balcony railing receipt - does not at match the handwriting of the person who wrote "paid" on the invoice balcony. Instead, although the handwriting is not easy to read, the "paid" script matches the style of the person who prepared the invoice - the owner of JC Ironworks. See Attachment I - JC Ironworks receipt at 15. Even putting aside these facts, as discussed above, under *Ulman I* and the "*preponderance of the evidence*" standard, this expense should be allowed because (i) the receipt was "independent" "corroborating evidence" of the claimed expense; (ii) it was supported by my sworn testimony and summary statements; and (iii) there was no contradictory evidence "on the other side" (and there was no indication of fraud or mistake). See *Ulman I & Bryden*. Under such circumstances, denial of such claims is not supported by substantial evidence.

f. Denial of Expenses Evidenced by SMS text messages

This final example is another disallowed "category" that I believe illustrates the improper "heightened" standard of proof applied by the Hearing Officer in this petition.³² In her Decision, the Hearing Officer denied a \$21,200 "sheetrock" expense - *in its entirety* - based on the fact that the agreement/invoice was contained in an SMS text message. See Decision at 18. Based on a strong recommendation from a contractor, I hired Jorge Martinez (no relation to Jesus Martinez, the painter discussed above) and his crew to install the fire-rated sheetrock (and metal soundproofing "channels"

²⁹ Would it have been accepted if it was stamped "Paid" instead of handwritten? Who knows? It seems like that was the "problem," but honestly I can't say, given the inconsistencies evident in the Decision.

³⁰ For example, the Hearing Officer approved over a dozen "dump fee" receipts from SMART demolition which were all handwritten and hand noted as "paid." See Decision Exhibit A at 1; Record Exhibit 3 at 3-5. Although I have not yet pulled additional "substantial rehabilitation" casefiles, I am confident that it will also reveal further instances where RAP hearing officers have accepted handwritten "paid" notation to support claimed expenses.

³¹ To help the RAP review process (and for my own spreadsheet calculations), I wrote the total dollar amount on the top of almost every receipt I submitted (rounded up or down to the nearest dollar) - so there was no shortage of my handwriting exemplars.

³² Despite the Hearing Officer's offhand reference to a California Code of Evidence section in her Decision, administrative proceedings, like the one here, are not governed by that Code, but instead use a lower and more flexible/lenient standard for admissible evidence than would be required at a civil trial (let alone at a criminal trial). See Cal. Gov. Code § 11513(c). See also OMC Regulations § 8.22.110.E.4. ("[u]nless otherwise specified in these Regulations or OMC Chapter 8.22, the rules of evidence applicable to administrative hearings contained in the California Administrative Procedures Act (California Government Code Section 11513) shall apply").

between the units) at 3515 Brighton Ave in preparation for painting. Mr. Martinez agreed to supply all the sheetrock and soundproofing materials and labor for a total price of \$21,200. We reached this oral agreement after meeting and walking the jobsite together,³³ but it also was confirmed by in writing by an SMS text message from Mr. Martinez. To substantiate this expense, I provided the SMS text message from Mr. Martinez in which he confirmed his proposal to do the “[t]otal dry wall and RC channel [the soundproofing]” with a “smooth level 4” finish and to do “patch work on [any] existing drywall” for all “3 units” for the price of “\$21,200.” See Attachment I at 5; Record Exhibit 24. I also provided checks paid to Mr. Martinez as further “corroborating evidence.”

At the hearing, the Hearing Officer queried the work performed by Mr. Martinez and his crew and the SMS text message documenting the contract, but gave no indication that it was insufficient or deficient and would be rejected. See Hearing Transcript II 00:50:35 (Hearing Officer’s only reaction to the SMS/text document which she called the “invoice” was “yaah...okay” and to note that I also had provided some cancelled checks and to ask about the actual work performed, as she was not familiar with the RC channel soundproofing). In her Decision, however, she disallowed *the entire* \$21,200 expense, concluding that “[a] text message is not the kind of business record on which people reasonably rely.” Decision at 18. Again, the Hearing Officer provided no statutory or case citation in support of her position that an SMS text message was not “reasonable” or “admissible” evidence of a contract or invoice (particularly under the light evidentiary rules applicable to administrative hearings). This is likely because neither California case law (nor any statutes) contain such prohibitions on SMS text messages being entered and considered as admissible evidence. In fact, a California court of appeals recently held that SMS text messages were properly admitted as evidence in a *first degree murder case* (where the rules of evidence are substantially more restrictive and the stakes significantly higher). See *People v. Fisher*, No. C081810, 2017 WL 2200156, at *3 (Cal. Ct. App. May 19, 2017) (California appeals court found that “the trial court did not abuse its discretion in admitting the text messages” as evidence in the murder trial governed by the “beyond a reasonable doubt” standard).

As such, it was error for the Hearing Officer to reject this “corroborating evidence” because it was in the form of an SMS text message – especially when the SMS text message specifically outlined the relevant contractual terms (parties, scope of work, price, date, etc.) and was supported by various canceled checks to Mr. Martinez (additional “corroborating evidence” under *Ulman I*) and by my sworn testimony and statements that Mr. Martinez had done the work and had been paid in full. Given these circumstances, substantial evidence does not support the Hearing Officer’s disallowance of the expense. To avoid *any* doubt as to the veracity of this expenses, I also contracted Mr. Martinez, who provided a sworn declaration (under penalty of perjury) on July 14, 2017 confirming the sheetrock work he and his crew did at 3515 Brighton, the total payment amount of \$21,200, and confirming that it was paid in full. This declaration is in Attachment I at 5 - Jorge Martinez Declaration.

6. Procedural Due Process & Fundamental Fairness of the Proceeding

The California Supreme Court has held that the California Constitution’s due process clause includes “freedom from arbitrary adjudicative procedures”. *People v. Ramirez* 25 Cal.3d 260, 268-69 (1979); see also *People v. Mary H.*, 5 Cal. App. 5th 246, at 257 (2016) (“[a]n individual has a constitutional right to procedural due process when the government deprives an individual of a ...

³³ For avoidance of doubt, in California, oral contracts are legal and valid (and actually quite commonplace in the construction industry). California state law specifically acknowledges and codifies this fact in California Civil Code § 1622, which provides that “[a]ll contracts may be oral, except as are specially required by statute to be in writing.” In any event, the *written* SMS text sent by Mr. Martinez and submitted in support of the petition should also serve as a written “invoice” – even if it was in the form of a SMS text message.

property interest”) (citations and quotations omitted); *Gresher v. Anderson*, 127 Cal. App. 4th 88, 105–06, (2005) (“[t]he required [due process] procedural safeguards are those that will, without unduly burdening the government, maximize the accuracy of the resulting decision and respect the dignity of the individual subjected to the decision-making process.”) (emphasis added).³⁴

Here, the RAP’s hearing decisions have resulted in an inconsistent application or misapplication of (i) *Ulman I*’s evidentiary requirements, (ii) the required “preponderance of the evidence” standard of proof, and (iii) the “allowable” categories of expenses in “substantial rehabilitation” petitions (and potentially other types of associated petitions). These results are indicative of a quasi-judicial adjudicative process that is “arbitrary” and in violation of the California Constitution’s due process clause. See *Ramirez* 25 Cal.3d at 268-69.; California Const. Art. 1 § 7. For example, “[o]ne component of procedural due process is the “standard of proof” used to support the deprivation [which] must satisfy the constitutional minimum of ‘fundamental fairness.’ See *People v. Mary H.*, 5 Cal. App. 5th 246, at 257 (2016) (citations and quotations omitted). Here, Hearing Officer Cohen’s imposition of a heightened standard of proof that is more akin to a “clear and convincing” standard (or even higher) instead of the required “preponderance of the evidence” standard is a due process violation both in its misapplication of the required standard, but also by the RAP’s failure to adequately inform petitioners of this heightened standard of proof, effectively depriving them of a meaningful opportunity to be heard. See *Gresher*, 127 Cal. App. 4th at 106 (“[t]he primary purpose of procedural due process is to provide affected parties with the right to be heard at a meaningful time and in a meaningful manner,” including adequately “informing individuals of the nature, grounds and consequences of the [matter] and of enabling them to present their side of the story....”). By cloaking this heightened standard of proof in the guise of a “preponderance of the evidence” standard, RAP violates due process and “fundamental fairness.” Likewise, RAP’s apparent lack of written guidelines and policies in this area coupled with the erroneous (and conflicting) statements provided by RAP staff, and the significant RAP-imposed restrictions on public access to past RAP hearing decisions and HRRRB decisions (which is apparently the only source for written guidance)³⁵ also violates the “fundamental fairness” of the proceeding and deprives petitioners a meaningful opportunity to effectively “present their side of the story.” See *id.*³⁶

³⁴ Under *Ramirez* and *Gresher*, procedural due process rights arise when there is “a statutorily conferred benefit or interest of which [the petitioner] has been deprived” Here, the denial of a statutory exemption from Oakland’s Rent Ordinance is such “a statutorily conferred benefit or interest.” See generally *Gresher* at 105-06.

³⁵ To create some modicum of visibility into past HRRRB decisions, RAP staff has created an Appeals Decision Index which is available online to the public. This Index, however, is woefully inadequate as it only contains 2-3 sentence descriptions of the cases (which are just subjective characterization by RAP staff). Moreover, it appears that even this “resource” is *not* being regularly maintained or updated. The “current” document indicates that the last time it was reviewed or updated by RAP staff was over two years ago at “1:00 PM 6/11/2015.”

³⁶ While RAP staff’s “keeper of records,” Ms. Maxine Visaya, has been responsive and cooperative, the fundamental limitations on access are profound. Current RAP procedures to access prior decisions requires one to (i) request to view specific cases with little or no way of knowing the contents of such cases (except for the out of date “Appeals Decision Index” noted above), (ii) scheduled an appointment time for viewing that is typically 2 to 5 days out (if the requested documents are recent cases) and an indeterminate amount of time if the documents have been archived and need to be retrieved or if a casefile is requested, and (iii) then limit the actual time in which he or she can view to any requested documents or listen to any hearing recording to only one (1) hour per scheduled session. This process, while perhaps understandable for a RAP resourcing perspective, significantly undercuts (and effectively renders meaningless) the value and reasonableness of looking to the prior RAP or HRRRB cases as an effective or reasonable source of guidance to the public and does not satisfy the due process requirements articulated in *Ramirez* and *Gresher*. Moreover, Ms. Visaya has confirmed that she has no way to do even a basic “keyword” search on any documents. Similarly she also stated that she has no way to identify previous “substantial rehabilitation” petitions denied by RAP hearing officers.

At best these shortcomings result in demonstrably inconsistent RAP hearing decisions and disparate treatment of similarly situated petitioners, not to mention unnecessary confusion, stress, and work for both RAP staff and the public who petition and appear at RAP hearings. More fundamentally, these deficiencies also appear to lead to decisions that are inconsistent with California law (e.g., the Hearing Officer (mis)interpretation of the “preponderance of the evidence” standard) and HRRRB precedent (e.g., *Ulman I*), and that are undeniably inconsistent with RAP’s own past hearing decisions. This raises significant due process and fundamental fairness concerns by, *inter alia*, effectively denying petitioners adequate notice and a fair opportunity to prepare/present their petitions and to meet the unwritten “required” evidentiary criteria and the heightened standard of proof utilized by the Hearing Officer. See *Gresher*, 127 Cal. App. 4th at 106 (citing *Ramirez* – *the process must “provide affected parties with the right to be heard at a meaningful time and in a meaningful manner,... informing individuals of the nature, grounds and consequences of the [matter] and of enabling them to present their side of the story....”*); see generally 2 Witkin, California Procedure, Jurisdiction Section 263 (5th ed. 2008) (under general principles of due process, notice must be of a type reasonably calculated to give the person with the property interest at issue *knowledge of the requirements of the proceedings*).³⁷

* * * * *

IV. Conclusion

Given the tireless hours I spent working on this project, the Hearing Officer’s Decision came as an unexpected and discouraging blow. As is reflected on the face of the hundreds of receipts, invoices, cancelled checks, and other independent corroborating documents I submitted, the building at 3515 Brighton Ave more than meets the threshold expenses requirements (~\$212k) for a certificate of exemption as a “substantially rehabilitated building.” Moreover, the record is clear that I provided “independent” “corroborating evidence” and sworn statements/testimony, substantiating those amounts and satisfying the evidentiary requirements outlined in *Ulman I* and meeting my burden of proof, under the “*preponderance of the evidence*” standard, to show that the submitted expenses are “more likely true than not true” and that such evidence “predominates” over the (non-existent) evidence “on the other side.” A view that is only strengthened by the additional 3rd party “confirming” documents I have been able to secure – which I provided to RAP as part of my request for reconsideration and which *unambiguously and conclusively* confirm my previously claimed expense amounts and attest to the veracity of my statements/testimony.

I am also heartened by the knowledge that many of my claimed “categories” of expenses (which were denied by the Hearing Officer) had previously been validated and accepted by other hearing officers in multiple recent RAP hearing decisions and by the knowledge that - despite RAP staff’s explicit statements to the contrary - my own extensive work on the building (which I testified to at the hearing) should have been credited under the RAP’s prior decision in *Nguyen*, which would only further add to the level of qualifying expenses (as will the correction of the various computational and classification errors by the Hearing Officer in the Decision). I am also strengthened by constitutional

Even RAP staff recognize the difficulty arising from this lack of written guidance and are themselves confused by the process. For example, on July 25, 2017, I spoke with one of the RAP’s senior program analyst’s (Margaret) at the “drop-in” desk, who acknowledge the lack of written RAP guidance but noted that RAP and HRRRB decisions were readily available to the public online. When I told her that actually HRRRB and RAP hearing decisions were actually *not* publicly available online (and only available under the procedures I outlined above), she expressed surprised and indicated that she had not been aware that they were not available online.

³⁷ Given the noted limitations on access to potentially relevant RAP and HRRRB precedent, I am still gathering data and developing this claim, which I expect to enhance and develop for HRRRB or other review as need be.

safeguards recognized by the California Supreme Court and other courts designed to ensure that administrative adjudicatory proceedings like these are free from "arbitrary" and inconsistent decision-making and require agencies, like the RAP, to establish reasonable procedures/guidelines to provide petitioners, like me, with clear and adequate notice of the "rules of the game" such that we can "meaningfully" participate and "present [our] side of the story" all with the goal of "maximizing the accuracy of the resulting decision." See *Gresher*.

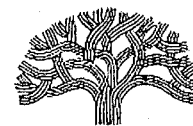
I appreciate the HRRRB's consideration of this appeal and respectfully request that the HRRRB grant the petition for exemption or in the alternative remand for the Hearing Officer to make such a determination in a manner consistent with the points raised in this Appeal Brief.

Respectfully submitted and declared under penalty of perjury on August 4, 2017 in San Francisco, California.



William Wiebe,
petitioner/owner

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CORRECTED HEARING DECISION

CASE NUMBER: L16-0094, Wiebe v. Tenants
PROPERTY ADDRESS: 3515 Brighton Ave, Oakland, CA
DATES OF HEARING: April 10, 2017; June 6, 2017
DATE OF DECISION: July 5, 2017
APPEARANCES: William Wiebe, Owner
No appearance by any tenant

REASON FOR CORRECTED DECISION

The Hearing Decision in this case had several typographical errors in it. There were two different references to Exhibit "A", when one of the Exhibits should have been listed as Exhibit "B". Additionally, Exhibit "B" was not attached to the Hearing Decision. Additionally, the date the decision was signed was listed as 2016, instead of 2017. This Corrected Hearing Decision corrects those errors. However, there are no substantive changes to the original decision. A new appeal period is set out in this Corrected Hearing Decision.

SUMMARY OF DECISION

The owner's petition is denied. The units at 3515 Brighton Ave are not exempt from the Oakland Rent Ordinance.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a *Certificate of Exemption* on a 3-unit residential building on the ground that it has been substantially rehabilitated.

000038

No tenant has filed a response to the owner petition.¹

THE ISSUE

Are the units exempt from the Ordinance because they were substantially rehabilitated?

EVIDENCE

The owner testified that he purchased the subject property in either 1999 or 2000. The property consists of a 3 unit apartment building of wood frame construction. The owner produced a *Property Characteristics* document from the *Alameda County Assessor's Office* showing that the square footage of the building in 2016 was 2,848 square feet.² The owner further testified that an additional 84 square feet were added to the building. He produced permits from the *City of Oakland* which document this addition.³ The owner testified that the total square footage after the work was complete was 2,932 square feet.

The owner testified that there had been a fire in one unit in the building in 2015. The owner produced a permit which was opened on October 15, 2015, which states "fire damage repair for triplex including creation of small storage rooms in basement, enlarge bathroom at 1st floor, reconfigure non-load bearing walls at 1st and 2nd floors per plans. Replace finishes at all levels."⁴ The job value was listed as \$80,000. An additional permit was taken out on September 28, 2015, to "construct new addition and deck at Bedroom 2 at upper rear unit." The job value for this permit was listed as \$10,000.⁵ Both of the permits are listed as "final OK" on January 19, 2017.

The owner testified that much of the work was paid for by fire insurance; but not all the expenses because he did some upgrades that were not covered. The owner did not produce the documents which showed his reimbursement from the fire insurance company.

The owner testified that while he had a general contractor, he did a lot of the work himself. None of his work is billed for in the documents provided.

The owner testified that the interior was demolished; the lathe and plaster ceilings were removed; the kitchen counters and appliances were removed; the bath fixtures were removed; all the flooring in the kitchens were removed; approximately 30% of the hardwood floors were removed and replaced and the rest were refinished; asbestos

¹ According to the documents filed with the *Owner Petition* none of the units were occupied at the time the petition was filed. A copy of the *Owner Petition* was sent to all the units. At the Hearing held on April 10, 2017, the owner testified that the units were now occupied. A new copy of the *Owner Petition* was sent to all the units, in each tenant's name. None of the tenants filed a *Tenant Response* to the owner petition and no tenants appeared at the Hearing.

² Exhibit 34, page 5. This Exhibit and all other exhibits referred to in this Hearing Decision, were admitted into evidence.

³ Exhibit 34, pp 1-4

⁴ Exhibit 34, p. 1.

⁵ Exhibit 34, p. 3

abatement was performed; galvanized pipes were replaced with cooper; all old gas lines were removed and replaced with new; all the knob and tube electrical was removed and replaced with romex; new lighting was added; subpanels and breakers for each units was added; new smoke alarms and CO2 detectors were hardwired; new CAT5 and HDMI cables were added in the units; new interior and exterior doors and jambs were added; new energy efficient windows were installed; fire rated sheetrock was added; the furnace was replaced; three new high efficiency water heaters were installed; all three bathrooms were renovated, the kitchens were renovated; new laundry rooms were added in two of the units; the interior and exterior were patched and painted; thermal insulation was added; new window treatments and rods were added; and new r/c channels were added as a sound attenuator. To the exterior the owner also did stucco repairs and added new stucco for the addition; painted; removed and replaced the existing roof; added gutters and vents; added a custom steel rail balcony; removed a dead tree; did additional landscaping; installed a slate walkway, installed new gates and repaired the cracked and damaged driveway.

The owner's documentation separated the work by category. The owner testified that while he did his best to separate the invoices into separate categories, there were times when he shopped at *Home Depot*, or other stores, where he would purchase things in more than one category. He tried to put each invoice into the category which most closely aligned with the purchases made.

Throughout this Hearing Decision, and the accompanying spreadsheet, all receipts are rounded to the nearest dollar.

The owner was informed in the first Hearing that he needed invoices and proof of payment for all expenses and was given the opportunity to provide proof of payment or an invoice where he had not done so already.

At a variety of times throughout the Hearing, receipts the owner had produced included charges for water, food, candy and other nourishment. The owner testified that these charges were all for food and water he was providing for his workers and that for a period of time that they were doing work there, there was no water available on site.

Doors:

The owner produced a packet of expenses related to the work done to replace many of the doors in the building. See the attached spreadsheet which lists all the costs submitted. The total submitted costs are \$4,669.

Demo and Dump Fees:

The owner testified that during the demolition phase of the work on the unit, many trips were taken to the dump. He produced a *Bank of America* account activity detail showing a payment to Pablo Filipe for \$169.⁶ No invoice was provided.

⁶ Exhibit 3, page 3

He produced receipts from *Smart Demolition* showing cash payments of \$55, \$50, \$70, \$65, \$60, \$50, \$95, \$50, \$60, \$90, \$80 and \$100.⁷ He testified that he was the one who normally drove to the dump, would pay cash, and would get a receipt.

The owner further testified that he hired *Restoration Management Company* to do asbestos remediation. The invoice, for \$28,964.61 was provided.⁸ No proof of payment was provided.

The owner provided an invoice from *Phoenix Environmental Consulting* for \$510.⁹ Proof of payment was provided.¹⁰

The owner provided invoices and proofs of payment from *Oakland Landscape Supply* for \$349, \$392, and 318 which at the first hearing he testified were for dump fees.¹¹ There were additional invoices from *Oakland Landscape Supply* totaling \$295 and \$269 for which the owner did not have separate proof of payment. The owner testified that when you drop things off at the dump, you cannot leave without making a payment and each invoices lists that the amount was "received".

At the second hearing, the owner was asked to identify those documents that he had produced which were related to landscaping. He testified that the receipts from *Oakland Landscape Supply* were for drainage rock related used on the exterior of the premises, and not in the building.

The total invoices submitted by the owner for the dump and demolition category was \$32,013. The total for which he had proof of payment was \$3,218, because he did not have proof of payment for the asbestos remediation. Of that amount, \$1,793 was for the purchase of the drainage rock.

Landscape and Fencing: The owner testified that there was landscaping work performed around the unit. He had a fence installed on the property, purchased retaining wall blocks, installed stone walkways and patios and did outside drainage work.

The owner produced invoices and proof of payment for the landscaping category totaling \$1,536.¹² Within these charges, there was one charge covering the cost of water.¹³ Within these charges, the owner testified that there were two charges within the *Home Depot* receipts that included charges for interior baseboards. Two receipts dated 12/5/16 include a charge for baseboards totaling \$132 and a second charge for \$66. The baseboard costs, with tax, are \$144 and \$72.

⁷ Exhibit 3, pages 1-5

⁸ Exhibit 3, page 6

⁹ Exhibit 3, page 7

¹⁰ Exhibit 3, page 3

¹¹ Exhibit 3, page 8-10

¹² Exhibit 4, pp. 1-11

¹³ See Exhibit 4, p. 9.

Paint: The owner testified that he purchased items at a variety of locations for all the painting supplies he needed for the project. (See Exhibit 5.) The invoices he produced totaled \$4,076. He produced proof of payment in this category totaling \$4,126. The difference between the proof of payment and the invoice total relate to the fact that the receipts he provided from the *One Dollar Only* store, do not list the supplies purchased, they just amount to a proof of payment.

The owner testified that the paint costs included costs for painting the interior, exterior, driveway and fence.

The spreadsheet also documents the receipts that contain purchases of water, candy and other food.

The owner produced several receipts which included the cost of tools. These are listed on the spreadsheet. The owner testified that in certain instances tools got used up in the course of the construction or that tools broke which needed to be replaced. He further testified that he still owned the hedge trimmer, purchased on June 21, 2016 from *Home Depot*. This hedge trimmer is located at the apartment complex for use there.

One of the receipts, dated 11/21/16, included a receipt for 1 pint of Behr epoxy, which the owner testified was for use on the driveway.¹⁴ This cost was \$32.98, plus tax equals \$36.

Miscellaneous: The owner produced two packages of receipts labelled *Miscellaneous I and II*. These receipts include a receipt from *Ikea* for bar stools for the lower unit.¹⁵ He also included receipts for other furniture and décor. These are listed on the spreadsheet.

The owner produced a receipt from *Harbor Freight Tools* for \$73. The date on this receipt was unreadable. The receipt included a charge for a oscillating power tool and other tools.¹⁶ There was a charge for gloves on this receipt, that the owner testified is used by the workers on the job.

Several of these receipts include charges for water, beverages or food. They are listed on the spreadsheet.

Additionally, a variety of these receipts include the cost of tools. In addition to the oscillating multi-power tool, mentioned above, the owner also purchased a belt sander, reciprocal blades, safety glasses, sanding belts, hammers, chisels, a miter saw guide, pry bar sets, 5 amp electrical cutout, dremel, an oil lube device, gooseneck wrecking, a bottle jack, and many others. They are listed on the spreadsheet.

¹⁴ Ex. 5, p. 9

¹⁵ Ex. 6, p. 5

¹⁶ Ex. 6, p 12

Additionally, in this category, the owner put in a receipt from *TLC Glass* for a new windshield he needed after his car windshield was broken when he was carrying supplies.¹⁷ The owner also included a parking ticket which he testified he received when he was at the City of Oakland permit counter as well as parking charges for times he had to pay for parking when visiting the permit counter.¹⁸

Several of the receipts the owner produced in this category were unreadable. They are listed on the spreadsheet.

Additionally, in this category there were a few charges that relate to landscaping. The owner testified that the sod was used to fill in the dirt behind the retaining walls. These charges are listed on the spreadsheet.

Additionally, in this category, there were two charges for car keys. These are listed on the spreadsheet.

The owner's invoice total in these categories was \$4,793. He had proof of payment of \$4,898.

Insulation: The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. (See Exhibit 8). The primary charge was a \$4,677 invoice from *SDI Insulation*. The owner testified that this charge was for the actual insulation. He did not have proof of payment of this invoice. The proof of payment in this category totaled \$276.

Tile: The owner produced invoices for tile (see Exhibit 9.) Some of these charges included charges for water or tools. They are listed on the spreadsheet.

The owner produced invoices in this category totaling \$4,014 and proof of payment totaling \$3,835. One invoice from *Home Depot*, for \$179 did not have a proof of payment and an additional receipt was unreadable. These are listed on the spreadsheet.

Curtains and Rods: The owner produced a variety of documents from *Target* regarding the purchase of curtains and curtain rods from the website. (See Exhibit 10). These documents are order summaries and there are no proof of payment. There is one receipt from *Target* showing a purchase at the store for \$54. (See spreadsheet.)

Plumbing: The owner produced multiple receipts for plumbing, which included the installation of all new copper pipes. (See Exhibit 11.) The invoice and proof of payments total \$2,958. This amount included purchases of tools (hole saws and a bernzomatic) as listed on the attached spreadsheet. The owner testified that the bernzomatic is a tool that is used for melting solder to connect copper pipes but that some portion of the expense is for a benzene gas that gets used up as one employs the tool.

¹⁷ Ex. 7, p. 14

¹⁸ Ex. 7, pp. 26 and Ex. 6, p. 9 (He also did not produce proof of payment of the parking ticket.)

Hot Water: The owner produced invoices and proof of payment for the costs associated with providing hot water in the units at a cost of \$1,968. This includes the cost of the hot water heaters. (Exhibit 12).

Trim: The owner produced invoices and proof of payment of \$1,601 in this category. The owner testified that these were for costs associated with the purchase of baseboards in the units. (Exhibit 13). Two receipts included charges for tools (see spreadsheet.) The owner testified that one of the tools, a brad nailer, is a pneumatic tool for nailing.

Electrical: The owner produced invoices totaling \$7,181 and proof of payment of \$10,334 in this category. (See Exhibit 14.) The predominant difference between the two totals, comes from multiple payments made to Bill Singh for work that he did on the unit. There were no invoices from Mr. Singh. The owner testified that Bill Singh is a licensed electrician who was hired to work on the project to hookup the electrical to the boxes.

The owner had produced an invoice from *Emperor Supply* that was impossible to read. The invoice was dated April 1, 2016.¹⁹ The owner had the original receipt at the Hearing and was able to testify that the items purchased were for electrical and plumbing supplies. The owner testified that the invoice charge of \$201.53 differed from the receipt total of \$170.95 because he had been issued a \$30.58 credit for a return.

In this category the owner produced an invoice dated January 20, 2015, from *Miles Construction* for electrical work performed on the premises. No proof of payment was provided.

Some of the receipts in this category contained tools. (See spreadsheet.) The owner testified that the hammer drill listed on the receipt from *Bayshore Builders Supply* dated July 23, 2016, was for a drill bit, which gets used up in the course of the construction. (See Exhibit 14, p. 26)

Appliances: The owner testified that he purchased new appliances for each unit. The owner produced two receipts in this category. One receipt, from *Best Buy*, lists multiple appliances purchased. Some parts of the document are unreadable. The receipt from *Best Buy* shows the costs for the refrigerators, ranges, microwaves, and washer and dryers for each unit. (See Exhibit 15).

The readable invoice amount for the appliances was \$5,927 and proof of payment was provided showing a total cost of \$6,292. Additionally, the owner produced a receipt from *Home Depot* for the purchase of a dishwasher for \$278. Proof of payment was provided. He also produced receipts from *Lowe's* which document the purchase of another dishwasher and a washer/dryer unit.

Stucco: The owner testified that he hired *Gerbert Lopez* to do stucco work on the building. There is an invoice from Mr. Lopez for \$8,500. The owner testified that original scope of work was to just do exterior stucco on the three units but the scope of

¹⁹ Exhibit 14, p. 19

work increased on the job because *Mr. Lopez* also did the stucco work on the addition and because when the work progressed, it turned out to be far more stucco damage than expected. There is proof of payment of \$19,500. (See Exhibit 16).

HVAC: The owner produced invoices and proof of payment totaling \$1,520 for heating supplies. (See Exhibit 17). The owner testified that these charges were for the purchases of the supplies to do the duct work for the heating system.

Lumber: The owner testified that lumber was purchased for new joists, studs, border trim and framing, as well as wainscoting. He produced many invoices, totaling \$9,085, for costs associated with the purchase of lumber for the project. (See Exhibit 18). He produced proof of payment of \$9,475. The difference between the two totals is caused by the lack of an invoice from *Golden State Lumber* for a \$390 charge.

Within this packet there were charges for water and for tools. (See spreadsheet.)

Labor: The owner produced copies of checks paid to Jesus Martinez, Pablo Felipe, Val Pizzini and Geber Lopez. He produced no invoices for any of these workers and testified that he did not have any invoices. He provided proof of payment, showing payments made of \$19,451. (See Exhibit 19).

One of the payments was made to the laborer Pablo Felipe, on July 17, 2015. This is several months before the original permit was taken out (in September of 2015—see Permit section.) This payment to Pablo Felipe was documented by a copy of an online payment receipt from the owners *Bank of America* account, showing that on July 17, 2015, funds were withdrawn (\$2,600) from the bank account and sent to Mr. Felipe.

One of the checks provided by the owner to Jesus Martinez stated that it was a loan. The owner testified that it was a loan advance for work that had not yet been done but was later done by Mr. Martinez. Additionally, one of the documents provided by the owner was a debit receipt from his bank, showing that he took money out of the bank that day. (Exhibit 19, p. 15). The owner testified that he gave this money to Jesus Martinez, one of the laborers.

The owner also provided a receipt, dated November 16, 2015, which states “received from Pablo Felipe” the sum of \$450.²⁰

The owner was given the opportunity to provide affidavits from these laborers; none were provided.

Gas: The owner testified that these costs related to the new gas pipes that were installed in the building. He produced copies of invoices for this category of \$581 and proof of payment of \$754. (See Exhibit 19a). The owner did not have an invoice for a \$173 charge to *American Emperor*.

²⁰ It is possible that this says \$4,450—the receipt is ambiguous.

Bath: The owner produced copies of invoices for supplies purchased for the bathrooms. (See Exhibit 20). The invoices and proof of payment total \$1,153. One receipt was unreadable.²¹

Kitchen/Ironwork: The owner produced copies of invoices and proof of payment for work done in the kitchen and the ironwork done on the property. (See Exhibit 21.) He produced a copy of a check to *Xiong Xin Liu* in the amount of \$1,650, who was hired to install the countertops. No invoice was provided. He also produced an invoice from *Iron Works* for \$550, for which there was no proof of payment.²² This invoice says "balance due" \$550. The owner testified that the invoice has the word "paid" written on it. He does not remember whether he paid the person cash or check.

The owner produced two invoices from *East Star Building Supply*, one for \$1,753 and one for \$88, which state they were unpaid. No proof of payment was provided.

The total for the invoices provided was \$2,640 and the proof of payment established payments of \$1,900.

Windows: The owner testified that he installed mostly new windows on the property. He provided invoices totaling \$2,970 for the purchase of windows. He produced proof of payment of \$3,180. (See Exhibit 22.) The difference in these two figures is based on the fact that the owner did not have an invoice from *Sherwin Williams* for three charges made on his credit card.

Travel/Tolls: The owner testified that he travelled back and forth from his home in San Francisco to the worksite as well as multiple trips to *Home Depot*, *Lowe's* and other vendors to buy items needed for the project. He claimed expenses of \$1,168 for bridge tolls (for which he provided his *Fastrak* documentation) and \$1,610 for driving expenses at a cost of 57 cents a mile. (See Exhibit 23).

Sheetrock: The owner produced copies of checks made out to *Jorge Martinez* for sheetrock work totaling \$16,500. He testified that Mr. Martinez did the sheetrock work in all the units which included the cost of the bulk of the supplies for this job. The owner produced a screenshot from a text message exchange he had with Mr. Martinez regarding the work. The text message says:

"sorry I didn't get to you earlier Total drywall and rc channel Smooth level 4 and patch on existing drywall 3 units, \$21,000."²³

Hardwood Floors: The owner testified that he hired *Specialty Hardwood* to refinish the hardwood floors in the units. He produced proof of payment to *Specialty Hardwood* totaling \$7,739. No invoice was provided. (See Exhibit 25).

²¹ Exhibit 20, p. 2

²² Exhibit 21, p. 6

²³ Exhibit 24, p. 1

Construction Insurance: The owner produced an invoice from *Lexington Insurance* for construction insurance he purchased to cover the property during the course of the construction. The invoice from the insurance company was for \$7,249. No proof of payment was provided. (See Exhibit 26). The owner testified that this was the cost for one year, and that the building was under construction for almost a two year period. No additional invoice was provided.

Permit Fees: The owner produced documents from the *City of Oakland* which document the permits he received (See Exhibits 27 and 34.) As noted above, the job values were listed as \$80,000 on one permit, and \$10,000 on the second permit. The costs, for which the owner provided both an invoice and proof of payment, was \$6,435.

The owner also produced a receipt from the *City of Oakland Business Tax* for the \$30 charge for his business tax in 2016.²⁴ He testified he was required to keep his license, even though he was not renting during the course of construction.

General Contractor: The owner testified that he hired *JTM Development* as a general contractor on the job. He produced invoices totaling \$52,449 and proof of payments of \$78,592. (Exhibit 28) The proof of payment was a combination of checks made directly to *JTM* as well as a copy of a *Bank of America* website page listing payments made to *JTM* through the owner's banking account.²⁵

Fireplace Servicing: The owner testified that there are fireplaces in all of the units. The charges in this category were for someone to come out, clean them up and inspect them to make sure that they had not rusted. The owner produced two invoices (one for \$748.35 and one for \$252.95.) The invoices state that they were paid by "Visa." (See Exhibit 29.)

Online Purchases: The owner produced many pages of receipts from online purchases he made for supplies for this project. The attached spreadsheet lists those purchases. (Exhibit 30).

The owner listed in this exhibit several purchases for which he paid cash and did not have any kind of documentation. He testified he purchased two aluminum ladders at a cost of \$425, which he paid in cash. (See Exhibit 30, page 1.) There is no receipt, no invoice and no copy of a webpage reference to this purchase. These ladders are on the premises of the Brighton apartments and are used to access the roof.

The owner testified that he purchased foam kits from *Craigslist* to spray foam for insulation. While he produced a picture of the product from the website, there is no proof of payment or invoice. The owner also produced many images from the *Ebay* website which show items he testified were purchased for this property. Many of these images do not show proof of payment.

²⁴ Exhibit 27, p. 1

²⁵ See Exhibit 28, p. 1

The owner produced receipts from *Amazon* for the following purchases: bulbs, shop towels, outlets, faucets; door hardware, laptop cord and screw remover, toilet plunger, door hardware, electric hardware, kitchen hardware, tampons, curtains, timer/hose, garden hose, soaker hose, water timer, hdmi cable, cleaners, plumbing, cloths and a microplane, bulbs, dustpan and cleaners, household supplies, stools, humidity monitor, and a moisture meter. These are all listed on the spreadsheet. Many of these receipts are billed to Lauren Beeler, who the owner testified is his partner.

Many of the items purchased from *Amazon* were purchased before the first permit was taken out, which was in September of 2015. The owner produced receipts from purchases on *Amazon* going back to September of 2014.

In this category, the owner made claims for expenses totaling \$2,724 and had proof of payment totaling \$1,808.

Toilet Rental: The owner testified that until they were able to set up plumbing inside the units, he was required to rent toilets for his workers. He produced a bill for \$261.66 from *United Site Services*. He also produced an email from a man named Jose Corona who stated that the charge for services would be \$684.59. No proof of payment was provided. (See Exhibit 31).

Lighting: The owner produced several receipts related to lighting. He produced a *Paypal* receipt showing a payment made to Andres Orphanopoulos for \$90. He testified this was for a light fixture. He also produced an order confirmation from *Houzz* which shows the purchase of 2 light fixtures totaling \$53.98, paid for by an American Express card. Additionally, *Home Depot* receipts were provided showing purchases of light fixtures and mini-blinds. (See Exhibit 32).

The owner produced invoices totaling \$653 in this category and proof of payment of \$743. (The difference in these figures is the \$90 *Paypal* receipt to Mr. Orphanopoulos.)

Miscellaneous III: The owner produced additional receipts between the first two hearings showing additional purchases that had not been provided earlier. He produced a receipt from *Ikea* showing a charge of \$96.45 which included a charge for a toilet brush cleaner and lighting. When asked whether any of these items were installed in the building he testified that the SKEPP LED listed on the receipt was a light fixture that had been installed.²⁶ He did not know what any of the other items on this receipt was for. (See Exhibit 33, p. 1)

The owner testified that most of the other receipts in this packet were for supplies he purchased for the project from *Home Depot* and *Lowe's*. Some of the receipts included tools and candy. (See spreadsheet.) The owner testified that the gorilla ladders listed on a *Home Depot* receipt were small step ladders. Other receipts contained charges for a hammer tacker and scrapers, which are both tools.

²⁶ Ex. 33, p. 1

The owner also produced parking receipts from the *City of Oakland* showing parking fees for \$1.60. He also produced a receipt from *Pak'n Save* for lunch purchased for a worker.²⁷

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Are the units exempt from the Rent Adjustment Program because they have been Substantially Rehabilitated?

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

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.²⁸

The tables issued by the Building Services agency refer to a dollar amount per square foot (Exhibit “B” attached). Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

Square Footage: At the hearing, the owner representative presented a document from a *Alameda County Assessor's Office* that shows that the square footage of the building before the addition was 2,884 square feet. The owner testified that there was an addition of 84 square feet. Therefore, the total square footage of the building is 2,932 square feet. The information contained in this document, together with the owner representative's testimony, is found to be reliable evidence.

Expenses: In a precedent decision, the Board held that:

“[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction”²⁹

An owner has the burden of proving every element of his/her case by a preponderance of the evidence. Invoices, proposals, or estimates alone are not sufficient evidence of an

²⁷ Ex. 33, p. 7

²⁸ O.M.C. § 8.22.030(B)(2)

²⁹ *HRRRB Decision, T04-0158, Ulman v. Breen & Orton*

expense; proof of payment is also required. Similarly, proof of payment alone is not sufficient, a corresponding invoice must be provided.

The spreadsheet produced by the owner was a spreadsheet that simply added up all the receipts the owner produced. This document is not sufficient to establish the costs expended for this project.

The California Evidence code states: "If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."³⁰

The applicable rules of evidence are stated in Government Code § 11513³¹:

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 reasons that invoices or contracts are required is because these documents explain the work done. Since the work must be to the building (and not to landscaping or driveways) and must be for permanent installations (and not appliances), it is imperative to view and analyze the proper documentation.

The reason that proof of payment is required is because evidence of invoices alone do not establish that a bill has been paid. It is common knowledge that many invoices are renegotiated after work is done. Without evidence of both an invoice (or contract) and proof of payment the costs are not credited here.

In certain circumstances in this case the owner has produced invoices that are not for work done to rehabilitate the building; but instead are for other costs related to the project. For example, the work for landscaping is not allowed as this expenditure is not for work that is part of the square footage of the building.³² In order for a cost to be eligible as a substantial rehabilitation cost it must be for work done on the structure of the building. This is especially true because the calculation is based on the square footage of the building and does not include the square footage of the yard, the driveway, the fence or the landscaped area.

The same is true for appliances. The purchase of appliances is not a structural improvement. Therefore, costs expended for appliances are not allowable cost items.

The owner produced many receipts which contained purchases of tools, water, other beverages, food and candy. Tools are not allowed as an expense as they are not installed in the building, they belong to the owner (or his workers) and are a cost of doing business. Where it was clear that the tool purchased was for something that would likely

³⁰ Evidence Code, § 412

³¹ Regulations, § 8.22.110(E)(4)

³² Additionally, the concrete path was not approved because no invoice was provided.

get used up in the course of construction, like a drill bit, it was allowed. However, where it is a cost for a hammers, ladders, drills, dremels, or other tools that lasts longer than the project, these costs were not allowed.

Additionally, food and water purchased for the workers on the job are not costs associated with the rehabilitation of the building. This is true even during the period of time that there was no water on the premises.

Attached to this Hearing Decision as Exhibit "A" is a 16 page spreadsheet documenting all the costs the owner submitted into evidence. Where there was a discrepancy between the invoice amount and the proof of payment, the lower figure was included in the spreadsheet in the column "allowable amount". Where a portion of an invoice was not granted, there is a column which lists the amount subtracted. Where the entire cost was not granted, the "allowable amount" is listed as zero. In each case, where specific items were subtracted, the tax of 9.5% was added to the total price that was then subtracted from the receipt price. Additionally, there is a column in the spreadsheet that lists the reasons for the denial of each listed cost.

Doors:

The owner established expenses for doors totaling \$4,669.

Demo and Dump Fees:

The owner established that he spent money on demolition fees and dump fees for the work that was done on the unit.

The owner produced proof of payment to Pablo Felipe for \$169. No invoice was provided. Additionally, he produced an invoice from *Restoration Management* for which no proof of payment was provided. These amounts were not allowed.

Additionally, the owner testified that the costs associated with billings from *Oakland Landscape Supply* were for landscaping. These amounts were not allowed.

The owner was allowed \$1,425 for the payments made in this category, for which he had both invoices and proof of payment and which were not related to landscaping.

Landscape and Fencing:

The owner established that there was work done outside the building on building a fence, for the purchase of wall blocks and for the installation of walkways, patios and outside drainage work. As noted above, these are not costs to the building, are not a part of the square footage of the building, and are not considered in the calculation for substantial rehabilitation.

However, in this category of documents, the owner had \$216 worth of expenses that were actually for baseboard purchased on the same *Home Depot* receipts as other

landscaping purchases. The baseboard was installed inside the building and is an allowable expense. The owner is entitled to \$216 for those costs in this category.

Paint:

The owner established expenditures of \$2,597 for paint supplies for the work done on the building. While he submitted invoices totaling \$4,076 and proof of payment totaling \$4,126, there were several documents for which the owner did not have invoices. Additionally, there were costs expended for the driveway as well as costs expended on tools, and water. These costs were not allowed. See spreadsheet for details.

Miscellaneous I and II:

This collection of costs provided by the owner included costs for furniture from *Ikea*, costs for tools, water, other décor, costs of a car repair after the owner had his windshield broken on the job, costs for a parking ticket, costs associated with the purchase of car keys, landscape expenses, several expenses for which there were no invoices, and several unreadable invoices. These costs are not allowed.

The owner established allowable expenses of \$2,775. (See spreadsheet for detail.)

Insulation:

The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. However, the primary charge in this category was a \$4,677 invoice from *SDI Insulation*. He did not have proof of payment of that invoice.

The owner established allowable expenses in this category of \$276.

Tile:

In this category, the owner provided a variety of expenses related to the purchase of tools and water. Additionally, there are some receipts which were unreadable. They are listed on the spreadsheet.

The owner established allowable expenses in this category of \$3,778.

Curtains and Rods:

Curtains and curtain rods are not attached to the building and are not an allowable expense. Additionally, in this category, the owners' email from *Target* showing that an order has been made, does not have an accompanying proof of payment, or any showing on the document that the order was paid for.

There are no allowable expenses in this category.

Plumbing:

The owner produced multiple allowable expenses in this category. The only expenses that were not allowed include the costs of tools (the bernzomatic and hole saw). Proof of payment and invoices totaling \$2,867 were allowed in this category.

The owner's argument that the bernzomatic is predominantly a charge for the gas used with this tool is not convincing. This is a tool purchased for the soldering of copper pipes. The tool was not used up in the course of the construction.

Hot Water:

The established costs in this category of \$1,968.

Trim:

Other than the costs of two tools listed on the receipts provided (a brad nailer and an additional tool), the owner's documentation for these costs was allowed. The owner established costs totaling \$1,518 in this category.

Electrical:

In this category the owner claimed expenses related to checks he wrote to *Miles Construction* and *Bill Singh*. He did not have invoices from these vendors. Additionally, the charge from *Miles Construction* was more than 8 months before the first permit was taken out. Still further, some charges were for tools, like voltage testers, nut setters, wire tracers and a keyhole saw. These charges were not allowed.

The owner established costs totaling \$6,512 in this category.

Appliances:

Appliances are not allowable expenditures in a substantial rehabilitation case as they are not permanent costs associated with the structure of the building. None of these costs are allowed.

Stucco:

The owner produced an invoice from *Gerbert Lopez* showing costs for the stucco work as \$8,500. While he did have proof of payment of a greater amount, the owner must provide both invoices and proof of payment. The owner is entitled to credit for the cost of \$8,500.

HVAC:

The owner established costs in this category of \$1,520.

Lumber:

The owner established costs in this category of \$8,809. The only excluded costs were associated with the purchase of tools, water, for an unreadable invoice and one expense for which no invoice was provided. (See spreadsheet.)

Labor:

At the first hearing in this case, the owner was informed that for all charges, he was required to provide invoices and proof of payment. He testified that he did not have any invoices for the laborers who worked on the project. He asked if providing affidavits from the workers would be helpful. He was informed that while invoices were preferable, affidavits would be considered. No such affidavits were provided.

Without invoices or affidavits, none of these expenses are allowed.

Additionally, in a few instances, the owner did not have a check to substantiate the payment; instead he produced records relating to the withdrawal of money from his bank account and then testified that he paid the worker cash. This is an additional reason why certain of these charges were not allowed. (See spreadsheet.)

Gas:

The owner established \$581 in costs in this category. He did not have an invoice for a \$173 charge to *American Emperor*. Only those costs for which he can establish proof of payment and an invoice are provided.

Bath:

The owner established costs in this category totaling \$1,153.

Kitchen/Ironwork:

In this category, the owner again did not have invoices for the laborer *Xiong Xin Liu* or proof of payment to *Ironworks*. The fact that the invoice from *Ironworks* has the word "paid" on it, in handwriting, is not compelling, as anyone could write the word "paid" on an invoice. In fact, in this case, the owner has written notes on many of the invoices he provided.

Furthermore, he produced invoices from *East Star Building Supply*, which state they were unpaid. No proof of payment was provided.

In this category, the owner established expenses totaling \$250.

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Windows:

The owner established expenses in this category totaling \$2,970. The only charges removed were three items listed on a credit card receipt from *Sherwin Williams* for three charges made on his credit card as no invoices or receipts from the vendor were provided.

Travel/Tolls:

The owners' expenses to travel to and from the worksite are not allowable expenses as they are not expenses for the rehabilitation of the building. This category is denied.

Sheetrock:

In this category, the owner produced a text message which he claimed was a quote for the sheetrock work. A text message is not the kind of business record on which people reasonably rely. There is no invoice.

This cost is denied. Since this was the only cost in this category, the allowable expense in this category is zero.

Hardwood Floors:

No invoice was provided for these expenses. Therefore, the allowable expense in this category is zero.

Construction Insurance:

Construction insurance is not a cost to the building—it is an expense to protect the owners' property. This cost is denied. Another reason this cost was denied is there was no proof of payment.

Permit Fees:

The owner's business tax expense is not an allowable expense for the rehabilitation of the building. The owner established expenses in this category totaling \$6,405 for the costs of the permits he received from the *City of Oakland* for jobs valued for a total of \$90,000.

General Contractor:

The owner testified that *JTM Development* was the general contractor on the job. He provided some invoices for which there were no proof of payment, and some proof of payment for which there were no invoices. There are only \$44,141 in expenses for which the proof of payment and invoices line up. However, since in this case there was proof of

invoices totaling \$52,449, and proof of payment of more than \$78,000, the owner is entitled to credit of the \$52,449.³³

Fireplace Servicing:

The owner established that he had the fireplaces serviced in all the units at a cost of \$1,001. This cost is allowed.

Online Purchases:

In this category the owner produced receipts for many expenses which were purchased up to more than a year before the permit was issued in this case. None of these purchases were allowed, as there was no explanation as to why any of these purchases would be made before the permit was issued.

Additionally, the owner produced many pages of receipts for items of a personal nature. He produced a receipt for tampons, for a microplanning device (for cooking), for laptop cords, for cleaning supplies and other things. The spreadsheet lists in detail those items that were denied.

Additionally, this category had a claim for two ladders purchased from a listing on *Craigslist* for which there was no documentation, and which the owner claimed to have purchased in cash. Ladders are tools and are not allowable expenses. Additionally, no proof of payment was provided. The owner also claimed many other tools and furnishings in this category.

Additionally, this category has claims for purchases the owner claimed to have made from *Ebay*. The documentation provided shows no proof of payment.

The owner established proof of allowable expenses in this category totaling \$1,146.

Toilet Rental:

No proof of payment was provided in this category. The only reference to a charge comes in an email stating that a charge would be made to a credit card. The receipt was not produced. The owner has not established any allowable expenses in this category.

Lighting:

Again, in this category the owner had proof of payment where he did not have an invoice or receipt of any kind showing what was purchased. The owner established allowable expenses in this category totaling \$653.

³³ The last two invoices/proof of payment entries for *JTM Development* were combined, so that even though there was a payment made on July 1, 2016, for \$15,000, for which there was no comparable invoice, there was an invoice dated September 5, 2016, for \$8,308. In this instance, the owner was given credit for the \$8,308 as if the payment made in July of 2016, covered the costs of that invoice.

Miscellaneous III:

In this category, the owner had a receipt from *Ikea* which included a light fixture. Otherwise, he did not know what was purchased (other than a toilet brush cleaner.) Some of the other receipts included food, candy and tools. As noted above, these are not allowable expenses. The owner also submitted parking fees, which are not allowable.

The owner's invoice from *JTM Development*, which was provided in this category, did not have an accompanying proof of payment.

The owner established allowable expenses in this category totaling \$1,970.

The Calculation: The owner testified that the subject building is of wood frame construction. Exhibit "B" lists square foot construction costs, effective May 1, 2015. A Type V building is a building that is made from allowable materials that are not "non-combustible materials."³⁴ A wood frame building is combustible, and hence a Type V.

The Exhibit states that for Type V construction of an apartment building greater than 2 units the cost for new construction as of May 1, 2015, was \$145.07.

To determine if the owner is entitled to the exemption the following calculation is necessary. Multiply the square footage of 2,932 by \$145.07 (\$425,345.24) and then divide that by 2. Therefore, if the owner spent at least \$212,672.62 on the construction project, the building is exempt from the Rent Ordinance.

The chart below summarizes the allowable costs expended:

Doors	\$4,669	Gas	\$581
Dump/Demo	\$1,425	Bath	\$1,153
Landscaping	\$216	Kitchen	\$250
Paint	\$2,597	Windows	\$2,970
Miscellaneous I and II	\$2,775	Tolls/Travel	\$0
Insulation	\$276	Sheetrock	\$0
Tile	\$3,778	Hardwood Floors	\$0
Curtains/Rods	\$ 0	Const. Insurance	\$0
Plumbing	\$2,867	Permits/Fees	\$6,405
Hot Water	\$1,968	General Contractor	\$52,449
Trim	\$1,518	Fireplace	\$1,001
Electrical	\$6,512	Online Purchases	\$1,146
Appliances	\$0	Toilet Rental	\$0
Stucco	\$8,500	Lighting	\$653
HVAC	\$1,520	Miscellaneous III	\$1,970
Lumber	\$8,809		
Labor	\$0	Total:	\$116,008

³⁴ See California Building Code § 602.1-602.5.

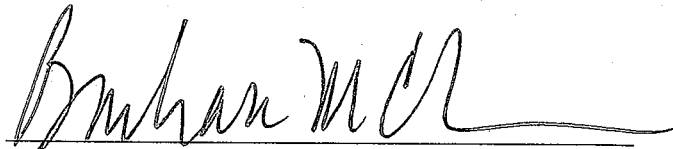
The owners have provided invoices and proof of payment that they spent \$116,008.^{35, 36} This amount is not above the necessary sum of \$212,672.62 and, therefore, the building has not been "substantially rehabilitated." The rental units in the building are not exempt from the Rent Ordinance.

ORDER

1. Petition L16-0094 is denied. The units at 3515 Brighton Street, Apartments 1-3, are not exempt from the Rent Adjustment Ordinance.

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

Dated: July 5, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

³⁵ It is important to note that this is only a bit more than the \$90,000 cost for which the owner received permits.

³⁶ This is \$1.00 more than shown on the spreadsheet, which is likely caused by a rounding error, as the spreadsheet is round to the nearest dollar.

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Doors									
10/19/2016	Home Depot	Doors	\$1,671	\$1,671			\$1,671		Ex. 2, p.2
12/27/2016	Home Depot	Doors	\$206	\$206			\$206		Ex. 2, p. 3
12/14/2015	Home Depot	Doors	\$219	\$219			\$219		Ex. 2, p. 3
11/10/2016	Home Depot	Doors	\$105	\$105			\$105		Ex. 2, p. 3
12/7/2016	Home Depot	Doors	\$1,648	\$1,648			\$1,648		Ex. 2, p. 4
11/12/2016	Home Depot	Doors	\$52	\$52			\$52		Ex. 2, p. 4
9/27/2016	Home Depot	Doors	\$60	\$60			\$60		Ex. 2, p. 5
12/19/2016	Home Depot	Doors	\$442	\$442			\$442		Ex. 2, p. 5
12/20/2016	Home Depot	Doors	\$51	\$51			\$51		Ex. 2, p. 5
8/23/2016	Lowe's	Doors	\$10	\$10			\$10		Ex. 2, p. 4
11/12/2016	Home Depot	Doors	\$33	\$33			\$33		Ex. 2, p. 4
12/9/2015	Lowe's	Doors	\$172	\$172			\$172		Ex. 2, p. 5
Doors Subtotal:			\$4,669	\$4,669			\$4,669		
Owner Category: Dump and Demolition									
9/9/2015	Analytical Labs	Testing	\$40	\$40			\$40		Ex. 3, p. 2
9/3/2015	Pablo Filipe	Dump Fee	\$0	\$169			\$0	no invoice	Ex. 3, p. 3
11/19/2015	Smart Demolition	Dump Fee	\$55	\$55			\$55		Ex. 3, p. 3
2/1/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p. 3
4/29/2016	Smart Demolition	Dump Fee	\$70	\$70			\$70		Ex. 3, p. 3
10/31/2016	Smart Demolition	Dump Fee	\$65	\$65			\$65		Ex. 3, p. 4
1/14/2016	Smart Demolition	Dump Fee	\$60	\$60			\$60		Ex. 3, p. 4
8/20/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p. 4
7/29/2016	Smart Demolition	Dump Fee	\$95	\$95			\$95		Ex. 3, p. 4
unreadable	Smart Demolition	Dump Fee	\$45	\$45			\$45		Ex. 3, p. 4
12/29/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p. 5
8/3/2016	Smart Demolition	Dump Fee	\$60	\$60			\$60		Ex. 3, p. 5
7/20/2016	Smart Demolition	Dump Fee	\$90	\$90			\$90		Ex. 3, p. 5
9/27/2016	Smart Demolition	Dump Fee	\$80	\$80			\$80		Ex. 3, p. 5
7/26/2016	Smart Demolition	Dump Fee	\$100	\$100			\$100		Ex. 3, p. 5
12/4/2015	Smart Demolition	Dump Fee	\$45	\$45			\$45		Ex. 3, p. 5
11/25/2015	Restoration Management	Asbestos Remediation	\$28,965	\$0			\$0	no invoice	Ex. 3, p. 6
4/2/2015	Phoenix Environmental	Testing	\$510	\$510			\$510		Ex. 3, pp. 3 and 7
10/29/2015	Oakland Landscaping Supply	Drainage rock	\$349	\$349			\$0	Landscaping	Ex. 3, p. 8
11/2/2015	Oakland Landscaping Supply	Drainage rock	\$392	\$392			\$0	Landscaping	Ex. 3, p. 9
11/4/2015	Oakland Landscaping Supply	Drainage rock	\$318	\$318			\$0	Landscaping	Ex. 3, p. 10
11/6/2015	Oakland Landscaping Supply	Drainage rock	\$295	\$295			\$0	Landscaping	Ex. 3, p. 11
8/28/2015	Oakland Landscaping Supply	Drainage rock	\$269	\$269			\$0	Landscaping	Ex. 3, p. 12
Dump and Demolition Subtotal:			\$32,013	\$3,218			\$1,425		
Owner Category: Landscaping									
11/29/2016	Lowe's	Landscaping	\$72	\$72			\$0	all landscaping	Ex. 4, p. 4
12/2/2015	Home Depot	Landscaping	\$52	\$52			\$0	all landscaping	Ex. 4, p. 6
8/21/2015	Home Depot	Landscaping	\$130	\$130			\$0	all landscaping	Ex. 4, p. 6
6/11/2016	Home Depot	Landscaping	\$105	\$105			\$0	all landscaping	Ex. 4, p. 6
12/5/2016	Home Depot	Landscaping	\$102	\$102			\$72	mostly landscaping	Ex. 4, p. 7
12/27/2016	Home Depot	Landscaping	\$68	\$68			\$0	all landscaping	Ex. 4, p. 7
12/1/2016	Home Depot	Landscaping	\$185	\$185			\$0	all landscaping	Ex. 4, p. 8
12/1/2016	Home Depot	Landscaping	\$72	\$72			\$0	all landscaping	Ex. 4, p. 8
11/30/2016	Home Depot	Landscaping	\$51	\$51			\$0	all landscaping	Ex. 4, p. 10

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
11/30/2016	Home Depot	Landscaping	\$78	\$78			\$0	all landscaping	Ex. 4, p. 10
12/2/2016	Home Depot	Landscaping	\$61	\$61			\$0	all landscaping	Ex. 4, p. 10
12/5/2016	Home Depot	Landscaping	\$233	\$233			\$144	mostly landscaping	Ex. 4, p. 11
12/6/2016	Lowe's	Landscaping	\$57	\$57			\$0	all landscaping	Ex. 4, p. 11
9/9/2015	Center	Landscaping	\$33	\$33			\$0	all landscaping	Ex. 4, p. 2
9/9/2015	Center	Concrete	\$13	\$13			\$0	all landscaping	Ex. 4, p. 3
12/2/2016	American Emperor	Concrete	\$9	\$9			\$0	all landscaping	Ex. 4, p. 5
10/13/2016	Home Depot	Concrete	\$45	\$45			\$0	all landscaping	Ex. 4, p. 7
12/1/2016	Home Depot	Retaining Wall	\$29	\$29			\$0	all landscaping	Ex. 4, p. 8
11/29/2016	Lowe's	Concrete	\$35	\$35			\$0	landscaping and water	Ex. 4, p. 9
12/6/2016	Home Depot	Landscaping	\$41	\$41			\$0	all landscaping	Ex. 4, p. 9
12/1/2016	Home Depot	Concrete	\$30	\$30			\$0	all landscaping	Ex. 4, p. 9
12/6/2016	Home Depot	Landscaping	\$36	\$36			\$0	all landscaping	Ex. 4, p. 11
Landscaping Subtotal:			\$1,536	\$1,536			\$216		
Owner Category: Paint									
5/13/2016	West Marine	Paint Supplies	\$2	\$2			\$2		Ex. 5, p. 2
10/5/2016	Lowe's	Paint Supplies	\$552	\$552			\$552		Ex. 5, pp. 3-4
8/4/2016	Ashby Lumber	Paint Supplies	\$312	\$312			\$312		Ex. 5, p. 6
12/10/2016	Center	Paint Supplies	\$9	\$9			\$9		Ex. 5, p. 7
11/6/2016	One Dollar Only	?	n/a	\$31			\$0		Ex. 5, p. 8
12/27/2016	Kelly Moore	Paint Supplies	\$27	\$27			\$27		Ex. 5, p. 8
10/27/2016	Kelly Moore	Paint Supplies	\$26	\$26			\$26		Ex. 5, p. 8
11/3/2016	Home Depot	Paint Supplies	\$8	\$8			\$8		Ex. 5, p. 8
11/25/2016	Home Depot	Paint Supplies	\$50	\$50			\$50		Ex. 5, p. 9
11/18/2016	Home Depot	Paint Supplies	\$59	\$59		\$14	\$46	water	Ex. 5, p. 9
11/21/2016	Home Depot	Paint Supplies	\$117	\$117		\$36	\$81	driveway	Ex. 5, p. 9
11/10/2016	Home Depot	Paint Supplies	\$40	\$40			\$40		Ex. 5, p. 9
8/3/2016	One Dollar Only	?	n/a	\$19			\$0		Ex. 5, p. 10
no date	Kelly Moore	Paint Supplies	\$13	\$13			\$13		Ex. 5, p. 10
10/12/2016	Home Depot	Paint Supplies	\$31	\$31			\$31		Ex. 5, p. 10
11/28/2016	Lowe's	Paint Supplies	\$26	\$26			\$26		Ex. 5, p. 10
9/29/2016	Kelly Moore	Paint Supplies	\$44	\$44			\$44		Ex. 5, p. 11
10/2/2016	Lowe's	Paint Supplies	\$34	\$34			\$34		Ex. 5, p. 11
9/28/2016	Home Depot	Paint Supplies	\$63	\$63			\$63		Ex. 5, p. 11
10/2/2016	Home Depot	Paint Supplies	\$193	\$193			\$193		Ex. 5, p. 11
8/21/2016	Lowe's	Paint Supplies	\$81	\$81			\$81		Ex. 5, p. 11
10/19/2015	Sherwin Williams	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 11
10/2/2016	Lowe's	Paint Supplies	\$243	\$243			\$243		Ex. 5, p. 12
6/2/2016	Home Depot	Paint Supplies	\$286	\$286		\$52	\$234	tools (hedge trimmer and squeegee)	Ex. 5, p. 12
8/4/2016	Lowe's	Paint Supplies	\$177	\$177		\$5	\$172	water	Ex. 5, p. 13
8/24/2016	Lowe's	Paint Supplies	\$413	\$413			\$413		Ex. 5, p. 13
8/31/2016	Lowe's	Paint Supplies	\$79	\$79			\$79		Ex. 5, p. 13
8/25/2016	Kelly Moore	Paint Supplies	\$15	\$15			\$15		Ex. 5, p. 13
10/19/2015	Sherwin Williams	Paint Supplies	\$93	\$93			\$93		Ex. 5, p. 14
8/20/2016	Lowe's	Paint Supplies	\$85	\$85			\$85		Ex. 5, p. 14
10/19/2015	Sherwin Williams	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 14

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
10/10/2016	Kelly Moore	Paint Supplies	\$13	\$13			\$13		Ex. 5, p. 14
9/16/2016	Home Depot	Paint Supplies	\$204	\$204		\$9	\$195	water	Ex. 5, p. 15
8/30/2016	Lowe's	Paint Supplies	\$251	\$251			\$251		Ex. 5, p. 15
5/20/2016	Home Depot	Paint Supplies	\$19	\$19			\$19		Ex. 5, p. 15
8/10/2016	Lowe's	Paint Supplies	\$12	\$12			\$12		Ex. 5, p. 15
9/19/2016	Lowe's	Paint Supplies	\$70	\$70			\$70		Ex. 5, p. 16
8/19/2016	Lowe's	Paint Supplies	\$175	\$175			\$175		Ex. 5, p. 16
12/8/2016	Lowe's	Paint Supplies	\$51	\$51			\$51		Ex. 5, p. 16
8/3/2016	Lowe's	Paint Supplies	\$86	\$86			\$86		Ex. 5, p. 16
Paint Subtotal:			\$4,076	\$4,126			\$2,597		
Owner Category: Miscellaneous I and II									
9/1/2015	Great Western	Miscellaneous	\$101	\$101			\$101		Ex. 6, p. 8
12/6/2016	ikea	Furnishings	\$87	\$87			\$0	Furniture	Ex. 6, p. 5
12/4/2015	Home Depot	Miscellaneous	\$150	\$150			\$150		Ex. 6, p. 11
10/19/2016	Lowe's	Miscellaneous	\$74	\$74			\$74		Ex. 6, p. 12
unreadable	Harbor Freight Tools	Miscellaneous	\$73	\$73			\$0	Tools and no date	Ex. 6, p. 12
10/19/2016	Lowe's	Miscellaneous	\$80	\$80			\$80		Ex. 6, p. 12
4/1/2016	Home Depot	Miscellaneous	\$82	\$82			\$82		Ex. 6, p. 15
2/18/2016	Home Depot	Miscellaneous	\$61	\$61		\$1	\$60	water	Ex. 6, p. 16
3/4/2016	ikea	Miscellaneous	\$77	\$77			\$0	décor	Ex. 6, p. 16
unreadable	ikea	Miscellaneous	\$225	\$225			\$0	no date	Ex. 6, p. 17
7/4/2016	Harbor Freight Tools	Miscellaneous	\$110	\$110		\$110	\$0	tools (sanding belt, hammers etc.)	Ex. 6, p. 17
8/20/2015	Lumberman	Miscellaneous	\$91	\$91			\$91		Ex. 7, p. 2
12/29/2016	Lowe's	Miscellaneous	\$89	\$89			\$89		Ex. 7, p. 4
12/28/2016	Home Depot	Miscellaneous	\$64	\$64		\$14	\$50	tools (chisel)	Ex. 7, p. 4
1/5/2017	Sears	Miscellaneous	\$77	\$77		\$77	\$0	tools (miter Saw guide)	Ex. 7, p. 5
8/10/2016	Caiply	Miscellaneous	\$50	\$50		\$299	\$50	car repair	Ex. 7, p. 6
12/11/2015	TLC Glass	Windshield	\$299	\$299		\$299	\$0	tools (rotating handle, 5 amp electrical cut out, etc)	Ex. 7, p. 14
10/27/2015	Harbor Freight Tools	Tools	\$79	\$79		\$79	\$0	tools (dremel)	Ex. 7, p. 20
8/31/2015	Lowe's	Tools	\$76	\$76		\$76	\$0	tools (oil lube, gooseneck wrecking, pry bar, etc)	Ex. 7, p. 22
11/18/2015	Home Depot	Miscellaneous	\$54	\$54		\$41	\$54	can't read date	Ex. 7, p. 21
unreadable	Office Max	Miscellaneous	\$41	\$41		\$41	\$0	tools (oil lube, gooseneck wrecking, pry bar, etc)	Ex. 7, p. 22
7/28/2015	Harbor Freight Tools	Tools	\$232	\$232		\$232	\$0	tools (dremel)	Ex. 7, p. 20
7/17/2016	Harbor Freight Tools	Tools	\$71	\$71		\$71	\$0	tools	Ex. 7, p. 22
9/21/2015	FedEx Office	Miscellaneous	\$91	\$91			\$91		Ex. 7, p. 25
11/9/2016	Lowe's	Miscellaneous	\$218	\$218			\$218		Ex. 7, p. 25
9/28/2015	City of Oakland Parking	Miscellaneous	\$58	\$0		\$58	\$0	no proof of payment and parking ticket	Ex. 7, p. 26
7/8/2015	Lowe's	Miscellaneous	\$106	\$106		\$76	\$30	tools	Ex. 7, p. 26
9/23/2016	Home Depot	Miscellaneous	\$60	\$60			\$60		Ex. 7, p. 27

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
7/31/2016	Lowe's	Miscellaneous	\$65	\$65			\$65		Ex. 7, p. 27
7/24/2016	Home Depot	Miscellaneous	\$145	\$145			\$145		Ex. 7, p. 28
8/20/2016	Home Depot	Miscellaneous	\$42	\$42			\$42		Ex. 7, p. 28
10/20/2016	Home Depot	Miscellaneous	\$107	\$107			\$107		Ex. 7, p. 28
12/15/2016	Ikea	Miscellaneous	\$94	\$94		\$50	\$44	décor	Ex. 7, p. 29
2/1/2016	KH Plumbing	Ice Maker	\$40	\$40			\$40		Ex. 6, p. 2
10/31/2016	KH Plumbing	Supplies	\$27	\$27			\$27		Ex. 6, p. 3
8/25/2016	American Emperor	Miscellaneous	\$7	\$7			\$7		Ex. 6, p. 4
11/10/2016	One Dollar Only	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 5
2/4/2016	One Dollar Only	Miscellaneous	\$19	\$19			\$19		Ex. 6, p. 5
unreadable	Harbor Freight Tools	Miscellaneous	\$15	\$15			\$15		Ex. 6, p. 5
8/14/2016	Lowe's	Miscellaneous	\$47	\$47			\$47		Ex. 6, p. 5
12/10/2016	Target	Décor	\$17	\$17			\$0	décor	Ex. 6, p. 5
7/23/2016	Center	Hardware	\$3	\$3			\$3		Ex. 6, p. 6
3/30/2015	Lowe's	Landscaping	\$42	\$42			\$0		Ex. 6, p. 7
4/26/2016	Home Depot	Miscellaneous	\$2	\$2	sod		\$2	landscaping	Ex. 6, p. 7
12/4/2015	Lowe's	Miscellaneous	\$23	\$23			\$23		Ex. 6, p. 7
9/20/2016	Home Depot	Miscellaneous	\$17	\$17			\$17		Ex. 6, p. 7
10/29/2016	Merritt Chevron	Propane Tank	\$24	\$24			\$24		Ex. 6, p. 8
9/22/2015	City of Oakland Parking	parking	\$8	\$8			\$0	parking fees	Ex. 6, p. 9
10/31/2016	Ikea	décor	\$29	\$29			\$0	décor	Ex. 6, p. 9
11/3/2016	Walgreens	Paper towels	\$9	\$9			\$9		Ex. 6, p. 9
unreadable	Harbor Freight Tools	Miscellaneous	\$38	\$38			\$38		Ex. 6, p. 9
9/17/2015	Lowe's	Miscellaneous	\$34	\$34			\$34		Ex. 6, p. 9
7/4/2016	Home Depot	Miscellaneous	\$49	\$49	drip irrigation	\$23	\$26	portion landscaping	Ex. 6, p. 10
4/12/2016	Mission Dollar	Miscellaneous	n/a	\$15			\$0	No invoice	Ex. 6, p. 10
8/2/2016	Lowe's	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 10
8/5/2016	Lowe's	Miscellaneous	\$7	\$7			\$7		Ex. 6, p. 10
12/12/2016	CVS	Miscellaneous	\$23	\$23			\$23		Ex. 6, p. 10
10/27/2016	Home Depot	Miscellaneous	\$37	\$37			\$37		Ex. 6, p. 11
12/1/2015	Mi Pueblo	Food	\$14	\$14			\$0	water	Ex. 6, p. 11
1/16/2016	Dollar Store	unreadable	n/a	\$11			\$0	No invoice	Ex. 6, p. 11
4/3/2016	One Dollar Only	Food	\$3	\$3			\$0	food	Ex. 6, p. 11
1/24/2016	Lowe's	Miscellaneous	\$10	\$10			\$10		Ex. 6, p. 11
9/13/2016	Home Depot	Miscellaneous	\$16	\$16			\$16		Ex. 6, p. 12
8/20/2016	Lowe's	Tools	\$21	\$21			\$0	tools	Ex. 6, p. 12
8/29/2016	Home Depot	Tools	\$5	\$5			\$5		Ex. 6, p. 13
11/11/2015	Lowe's	Tools	\$6	\$6			\$0	tools	Ex. 6, p. 13
9/4/2015	Discount Builders	Miscellaneous	\$9	\$9		\$5	\$4	tools	Ex. 6, p. 13
11/15/2015	Lowe's	Tools	\$31	\$31			\$0	tools	Ex. 6, p. 13
unreadable	Office Max	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 14
11/21/2016	Home Depot	Miscellaneous	\$3	\$3			\$3		Ex. 6, p. 14
11/22/2016	Home Depot	Tools	\$11	\$11			\$0	tools	Ex. 6, p. 14
1/3/2016	Ashby Lumber	Hardware	\$3	\$3			\$3		Ex. 6, p. 14
unreadable	Dollar Tree Store	Miscellaneous	\$25	\$25			\$0	tools and food	Ex. 6, p. 14
1/21/2016	Lowe's	Key	\$2	\$2			\$0	car key	Ex. 6, p. 15
3/8/2016	Lowe's	Keys	\$8	\$8			\$0	car keys	Ex. 6, p. 15
10/14/2015	Office Max	Miscellaneous	unreadable	unreadable			\$0	unreadable	Ex. 6, p. 15
6/27/2016	Home Depot	Miscellaneous	\$8	\$8			\$8		Ex. 6, p. 15
unreadable	Home Depot	unreadable	\$15	\$15			\$0	unreadable	Ex. 6, p. 16
2/18/2016	Home Depot	drywall	\$12	\$12			\$12	unreadable	Ex. 6, p. 16

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
2/18/2016	Home Depot	Miscellaneous	\$26	\$26			\$26		Ex. 6, p 16
5/17/2016	Home Depot	Miscellaneous	\$17	\$17			\$17		Ex. 6, p 17
10/12/2016	One Dollar Only	Miscellaneous	n/a	\$33			\$0	No invoice	Ex. 6, p 17
10/13/2016	Home Depot	Miscellaneous	\$5	\$5			\$5		Ex. 6, p 17
unreadable	Mission Dollar	Miscellaneous	n/a	\$12			\$0	No invoice	Ex. 7, p 3
10/20/2015	Home Depot	Tools	\$11	\$11			\$0	tools	Ex. 7, p 3
12/3/2015	Ace Hardware	Tools	\$15	\$15			\$2	tools	Ex. 7, p 3
9/22/2015	Office Max	Miscellaneous	\$10	\$10		\$13	\$10		Ex. 7, p 3
9/8/2015	Lowe's	Miscellaneous	\$8	\$8			\$8		Ex. 7, p 3
1/28/2016	Ace Hardware	Hardware	\$1	\$1			\$1		Ex. 7, p 4
11/16/2015	Walgreens	Batteries	\$4	\$4			\$4		Ex. 7, p 4
1/28/2016	Rubenstein	Miscellaneous	\$7	\$7			\$7		Ex. 7, p 7
1/28/2016	Rubenstein	Miscellaneous	\$11	\$11			\$11		Ex. 7, p 8
1/27/2016	Harbor Freight Tools	Tools	\$15	\$15			\$0	tools	Ex. 7, p 8
1/29/2016	Ashby Lumber	Miscellaneous	\$7	\$7			\$7		Ex. 7, p 9
8/6/2015	Center	Miscellaneous	\$4	\$4			\$4		Ex. 7, p 10
1/21/2016	Center	Hardware	\$10	\$10			\$10		Ex. 7, p 11
3/31/2016	Ashby Lumber	Miscellaneous	\$7	\$7			\$7		Ex. 7, p 12
8/24/2015	Lowe's	Miscellaneous	\$29	\$29			\$29		Ex. 7, p 13
12/30/2016	American Emperor	Miscellaneous	\$37	\$37			\$37		Ex. 7, p 15
9/16/2015	One Dollar Only	Miscellaneous	n/a	\$40			\$0	No invoice	Ex. 7, p 16
1/13/2016	Bayshore Builders	Miscellaneous	\$10	\$10			\$10		Ex. 7, p 16
2/19/2016	Home Depot	Miscellaneous	\$10	\$10		\$3	\$7	drinks	Ex. 7, p 17
5/7/2015	Center	Miscellaneous	\$1	\$1			\$1		Ex. 7, p 18
10/4/2016	Lowe's	Miscellaneous	\$17	\$17			\$17		Ex. 7, p 19
2/10/2016	Ashby Lumber	Miscellaneous	\$26	\$26			\$26		Ex. 7, p 19
2/19/2016	Home Depot	Miscellaneous	\$20	\$20			\$15	water	Ex. 7, p 20
10/20/2016	Los 3 Petrilos	Food	\$33	\$33		\$4	\$0	food	Ex. 7, p 20
12/21/2015	Office Max	Paper	\$9	\$9			\$9		Ex. 7, p 20
10/13/2015	Office Max	Miscellaneous	\$26	\$26			\$26		Ex. 7, p 21
8/7/2016	Home Depot	Tools	\$31	\$31			\$0	Tools	Ex. 7, p 21
7/21/2016	Lowe's	Miscellaneous	\$28	\$28			\$28		Ex. 7, p 21
unreadable	Office Max	Miscellaneous	\$41	\$41			\$41		Ex. 7, p 22
2/1/2016	KH Plumbing	Ice Maker	\$40	\$40			\$40		Ex. 7, p 23
unreadable	Office Max	Miscellaneous	\$5	\$5			\$5		Ex. 7, p 23
12/17/2016	Digital Prints	Miscellaneous	unreadable	unreadable			\$0	unreadable	Ex. 7, p 24
8/8/2016	Lowe's	Miscellaneous	\$15	\$15			\$15		Ex. 7, p 25
12/2/2015	Ace Hardware	Miscellaneous	\$15	\$15			\$15		Ex. 7, p 25
12/3/2015	Ace Hardware	Miscellaneous	\$19	\$19			\$19		Ex. 7, p 26
8/18/2015	Discount Builders	Miscellaneous	\$33	\$33			\$33		Ex. 7, p 26
7/31/2016	One Dollar Only	Miscellaneous	n/a	\$21			\$0	No invoice	Ex. 7, p 27
7/29/2016	Lowe's	Miscellaneous	\$34	\$34			\$34		Ex. 7, p 27
9/21/2016	Home Depot	Miscellaneous	\$23	\$23			\$23		Ex. 7, p 27
unreadable	One Dollar Only	Miscellaneous	n/a	\$27			\$0	No invoice	Ex. 7, p 28
unreadable	One Dollar Only	Miscellaneous	unreadable	\$3			\$0	unreadable	Ex. 7, p 28
12/20/2016	Home Depot	Miscellaneous	\$23	\$23			\$23		Ex. 7, p 29
12/20/2016	Home Depot	Hardware	\$34	\$34			\$34		Ex. 7, p 29
12/11/2015	Lowe's	Miscellaneous	\$21	\$21			\$21		Ex. 7, p 29
Miscellaneous Subtotal:			\$4,793	\$4,898			\$2,775		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Insulation									
8/12/2016	Home Depot	Insulation	\$92	\$92			\$92		Ex. 8, p. 2
7/21/2016	SDI Insulation	Insulation	\$4,677	\$0			\$0	no proof of payment	Ex. 8, p. 3
5/31/2016	Home Depot	Insulation	\$49	\$49			\$49		Ex. 8, p. 2
6/8/2016	Home Depot	Insulation	\$135	\$135			\$135		Ex. 8, p. 3
	Insulation Subtotal:		\$4,953	\$276			\$276		
Owner Category: Tile									
8/25/2016	Best Tile	Tile	\$65	\$65			\$65		Ex. 9, p. 2
10/11/2016	Home Depot	Tile	\$146	\$146			\$146		Ex. 9, p. 2
6/10/2016	Home Depot	Tile	\$192	\$192			\$192		Ex. 9, p. 3
10/20/2016	UniStone	Tile	\$474	\$474			\$474		Ex. 9, p. 4
10/6/2016	Home Depot	Tile	\$106	\$106			\$106		Ex. 9, p. 5
10/22/2016	Home Depot	Tile	\$100	\$100			\$100		Ex. 9, p. 5
10/16/2016	Home Depot	Tile	\$74	\$74			\$74		Ex. 9, p. 5
10/6/2016	Home Depot	Tile	\$224	\$224		\$4	\$220	tools (trowel)	Ex. 9, p. 5
10/14/2016	Best Tile	Tile	\$142	\$142			\$142		Ex. 9, p. 6
10/16/2016	Home Depot	Tile	\$72	\$72			\$72		Ex. 9, p. 6
10/14/2016	UniStone	Tile	\$294	\$294			\$294		Ex. 9, p. 7
6/20/2016	Home Depot	Tile	\$91	\$91			\$91		Ex. 9, p. 7
10/26/2016	UniStone	Tile	\$334	\$334			\$334		Ex. 9, p. 8
10/27/2016	Home Depot	Tile	\$98	\$98		\$9	\$89	water	Ex. 9, p. 8
8/31/2016	Home Depot	Tile	\$179	\$0			\$0	no proof of payment	Ex. 9, p. 9
11/23/2016	Home Depot	Tile	\$53	\$53		\$44	\$10	tools (hole saw kit)	Ex. 9, p. 10
11/1/2016	Home Depot	Tile	\$69	\$69			\$69		Ex. 9, p. 11
10/23/2016	Home Depot	Tile	\$95	\$95			\$95		Ex. 9, p. 11
10/17/2016	Home Depot	Tile	\$183	\$183			\$183		Ex. 9, p. 11
10/17/2016	Home Depot	Tile	unreadable				\$0	unreadable	Ex. 9, p. 12
8/7/2016	Home Depot	Tile	\$145	\$145			\$145		Ex. 9, p. 12
10/19/2016	Home Depot	Tile	\$126	\$126			\$126		Ex. 9, p. 12
10/28/2016	Home Depot	Tile	\$69	\$69			\$69		Ex. 9, p. 12
10/27/2016	Home Depot	Tile	\$304	\$304			\$304		Ex. 9, p. 13
10/25/2016	UniStone	Tile	\$132	\$132			\$132		Ex. 9, p. 14
10/21/2016	Home Depot	Tile	\$49	\$49			\$49		Ex. 9, p. 2
10/27/2016	UniStone	Tile	\$6	\$6			\$6		Ex. 9, p. 3
10/27/2016	Home Depot	Tile	\$24	\$24			\$24		Ex. 9, p. 4
10/25/2016	Home Depot	Tile	\$53	\$53			\$53		Ex. 9, p. 14
6/23/2016	Home Depot	Tile	\$26	\$26			\$26		Ex. 9, p. 6
11/15/2016	Home Depot	Tile	\$13	\$13			\$13		Ex. 9, p. 9
11/1/2016	Granite Expo	Tile	\$26	\$26			\$26		Ex. 9, p. 10
12/10/2016	Home Depot	Tile	\$16	\$16			\$16		Ex. 9, p. 11
11/10/2016	Home Depot	Tile	\$34	\$34			\$34		Ex. 9, p. 13
	Tile Subtotal:		\$4,014	\$3,835			\$3,778		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Curtains/Rods									
12/19/2016	Target	Curtains	\$413	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 2-3
12/19/2016	Target	Curtain Rods	\$160	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp. 4-5
12/19/2016	Target	Curtain Rods	\$224	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 6-7
12/19/2016	Target	Curtain Rods	\$142	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 8-9
12/9/2016	Target	Curtain Rods	\$176	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 10-11
3/10/2017	Target	Curtain Rods	\$54	\$54			\$0	curtains and rods	Ex. 10, p 12
Curtains: subtotal			\$1,168	\$54			\$0		
Owner Category: Plumbing									
12/11/2015	Lowe's	Plumbing	\$52	\$52			\$0	Tools (berzomatic)	Ex. 11, p. 2
2/23/2016	KH Plumbing Supply	Plumbing	\$94	\$94			\$94		Ex. 11, p. 3
12/7/2015	KH Plumbing Supply	Plumbing	\$404	\$404			\$404		Ex. 11, p. 4
12/11/2015	KH Plumbing Supply	Plumbing	\$140	\$140			\$140		Ex. 11, p. 5
12/10/2015	KH Plumbing Supply	Plumbing	\$178	\$178			\$178		Ex. 11, p. 6
12/9/2015	KH Plumbing Supply	Plumbing	\$49	\$49			\$49		Ex. 11, p. 7
12/9/2015	KH Plumbing Supply	Plumbing	\$74	\$74			\$74		Ex. 11, p. 8
12/23/2016	KH Plumbing Supply	Plumbing	\$18	\$18			\$18		Ex. 11, p. 9
12/4/2015	KH Plumbing Supply	Plumbing	\$22	\$22			\$22		Ex. 11, p. 10
12/8/2015	KH Plumbing Supply	Plumbing	\$130	\$130			\$130		Ex. 11, p. 11
12/8/2015	Pace Supply	Plumbing	\$51	\$51			\$51		Ex. 11, p. 12
12/2/2015	Globe Plumbing Center	Plumbing	\$70	\$70			\$70		Ex. 11, p. 13
1/7/2016	Center	Plumbing	\$2	\$2			\$2		Ex. 11, p. 14
1/5/2016	KH Plumbing Supply	Plumbing	\$59	\$59			\$59		Ex. 11, p. 15
12/4/2015	KH Plumbing Supply	Plumbing	\$146	\$146			\$146		Ex. 11, p. 16
12/18/2015	KH Plumbing Supply	Plumbing	\$32	\$32			\$32		Ex. 11, p. 17
10/18/2016	American Emperor	Plumbing	\$152	\$152			\$152		Ex. 11, p. 18
12/9/2015	KH Plumbing Supply	Plumbing	\$74	\$74			\$74		Ex. 11, p. 19
3/4/2016	KH Plumbing Supply	Plumbing	\$121	\$121			\$121		Ex. 11, p. 20
2/25/2016	KH Plumbing Supply	Plumbing	\$73	\$73			\$73		Ex. 11, p. 21
2/25/2016	KH Plumbing Supply	Plumbing	\$43	\$43			\$43		Ex. 11, p. 22
1/5/2016	KH Plumbing Supply	Plumbing	\$33	\$33			\$33		Ex. 11, p. 23
1/5/2016	KH Plumbing Supply	Plumbing	\$137	\$137			\$137		Ex. 11, p. 24
1/6/2016	KH Plumbing Supply	Plumbing	\$173	\$173			\$173		Ex. 11, p. 25

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
12/3/2015	Cal Steam	Plumbing	\$56	\$56		\$39	\$17	Tools (hole saws)	Ex. 11, p. 26
3/1/2016	KH Plumbing Supply	Plumbing	\$176	\$176			\$176		Ex. 11, p. 27
6/13/2016	Home Depot	Plumbing	\$2	\$2			\$2		Ex. 11, p. 27
6/14/2016	KH Plumbing Supply	Plumbing	\$398	\$398			\$398		Ex. 11, p. 28
		Plumbing Subtotal:	\$2,958	\$2,958			\$2,867		
		Owner Category: Hot Water							
11/16/2016	Home Depot	Hot Water	\$30	\$30			\$30		Ex. 12, p. 2
6/15/2016	Home Depot	Hot Water	\$14	\$14			\$14		Ex. 12, p. 2
11/2/2016	American Emperor	Hot Water	\$174	\$174			\$174		Ex. 12, p. 3
11/15/2016	Home Depot	Hot Water	\$87	\$87			\$87		Ex. 12, p. 3
11/6/2016	Home Depot	Hot Water	\$26	\$26			\$26		Ex. 12, p. 4
11/3/2016	American Emperor	Hot Water	\$100	\$100			\$100		Ex. 12, p. 4
6/15/2016	Calply	Hot Water	\$36	\$36			\$36		Ex. 12, p. 5
11/2/2016	Lowe's	Hot Water	\$1,297	\$1,297			\$1,297		Ex. 12, p. 5
9/9/2016	Home Depot	Hot Water	\$12	\$12			\$12		Ex. 12, p. 6
11/4/2016	American Emperor	Hot Water	\$117	\$117			\$117		Ex. 12, p. 6
11/2/2016	Home Depot	Hot Water	\$3	\$3			\$3		Ex. 12, p. 7
11/21/2016	American Emperor	Hot Water	\$72	\$72			\$72		Ex. 12, p. 7
		Hot Water Subtotal:	\$1,968	\$1,968			\$1,968		
		Owner Category: Trim							
10/5/2016	Lowe's	Trim	\$21	\$21			\$21		Ex. 13, p. 2
12/13/2016	Home Depot	Trim	\$40	\$40			\$40		Ex. 13, p. 2
10/16/2016	Home Depot	Trim	\$428	\$428			\$428		Ex. 13, p. 3
12/12/2016	Home Depot	Trim	\$137	\$137			\$137		Ex. 13, p. 4
12/7/2016	Home Depot	Trim	\$89	\$89			\$89		Ex. 13, p. 4
10/4/2016	Home Depot	Trim	\$30	\$30		\$7	\$23	Tools	Ex. 13, p. 4
12/12/2016	Home Depot	Trim	\$29	\$29			\$29		Ex. 13, p. 4
11/8/2016	Home Depot	Trim	\$118	\$118			\$118		Ex. 13, p. 5
11/14/2016	Home Depot	Trim	\$267	\$267			\$267		Ex. 13, p. 5
11/14/2016	Home Depot	Trim	\$139	\$139			\$139		Ex. 13, p. 5
12/7/2016	Home Depot	Trim	\$96	\$96		\$77	\$19	Tools (brad nailer)	Ex. 13, p. 5
11/7/2016	Home Depot	Trim	\$43	\$43			\$43		Ex. 13, p. 6
11/7/2016	Home Depot	Trim	\$31	\$31			\$31		Ex. 13, p. 6
11/7/2016	Home Depot	Trim	\$29	\$29			\$29		Ex. 13, p. 6
11/16/2016	Home Depot	Trim	\$105	\$105			\$105		Ex. 13, p. 6
		Trim Subtotal:	\$1,601	\$1,601			\$1,518		
		Owner Category: Electrical							
3/25/2016	Bayshore Supply	Electrical	\$171	\$171			\$171		Ex. 14, p. 2
3/28/2016	American Emperor	Electrical	\$11	\$11			\$11		Ex. 14, p. 3
1/25/2016	American Emperor	Electrical	\$82	\$82			\$82		Ex. 14, p. 4
11/2/2016	Lowe's	Electrical	\$55	\$55			\$55		Ex. 14, p. 4
1/18/2016	Bayshore Supply	Electrical	\$36	\$36			\$36		Ex. 14, p. 5
4/1/2016	Bayshore Supply	Electrical	\$21	\$21			\$21		Ex. 14, p. 6
3/28/2016	American Emperor	Electrical	\$836	\$836			\$836		Ex. 14, p. 7
3/31/2016	American Emperor	Electrical	\$4	\$4			\$4	credit	Ex. 14, p. 8
unreadable	American Emperor	Electrical	\$145	\$145			\$145		Ex. 14, p. 9
unreadable	American Emperor	Electrical	\$628	\$628			\$628		Ex. 14, p. 10
10/20/2016	Bayshore Supply	Electrical	\$123	\$123			\$123		Ex. 14, p. 11
3/30/2016	Bayshore Supply	Electrical	\$92	\$92			\$92		Ex. 14, p. 12

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
3/25/2016	Bayshore Supply	Electrical	\$1,882	\$1,882			\$1,882		Ex. 14, p. 13
2/5/2016	Bayshore Supply	Electrical	\$58	\$58			\$58		Ex. 14, p. 14
9/23/2016	Lowe's	Electrical	\$45	\$45			\$45		Ex. 14, p. 15
unreadable	American Emperor	Electrical	\$146	\$146			\$146		Ex. 14, p. 15
1/4/2016	Home Depot	Electrical	\$424	\$424			\$424		Ex. 14, p. 16
3/16/2016	Bayshore Supply	Electrical	\$156	\$156			\$156		Ex. 14, p. 16
4/13/2016	Best Way	Electrical	\$114	\$114			\$114		Ex. 14, p. 17
1/20/2015	Miles Construction	Electrical	\$300	\$0			\$0	no proof of payment (and before permit)	Ex. 14, p. 18
11/4/2016	Home Depot	Electrical	\$6	\$6			\$0	Tools (voltage tester)	Ex. 14, p. 19
4/1/2016	American Emperor	Electrical	\$202	\$171		\$31	\$171	credit	Ex. 14, p. 19
3/25/2016	Bayshore Supply	Electrical	\$171	\$171			\$171		Ex. 14, p. 20
12/3/2015	Home Depot	Electrical	\$89	\$89			\$89		Ex. 14, p. 20
1/20/2016	Electrical Supply	Electrical	\$304	\$304			\$304		Ex. 14, p. 21
8/16/2016	Home Depot	Electrical	\$45	\$45			\$45		Ex. 14, p. 21
1/11/2016	American Emperor	Electrical	\$10	\$10			\$10		Ex. 14, p. 22
11/21/2016	Lowe's	Electrical	\$38	\$38			\$38		Ex. 14, p. 22
unreadable	American Emperor	Electrical	\$212	\$212			\$212		Ex. 14, p. 23
1/27/2016	Home Depot	Electrical	\$170	\$170		\$12	\$158	tools (keyhole saw)	Ex. 14, p. 23
2/23/2016	Bayshore Supply	Electrical	\$17	\$17			\$17		Ex. 14, p. 24
10/14/2016	Home Depot	Electrical	\$68	\$68			\$68		Ex. 14, p. 24
2/25/2016	Bayshore Supply	Electrical	\$10	\$10		\$4	\$5	Tools (nut setter)	Ex. 14, p. 25
11/5/2016	Home Depot	Electrical	\$23	\$23			\$0	Tools (voltage tester)	Ex. 14, p. 25
7/23/2016	Bayshore Supply	Electrical	\$145	\$145			\$145		Ex. 14, p. 26
8/2/2016	Bill Singh	Electrical	\$0	\$1,150		\$1,150	\$0	no invoice	Ex. 14, p. 27
11/17/2016	Home Depot	Electrical	\$62	\$62		\$44	\$18	tools (wire tracer)	Ex. 14, p. 27
12/23/2016	Home Depot	Electrical	\$31	\$31			\$31		Ex. 14, p. 28
3/30/2016	Bill Singh	Electrical	\$0	\$2,500		\$2,500	\$0	no invoice	Ex. 14, p. 28
4/21/2016	Bill Singh	Electrical	\$0	\$611		\$611	\$0	no invoice	Ex. 14, p. 29
unreadable	Fruit Ridge Tools	Electrical	\$132	\$0		\$132	\$0	no proof of payment	Ex. 14, p. 29
Electrical Subtotal:			\$7,181	\$10,862		\$4,483	\$6,512		
Owner Category: Appliances									
11/11/2016	Best Buy	Appliances (range)	\$639	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (range)	\$639	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer)	\$657	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$1,095	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dishwasher)	\$438	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (microwave)	\$142	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (washer)	\$656	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer vent)	\$30	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer cord)	unreadable	see below	includes tax		\$0	Unreadable	Ex. 15, p. 2

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
11/11/2016	Best Buy	Appliances (fridge)	unreadable	see below			\$0	Unreadable and	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (unreadable)	\$33	see below	includes tax		\$0	appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$657	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge delivery)	\$30	see below	includes tax		\$0	Delivery Charge	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$493	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dishwasher install)	\$33	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy		\$278	\$6,292			\$0	Appliance	Ex. 15, p. 2
11/18/2016	Home Depot	Appliances (Dishwasher)	\$278	\$278			\$0	Appliance	Ex. 15, p. 3
		Appliances Subtotal:	\$5,927	\$6,570			\$0		
	Owner Category: Stucco								
4/11/2016	Gerbert Lopez	Stucco	\$8,500	\$19,500			\$8,500	No invoice for more than \$8,500	Ex. 16, pp 1-9
		Stucco Subtotal:	\$8,500	\$19,500			\$8,500		
	Owner Category: HVAC								
3/29/2016	Bayshore Supply	HVAC	-\$152	-\$152			-\$152		Ex. 17, p. 1
3/1/2016	Bayshore Supply	HVAC	\$736	\$736			\$736		Ex. 17, p. 2
3/16/2016	Bayshore Supply	HVAC	\$186	\$186			\$186		Ex. 17, p. 3
1/11/2016	American Emperor	HVAC	\$4	\$4			\$4		Ex. 17, p. 4
3/2/2016	American Emperor	HVAC	\$114	\$114			\$114		Ex. 17, p. 5
3/4/2016	American Emperor	HVAC	\$19	\$19			\$19		Ex. 17, p. 6
3/31/2016	American Emperor	HVAC	\$117	\$117			\$117		Ex. 17, p. 7
3/2/2016	Bayshore Supply	HVAC	\$496	\$496			\$496		Ex. 17, p. 8
		HVAC Subtotal:	\$1,520	\$1,520			\$1,520		
	Owner Category: Lumber								
9/19/2016	Lowe's	Lumber	\$121	\$121			\$121		Ex. 18, p. 1
11/17/2015	Home Depot	Lumber	\$198	\$198			\$198		Ex. 18, p. 2
3/29/2016	Ashby Lumber	Lumber	\$69	\$69			\$69		Ex. 18, p. 2
11/15/2015	Lowe's	Lumber	\$191	\$191			\$191		Ex. 18, p. 3
8/19/2015	Lumberman	Lumber	\$13	\$13			\$13		Ex. 18, p. 3
6/29/2016	Home Depot	Lumber	\$166	\$166			\$166		Ex. 18, p. 4
11/13/2016	Ashby Lumber	Lumber	\$105	\$105			\$105		Ex. 18, p. 4
8/20/2015	Lumberman	Lumber	\$51	\$51			\$51		Ex. 18, p. 5
12/15/2016	Home Depot	Lumber	\$614	\$614			\$614		Ex. 18, p. 5
8/13/2016	Home Depot	Lumber	\$281	\$281			\$281		Ex. 18, p. 6
8/27/2016	Golden State Lumber	Lumber	\$89	\$89			\$89		Ex. 18, p. 6
7/20/2016	Lowe's	Lumber	\$159	\$159			\$159		Ex. 18, p. 7
9/9/2015	Golden State Lumber	Lumber	\$114	\$114			\$114		Ex. 18, p. 7
7/27/2016	Home Depot	Lumber	\$116	\$116		\$11	\$105	tools (tape measure)	Ex. 18, p. 8
8/19/2015	Lowe's	Lumber	\$78	\$78			\$78		Ex. 18, p. 8
1/5/2016	Discount Builders	Lumber	\$155	\$155			\$155		Ex. 18, p. 8
11/12/2015	Lowe's	Lumber	\$209	\$209			\$209		Ex. 18, p. 8
1/8/2016	Lowe's	Lumber	\$210	\$210			\$210		Ex. 18, p. 9
1/8/2016	Ashby Lumber	Lumber	unreadable	unreadable			unreadable		Ex. 18, p. 9
7/21/2016	Golden State Lumber	Lumber	n/a	\$390			\$0	no invoice	Ex. 18, p. 10
8/31/2016	Lowe's	Lumber	\$866	\$866			\$866		Ex. 18, p. 10
2/11/2016	Ashby Lumber	Lumber	\$14	\$14			\$14		Ex. 18, p. 11

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
8/15/2016	Home Depot	Lumber	\$28	\$28			\$28		Ex. 18, p. 11
11/17/2015	Ashby Lumber	Lumber	\$457	\$457			\$457		Ex. 18, p. 12
7/26/2016	Lowe's	Lumber	\$50	\$50		\$11	\$40	water	Ex. 18, p. 12
3/31/2016	Ashby Lumber	Lumber	\$24	\$24			\$24		Ex. 18, p. 13
8/1/2016	Lowe's	Lumber	\$113	\$113			\$113		Ex. 18, p. 13
1/15/2016	Ashby Lumber	Lumber	\$34	\$34			\$34		Ex. 18, p. 14
9/22/2016	Lowe's	Lumber	\$68	\$68			\$68		Ex. 18, p. 14
11/23/2015	Home Depot	Lumber	\$16	\$16			\$16		Ex. 18, p. 15
11/12/2015	Economy Lumber	Lumber	\$26	\$26			\$26		Ex. 18, p. 15
7/9/2015	Lowe's	Lumber	\$171	\$171		\$152	\$18	tools (dewalt)	Ex. 18, p. 16
8/26/2015	Golden State Lumber	Lumber	\$440	\$440			\$440		Ex. 18, p. 16
9/9/2015	Golden State Lumber	Lumber	\$196	\$196			\$196		Ex. 18, p. 17
3/29/2016	Lowe's	Lumber	\$1	\$1			\$1		Ex. 18, p. 18
1/14/2016	Ashby Lumber	Lumber	\$72	\$72			\$72		Ex. 18, p. 18
1/21/2016	Lowe's	Lumber	\$108	\$108			\$108		Ex. 18, p. 19
11/16/2015	Home Depot	Lumber	\$63	\$63			\$63		Ex. 18, p. 19
2/18/2016	Lowe's	Lumber	\$90	\$90			\$90		Ex. 18, p. 19
11/17/2015	Lowe's	Lumber	\$428	\$428		\$5	\$422	water	Ex. 18, p. 19
6/30/2016	Lowe's	Lumber	\$8	\$8			\$8		Ex. 18, p. 20
1/13/2016	Lowe's	Lumber	\$261	\$261			\$261		Ex. 18, p. 20
11/17/2015	Lowe's	Lumber	\$90	\$90			\$90		Ex. 18, p. 20
1/15/2016	Lowe's	Lumber	\$433	\$433			\$433		Ex. 18, p. 20
8/17/2015	Lumberman	Lumber	\$262	\$262			\$262		Ex. 18, p. 21
11/17/2015	Lowe's	Lumber	\$120	\$120			\$120		Ex. 18, p. 21
9/23/2016	Ashby Lumber	Lumber	\$191	\$191			\$191		Ex. 18, p. 22
12/1/2015	Lowe's	Lumber	\$269	\$269			\$269		Ex. 18, p. 22
8/15/2016	Home Depot	Lumber	\$63	\$63			\$63		Ex. 18, p. 23
11/17/2015	Ashby Lumber	Lumber	\$61	\$61			\$61		Ex. 18, p. 24
7/29/2016	Lowe's	Lumber	\$346	\$346			\$346		Ex. 18, p. 24
11/17/2015	Ashby Lumber	Lumber	\$61	\$61			\$61		Ex. 18, p. 24
8/19/2016	Lowe's	Lumber	\$13	\$13			\$13		Ex. 18, p. 25
11/12/2015	Economy Lumber	Lumber	\$7	\$7			\$7		Ex. 18, p. 25
6/10/2016	Home Depot	Lumber	\$53	\$53			\$53		Ex. 18, p. 26
12/20/2016	Home Depot	Lumber	\$40	\$40			\$40		Ex. 18, p. 26
12/11/2015	Lowe's	Lumber	\$60	\$60			\$60		Ex. 18, p. 26
7/31/2016	Home Depot	Lumber	\$238	\$238		\$96	\$142	water and tools (diablo 14 pc set, makita gold bit set, extension pole, snips)	Ex. 18, p. 26
unreadable	Home Depot	Lumber	\$27	\$27			\$27		Ex. 18, p. 27
7/18/2016	Home Depot	Lumber	\$81	\$81			\$81		Ex. 18, p. 27
8/18/2015	Lowe's	Lumber	\$103	\$103			\$103		Ex. 18, p. 27
7/18/2015	Lowe's	Lumber	\$94	\$94			\$94		Ex. 18, p. 27
		Lumber Subtotal:	\$9,085	\$9,475			\$8,809		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Labor, Prof Services									
11/6/2015	Pablo Felipe	Demo Work	n/a	\$450			\$0	No invoice, no check	Ex. 19, p. 1
7/17/2015	Pablo Felipe	Demo Work	n/a	\$2,600			\$0	No invoice	Ex. 19, p. 2
12/18/2015	Val Pizzini	Structural Engineer	n/a	\$800			\$0	No invoice	Ex. 19, p. 3
10/12/2016	Jesus Martinez	Loan	n/a	\$500			\$0	No invoice and loan	Ex. 19, p. 3
12/22/2016	Jesus Martinez	Labor	n/a	\$1,020			\$0	No invoice	Ex. 19, p. 4
12/15/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 5
12/9/2016	Jesus Martinez	Labor	n/a	\$689			\$0	No invoice	Ex. 19, p. 6
12/2/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 7
11/29/2016	Jesus Martinez	Labor	n/a	\$300			\$0	No invoice	Ex. 19, p. 8
11/25/2016	Jesus Martinez	Labor	n/a	\$732			\$0	No invoice	Ex. 19, p. 9
11/18/2016	Jesus Martinez	Labor	n/a	\$897			\$0	No invoice	Ex. 19, p. 10
11/10/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 11
11/4/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 12
10/28/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 13
10/21/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 14
10/14/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice and its also a debit receipt without a name on it	Ex. 19, p. 15
10/7/2016	Jesus Martinez	Labor	n/a	\$732			\$0	No invoice	Ex. 19, p. 16
9/30/2016	Jesus Martinez	Labor	n/a	\$851			\$0	No invoice	Ex. 19, p. 17
9/27/2016	Jesus Martinez	Labor	n/a	\$1,000			\$0	No invoice	Ex. 19, p. 18
9/23/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 19
8/5/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 20
5/2/2016	Geber Lopez	Plastering	n/a	\$2,000			\$0	No invoice	Ex. 19, p. 21
Labor Subtotal: \$20,051									
Owner Category: Gas									
3/28/2016	American Emperor	Gas	\$93	\$93			\$93	No invoice	Ex. 19a, p. 1
10/18/2016	American Emperor	Gas	n/a	\$173			\$0	No invoice	Ex. 19a, p. 1
3/14/2016	American Emperor	Gas	\$60	\$60			\$60	No invoice	Ex. 19a, p. 2
3/2/2016	American Emperor	Gas	\$72	\$72			\$72	No invoice	Ex. 19a, p. 3
3/1/2016	American Emperor	Gas	\$168	\$168			\$168	No invoice	Ex. 19a, p. 4
3/3/2016	American Emperor	Gas	\$36	\$36			\$36	No invoice	Ex. 19a, p. 5
3/3/2016	American Emperor	Gas	\$35	\$35			\$35	No invoice	Ex. 19a, p. 6
3/3/2016	American Ace Supply	Gas	\$29	\$29			\$29	No invoice	Ex. 19a, p. 7
7/2/2016	American Ace Supply	Gas	\$34	\$34			\$34	No invoice	Ex. 19a, p. 7
11/2/2016	American Emperor	Gas	\$28	\$28			\$28	No invoice	Ex. 19a, p. 8
3/31/2016	American Emperor	Gas	\$13	\$13			\$13	No invoice	Ex. 19a, p. 9
5/10/2016	Home Depot	Gas	\$13	\$13			\$13	No invoice	Ex. 19a, p. 9
Gas Subtotal: \$581									
Total Subtotal: \$754									

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Bath									
6/27/2016	Home Depot	Bath	\$174	\$174			\$174		Ex. 20, p. 1
3/31/2016	Home Depot	Bath	\$142	\$142			\$142		Ex. 20, p. 1
11/7/2016	Lowe's	Bath	\$257	\$257			\$257		Ex. 20, p. 1
10/6/2016	Home Depot	Bath	\$9	\$9			\$9		Ex. 20, p. 2
12/22/2015	Unreadable Packing Slip	Bath	unreadable	unreadable			\$0		Ex. 20, p. 2
2/7/2016	Wayfair	Bath	\$116	\$116			\$116		Ex. 20, p. 3
1/6/2016	Home Depot	Bath	\$454	\$454			\$454		Ex. 20, p. 3
Bath Subtotal:			\$1,153	\$1,153			\$1,153		
Owner Category: Kitchen, Ironwork									
8/31/2016	Xiong Xin Liu	Kitchen	n/a	\$1,650			\$0	No invoice	Ex. 21, p. 1
8/27/2016	East Star Building Supply	Kitchen	\$1,753	\$0	States "unpaid"		\$0	No proof of payment	Ex. 21, p. 2
9/8/2016	East Star Building Supply	Kitchen	\$88	\$0	States "unpaid"		\$0	No proof of payment	Ex. 21, p. 3
8/25/2016	East Star Building Supply	Kitchen	\$64	\$64			\$64		Ex. 21, p. 4
10/16/2016	Lowe's	Kitchen	\$175	\$175			\$175		Ex. 21, p. 5
8/10/2016	East Star Building Supply	Kitchen	\$11	\$11			\$11		Ex. 21, p. 5
2/3/2016	Iron Works	Railing	\$550	\$0			\$0	No proof of payment	Ex. 21, p. 6
Kitchen/Ironwork Subtotal:			\$2,640	\$1,900			\$250		
Owner Category: Windows									
11/3/2016	Alexander	Windows	\$2,970	\$2,970			\$2,970		Ex. 22, pp. 1-2
10/19/2016	Sherwin Williams	Windows	n/a	\$59			\$0	No invoice	Ex. 22, p. 3
10/19/2016	Sherwin Williams	Windows	n/a	\$93			\$0	No invoice	Ex. 22, p. 3
10/19/2016	Sherwin Williams	Windows	n/a	\$59			\$0	No invoice	Ex. 22, p. 3
Windows Subtotal:			\$2,970	\$3,180			\$2,970		
Owner Category: Tolls/Travel									
various	Bridge Tolls		\$1,168	\$1,168			\$0	transportation	Ex. 23, pp. 2-14
various	Driving Expenses		\$1,610				\$0	transportation	Ex. 23, p. 1
Travel/Tolls Subtotal:			\$2,778	\$1,168			\$0		
Owner Category: Sheetrock, Labor									
various	Jorge	Sheetrock	n/a	\$16,500			\$0	no invoice	Ex. 24
Sheetrock Subtotal:							\$0		
Owner Category: Hardwood Floors									
12/2/2016	Specialty Hardwood	Hardwood Floors	n/a	\$2,739			\$0	no invoice	Ex. 25, p. 1
11/29/2016	Specialty Hardwood	Hardwood Floors	n/a	\$5,000			\$0	no invoice	Ex. 25, p. 2
Hardwood Floors Subtotal:				\$7,739			\$0		
Owner Category: Construction Insurance									
5/4/2015	Lexington Insurance	Insurance	\$7,249	n/a			\$0	No proof of payment, no insurance	Ex. 26, p. 1
Insurance Subtotal:			\$7,249	\$0			\$0		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Permits/Fees									
2/10/2016	City of Oakland Business Tax	Fees	\$30	\$30			\$0	no business tax	Ex. 27, p. 1
9/28/2015	City of Oakland Permit Fee	Fees	\$4,369	\$4,369	Job Value=\$80,000		\$4,369		Ex. 27, p. 2, Ex. 34, p. 1
10/15/2015	City of Oakland Permit Fee	Fees	\$2,036	\$2,036	Job Value=\$10,000		\$2,036		Ex. 27, p. 3, Ex. 34, p. 3
Permit/Fees Subtotal:			\$6,435	\$6,435			\$6,405		
Owner Category: General Contractor									
unknown	JTM Development	General Contractor	n/a	\$19,451			\$0	no invoice	Ex. 27, p. 1
3/4/2016	JTM Development	General Contractor	\$24,381	\$24,381			\$24,381		Ex. 27, p. 1, 7
12/10/2015	JTM Development	General Contractor	\$10,198	\$10,198			\$10,198		Ex. 27, p. 1, 5
12/9/2015	JTM Development	General Contractor	\$1,200	\$1,200			\$1,200		Ex. 27, p. 1, 4
12/3/2015	JTM Development	General Contractor	\$8,362	\$8,362			\$8,362		Ex. 27, pp. 2, 8
9/5/2016	JTM Development	General Contractor	\$8,308	n/a			\$8,308	Combined these two invoices and payments	Ex. 27, p. 3
7/1/2016	JTM Development	General Contractor	n/a	\$15,000			\$0		Ex. 28, p. 6
General Contractor Subtotal:			\$52,449	\$78,592			\$52,449		
Owner Category: Fireplace Servicing									
12/15/2016	Kidd Fireplace	Fireplace	\$748	\$748			\$748		Ex. 29, pp 1-2
12/27/2016	Kidd Fireplace	Fireplace	\$253	\$253			\$253		Ex. 29, p. 3
Fireplace Subtotal:			\$1,001	\$1,001			\$1,001		
Owner Category: Online Purchases									
12/17/2016	Ebay	Fireplace	\$95	\$0			\$0	No proof of payment	Ex. 30, p. 1
unknown	Craigslist	Ladders	\$0	\$0			\$0	No invoice or proof of payment (also, tools)	Ex. 30, p. 1
unknown	Craigslist	Spray Foam	\$333	\$0			\$0	No proof of payment	Ex. 30, p. 1
11/20/2016	Ebay	Caster Wheels	\$3	\$0			\$0	No proof of payment (also furniture)	Ex. 30, p. 2
12/13/2016	Ebay	Carpet Tape	\$14	\$0			\$0	No proof of payment	Ex. 30, p. 2
11/13/2016	Ebay	Extension Kit	\$16	\$0			\$0	No proof of payment	Ex. 30, p. 2
10/20/2016	Ebay	Switch Toggle	\$24	\$0			\$0	No proof of payment	Ex. 30, p. 2
10/19/2016	Ebay	brackets	\$2	\$2			\$0	No proof of payment	Ex. 30, p. 2
11/20/2016	Ebay	Barn Door	\$120	\$0			\$0	No proof of payment	Ex. 30, p. 2
unknown	Ebay	Faucet	\$311	\$0			\$0	No proof of payment	Ex. 30, p. 2
11/20/2016	Amazon	Bulbs	\$20	\$20			\$0	No proof of payment	Ex. 30, p. 3
10/23/2016	Amazon	Shop Towels	\$30	\$30			\$30	Furnishings	Ex. 30, p. 3

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
10/4/2016	Amazon	Outlets	\$98	\$98			\$98		Ex. 30, p. 3
10/18/2016	Amazon	Faucet	\$163	\$163			\$163		Ex. 30, p. 3
11/12/2016	Amazon	Door Hardware	\$210	\$210			\$210		Ex. 30, p. 4
11/27/2016	Amazon	Laptop cord and screw remover	\$26	\$26			\$0	tools	Ex. 30, p. 4
11/23/2016	Amazon	Toilet Plunger	\$33	\$33			\$0	tools	Ex. 30, p. 4
11/12/2016	Amazon	Door Hardware	\$8	\$8			\$8		Ex. 30, p. 4
10/14/2016	Amazon	Electric Hardware	\$136	\$136			\$136		Ex. 30, p. 5
10/17/2016	Amazon	Electric Hardware	\$33	\$33			\$33		Ex. 30, p. 5
9/23/2016	Amazon	Kitchen Hardware	\$4	\$4			\$4		Ex. 30, p. 5
9/12/2016	Amazon	Bulbs	\$7	\$7			\$0	Furnishings	Ex. 30, p. 5
9/25/2016	Amazon	Electric Hardware	\$195	\$195			\$195		Ex. 30, p. 6
8/25/2016	Amazon	Bulbs	\$18	\$18			\$0	Furnishings	Ex. 30, p. 6
8/13/2016	Amazon	Tamppons	\$20	\$20			\$0	Personal items	Ex. 30, p. 6
7/18/2016	Amazon	Curtains	\$26	\$26			\$0	Furnishings	Ex. 30, p. 7
6/16/2016	Amazon	Timer/Hose	\$38	\$38			\$0	Landscaping	Ex. 30, p. 7
6/17/2016	Amazon	Garden Hose	\$7	\$7			\$0	Landscaping	Ex. 30, p. 7
6/21/2016	Amazon	Soaker Hose	\$15	\$15			\$0	Landscaping	Ex. 30, p. 7
6/16/2016	Amazon	Water timer	\$38	\$38			\$0	Tools	Ex. 30, p. 7
6/7/2016	Amazon	HDMI cable	\$34	\$34			\$34		Ex. 30, p. 8
6/12/2015	Amazon	Cleaners	\$34	\$34			\$34		Ex. 30, p. 8
9/24/2015	Amazon	Plumbing	\$199	\$199			\$199		Ex. 30, p. 8
6/4/2015	Amazon	Cleaning Cloths	\$41	\$41			\$0	Personal items (prior to permit)	Ex. 30, p. 9
6/4/2015	Amazon	Cloths and microplane grater	\$22	\$22			\$0	Personal items (prior to permit)	Ex. 30, p. 9
3/12/2015	Amazon	Bulbs	\$9	\$9			\$0	Furnishings	Ex. 30, p. 9
1/16/2015	Amazon	Faucet	\$141	\$141			\$0	prior to permit	Ex. 30, p. 9
12/7/2014	Amazon	Dustpan/Cleaner	\$27	\$27			\$0	prior to permit (and personal items)	Ex. 30, p. 10
12/8/2014	Amazon	Household Supplies	\$36	\$36			\$0	prior to permit and personal items	Ex. 30, p. 10
1/11/2015	Amazon	Stools	\$78	\$78			\$0	Tools	Ex. 30, p. 10
9/3/2014	Amazon	Humidity Monitor	\$33	\$33			\$0	Prior to permit and tools	Ex. 30, p. 11
9/2/2014	Amazon	Moisture Meter	\$27	\$27			\$0	Prior to permit and tools	Ex. 30, p. 11
Online Subtotal:			\$2,724	\$1,808			\$1,146		
Owner Category: Toilet Rental									
6/16/2016	United Site Services	Toilet Rental	\$262	\$0			\$0	No proof of payment	Ex. 31
Toilet Subtotal:			\$262	\$0			\$0		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Lighting									
10/19/1960	Paypal (Andres Orphanopoulos)	Lighting	\$0	\$90			\$0	No invoice	Ex. 32, p. 1
12/15/2016	Houzz	Lighting	\$54	\$54			\$54		Ex. 32, p. 2
12/19/2016	Home Depot	Blinds	\$56	\$56			\$56		Ex. 32, p. 2
12/16/2016	Home Depot	Lighting	\$180	\$180			\$180		Ex. 32, p. 2
12/4/2016	Lowe's	Lighting	\$60	\$60			\$60		Ex. 32, p. 3
11/9/2016	Lowe's	Lighting	\$124	\$124			\$124		Ex. 32, p. 3
11/1/2016	Lowe's	Lighting	\$135	\$135			\$135		Ex. 32, p. 3
11/28/2016	Lowe's	Lighting	\$43	\$43			\$43		Ex. 32, p. 3
		Lighting Subtotal:	\$653	\$743			\$653		
Owner Category: Miscellaneous									
1/11/2017	Ikea	Miscellaneous	\$96	\$96			\$33	Unknown except lighting fixture	Ex. 33, p. 1
1/13/2017	Home Depot	Misc. Supplies	\$221	\$221			\$221		Ex. 33, p. 1
11/5/2016	Home Depot	Misc. Supplies	\$182	\$182		\$14	\$168	Tools	Ex. 33, p. 2
1/2/2017	Lowe's	Paint	\$40	\$40			\$40		Ex. 33, p. 3
1/11/2017	Home Depot	Electric Hardware	\$8	\$8			\$8		Ex. 33, p. 3
1/17/2017	Home Depot	Hardware	\$25	\$25			\$25		Ex. 33, p. 4
1/14/2017	Lowe's	Paint	\$38	\$38			\$38		Ex. 33, p. 4
1/18/2017	Home Depot	Electric Hardware	\$40	\$40			\$40		Ex. 33, p. 5
1/18/2017	City of Oakland	Parking fees	\$1	\$1			\$0	Parking fees	Ex. 33, p. 6
1/18/2017	City of Oakland	Parking fees	\$1	\$1			\$0	Parking fees	Ex. 33, p. 6
1/17/2017	Home Depot	Hardware	\$67	\$67		\$24	\$42	Tools and candy	Ex. 33, p. 6
7/7/2015	Lowe's	Hardware	\$22	\$22			\$0	Tools	Ex. 33, p. 7
9/23/2016	Pak'n Save	Food	\$14	\$14			\$0	Food	Ex. 33, p. 7
8/2/2016	Lowe's	Hardware	\$53	\$53			\$53		Ex. 33, p. 8
1/9/2017	Home Depot	Electric Hardware/Toilets	\$260	\$260			\$260		Ex. 33, p. 8
1/11/2017	Home Depot	Electrical	\$6	\$6			\$6		Ex. 33, p. 9
1/18/2017	Home Depot	Electrical	\$8	\$8			\$8		Ex. 33, p. 9
3/16/2016	Bayshore Builders	unknown	\$0	\$156			\$0	No invoice	Ex. 33, p. 10
1/17/2017	Home Depot	Handrails	\$47	\$47			\$47		Ex. 33, p. 10
9/22/2016	East Star Building Supply	Vanity	\$944	\$944			\$944		Ex. 33, p. 11
8/13/2016	Bayshore Builders	Auger Bit	\$31	\$31			\$31		Ex. 33, p. 12
8/19/2016	Uni-Stone	Tile	\$4	\$4			\$4		Ex. 33, p. 13
1/9/2017	American Emperor	bolts	\$3	\$3			\$3		Ex. 33, p. 14
3/2/2017	JTM Development	Contractor	\$4,746	\$0			\$0	No proof of payment	Ex. 33, p. 15
		Miscellaneous Subtotal:	\$6,855	\$2,266			\$1,970		
		Total:					\$116,007		

**City of Oakland
Bureau of Building
Construction Valuation¹
For Building Permits⁴
Effective May 1, 2015**

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

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

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

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

³ Remodel Function of New Construction is a 0.52 multiplier.

⁴ Separate structures or occupancies valued separately.

⁵ Separate fees assessed for EIP/IM permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

Exhibit "B"

000075

PROOF OF SERVICE

Case Number L16-0094

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

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

Tenants

Alisa Highfill
3515 Brighton Ave #1
Oakland, CA 94602

Bernadette Quattrone
3515 Brighton Ave #1
Oakland, CA 94602

Collin Quillian
3515 Brighton Ave #1
Oakland, CA 94602

Marvin Gleaton
3515 Brighton Ave #2
Oakland, CA 94602

Steve Arnwine
3515 Brighton Ave #3
Oakland, CA 94602

Taylor Campion
3515 Brighton Ave #3
Oakland, CA 94602

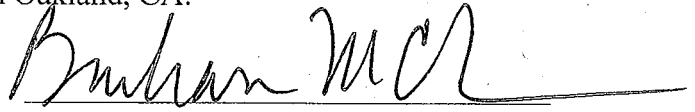
Owner

William Wiebe
278 Connecticut St
San Francisco, CA 94107

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.

000076

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 05, 2017 in Oakland, CA.

A handwritten signature in black ink, appearing to read "Barbara M. Cohen", written over a horizontal line.

Barbara M. Cohen

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

For date stamp.

RECEIVED
 CITY OF OAKLAND
 RENT ARBITRATION PROGRAM

2015 DEC 19 PM 3:47

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

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name WILLIAM WIEBE		Complete Address (with zip code)	Telephone Day: 415 994-3647
Your Representative's Name		Complete Address (with zip code)	Telephone Day:
Property Address 3515 Brighton Ave Oakland CA 94602		Total number of units in bldg or parcel. 3	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	Apartment or Room
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No
Assessor's Parcel No. 23-488-14			

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

NO Tenants. Currently Vacant for 2+ years

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

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

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

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), please answer the following questions on a separate sheet:

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

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

Section 4.
must sign this

<input type="checkbox"/>	New Construction
<input checked="" type="checkbox"/>	Substantial Rehabilitation
<input type="checkbox"/>	Single Family Residence or Condominium (Costa-Hawkins)

Verification Each petitioner section.

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

Walter K. Webb
Owner's Signature

12/19/2016
Date

Owner's Signature

Date

Important Information

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

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

Will provide supplemental documents of expenses prior to hearing.

CHRONOLOGICAL CASE REPORT

Case No.: L16-0070

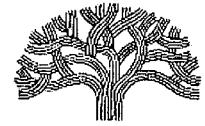
Case Name: Oakvel Enterprises Inc. v. Tenants

Property Address: 5268 Foothill Blvd., 13 units, Oakland, CA

Parties: Oakvell Enterprises, Inc. (Owner)
Harmit Mann (Owner's Representative)
Brandon Carrol (Tenant)
Christopher Seelig (Tenant)
Delightful Foods (Tenant)
Dianne Avila (Tenant)
Julian Ramos (Tenant)
Keny Romero (Tenant)
Kevin Johnson & Tyrone (Tenants)
Lucila & chris Oangela (Tenants)
Olga Figuero (Tenant)
Omar & Desiree (Tenants)
Rosalinda & Juan (Tenants)
Tupou Kefu (Tenant)

OWNER APPEAL

<u>Activity</u>	<u>Date</u>
Owner Petition filed	September 19, 2016
Tenant Responses filed (3 tenants)	November 14, 2016
Hearing Decision issued	June 5, 2017
Owner Appeal filed	June 26, 2017



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: L16-0070, Oakvel Enterprises v. Tenants

PROPERTY ADDRESS: 5268-5296 Foothill Blvd, Oakland, CA

DATES OF HEARING: January 18, 2017; May 1, 2017

DATE OF DECISION: June 5, 2017

APPEARANCES: Harmitt Mann, Owner Representative (1/18 only)
Erica MacLeod, Owner Representative (5/1 only)

No appearance by the tenants

SUMMARY OF DECISION

The owner's petition is denied. The units at 5268, 5272, 5276, 5280, 5284, 5288, 5292, and 5296 Foothill Boulevard are not exempt from the Oakland Rent Ordinance as being substantially rehabilitated.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a Certificate of Exemption on a 13-unit part residential and part commercial building (5268, 5272, 5276, 5280, 5284, 5288, 5292 and 5296 Foothill Blvd) on the ground that the building had undergone "Substantial Rehabilitation."¹

Two tenants, Christopher Seelig and Brandon Carroll, filed responses to the owner's claim, but neither appeared at the Hearing.

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¹ The owner did not claim that the unit is exempt as "new construction" and this Hearing Decision does not reach a conclusion on whether or not a claim of new construction would be upheld.

000081

THE ISSUE

Are the units exempt from the Ordinance because they were substantially rehabilitated?

EVIDENCE

Square Footage: Ms. McLeod, the owner representative present on May 1, 2017, testified as follows: the building consists of 13,083 square feet.² This information came from a public website that she has access to which lists property details for all properties. Additionally, the owner produced renderings from an architect that shows that the square footage is 12,876.³ There are 13 units on the property. The owner claims to have spent \$1,012,606 on the property.⁴

Ms. McLeod testified that she did not work for the owner at the time the work was done on the premises, and that her testimony is based on her review of the records. She was informed that a substantial amount of work was performed on the building by the ownership starting in 2012 through 2015. The records produced show that work continued through 2016. She produced a photograph showing the exterior of the building before the work was done, along with a rendering of the proposed exterior.⁵ Additionally, many photographs were produced showing the exterior and interior of the building, after the work was completed.⁶

The owner produced many internal spreadsheets purporting to show expenditures made for the building.⁷ Additionally, on several occasions, the owner produced the top portion of check stubs, without producing the corresponding check.

Sewer Lateral: The owner produced a proposal from *Albion Plumbing and Rooter*, dated September 16, 2014, showing that *DODG Corporation* hired *Albion*, to install a new sewer lateral on the premises. *DODG Corporation* is one of the LLC's that is owned by the Mann family, who also own *Oakvel Enterprises, LLC*, the owner of the subject building. The original cost for the sewer lateral was \$7,100 but someone indicated on the contract document that the agreed upon price was \$6,900.⁸ An additional invoice was provided for additional work related to the sewer lateral totaling \$1,350.⁹ The owner produced proof of payment of a total of \$8,250.¹⁰

The owner representative was asked whether a permit was received for this work and she responded that all the permits received were attached as part of Exhibit G, in the

² Exhibit 1. This Exhibit, and all other exhibits referred to in this Hearing Decision, were admitted into evidence.

³ Exhibit 4.

⁴ See Exhibit 56

⁵ Exhibit 15

⁶ Exhibits 16-55

⁷ Exhibits 56-57, 65, 75, 83, 130, 142, 149, 156, 160, 209, 212, 215, 283, 290, 294

⁸ Exhibits 58-59

⁹ Exhibit 62

¹⁰ Exhibits 61 and 64

binder that was prepared by the owner for the Hearing. There are no documents in Exhibit G, (Exhibits 83-128) showing that a permit was taken out for this work.

Electrical: The owner hired *Araz Electric* to do an electrical upgrade to the building. A contract dated October 10, 2013, was produced, showing a total fee of \$28,850.¹¹ There were some negotiations done and an ultimate contract price was listed as \$27,000. Proof of payment of \$28,000 was provided.¹² The owner representative did not know why the proof of payment exceeded the original price by \$1,000.¹³ Permits were provided for this work.

Roofing: The owner hired *BYC Construction* to do roof maintenance work on the building. A proposal, dated November 3, 2016, was provided.¹⁴ The contract price was \$2,750. Proof of payment was provided.¹⁵ An additional proposal from *BYC* was also provided for additional work on the drain outlet, totaling \$250.¹⁶ Proof of payment was provided.¹⁷

Permits: The owner representative testified that certain permits were received for the work done on the premises. The first permit, dated May 2, 2013, describes the permit as “convert existing commercial building to 13 live/work units. Permit Issued 5/2/13.”¹⁸ The permit charge was \$4,956.59 and it was paid by check. No copy of the actual check was provided, although the owner did produce a “payment receipt” from the City of Oakland, showing that the total paid was \$4,956.59.¹⁹

The owner produced a receipt from the City of Oakland dated 4/3/13 for \$178.94.²⁰ Someone wrote on this receipt “5268 Foothill Fairfax Bldg. soft demo permit.” However, no actual permit for this charge was provided.

A *Parcel Fee Payment History* form from the *City of Oakland* was provided showing a charge of \$102.13 for an inspection in November of 2007 and a \$2,004.91 charge for the issuance of a permit on May 1, 2013.²¹ A receipt for the total amount of \$2,107.04 was provided, without a copy of the actual check.²² The permit for this charge was not provided.

¹¹ Exhibit 66

¹² The checks provided (Exhibits 68, 71 and 74) total \$29,000, but \$1,000 of the first payment was directed to work done on another property on which *Araz Electric* was doing work for the same ownership.

¹³ There are two additional invoices provided by *Araz Electric*, but these have scribbles all over them and it is not possible to determine why there were additional charges.

¹⁴ Exhibits 76-77

¹⁵ Exhibit 79

¹⁶ Exhibit 80

¹⁷ Exhibit 82

¹⁸ Exhibit 84

¹⁹ Id.

²⁰ Exhibit 87

²¹ Exhibit 89

²² Exhibit 90

An *Update/Query Application Fee Record* from the *City of Oakland* was provided, dated July 10, 2013, showing a charge of \$121.64 for work done on a property located at 4559 International Boulevard.

Another *Update/Query Application Fee Record* from the *City of Oakland* was provided, dated July 10, 2013, showing a charge of \$774.57 for work done on the subject property for the electrical work done on the unit (by *Araz Electric*).²³ A payment receipt was provided showing a credit card charge for the total of the two invoices from the International Boulevard property and for the permit for the subject unit.²⁴ The actual permit was not provided.

Another *Update/Query Application Fee Record* from the *City of Oakland* was provided, dated July 10, 2013, showing a charge of \$377.53 for the installation of 6 wall furnaces.²⁵ The receipt, showing a credit card charge, was provided.²⁶

Another permit document was provided from the *City of Oakland* showing a charge of \$2,061.77, dated September 30, 2013, for plumbing work.²⁷ Proof of payment was provided.²⁸

The owner produced a *Permit Extension Request* from the *City of Oakland* showing a charge of \$81.48 for a permit extension.²⁹ Proof of payment was provided.³⁰ Additionally, the owner produced a receipt from the *City of Oakland* for \$1,651.82 for permit fees.³¹ Of that receipt, \$227.21 is associated with permit number M1301096, which is one of the permits received for this property. Proof of payment was provided.³²

The owner produced a permit to complete the construction at the subject address dated April 7, 2015 at a cost of \$2,197.36.³³ Proof of payment was provided.³⁴

The owner additionally produced credit card slips dated April 13, 2015 and April 24, 2015, to the *City of Oakland* for \$113.60 each.³⁵ An additional charge dated May 26, 2015, totaling \$113.61 was also provided.³⁶ No permit or other record is associated with these charges.

²³ Exhibit 94

²⁴ Exhibit 93

²⁵ Exhibit 96

²⁶ Exhibit 95

²⁷ Exhibit 99

²⁸ Exhibit 101

²⁹ Exhibit 102

³⁰ Exhibit 103

³¹ Exhibit 105

³² Exhibit 106

³³ Exhibit 109

³⁴ Exhibit 110

³⁵ Exhibit 111 and 112

³⁶ Exhibit 113

The owner produced an invoice from the *Oakland Fire Department* for construction acceptance testing totalling \$158.³⁷ Proof of payment was provided.³⁸

An invoice dated September 2, 2015, from the *Oakland Fire Department* was also provided for \$255.³⁹ Proof of payment was provided.⁴⁰ An additional payment to the *City of Oakland* for \$255.00 was produced dated June 22, 2015.⁴¹ No invoice was shown for this date.

A credit card charge receipt for \$413.10 was provided dated July 22, 2015, showing payment to the *City of Oakland*.⁴² No comparable invoice or permit was provided.

A credit card receipt dated August 21, 2015, was provided showing a charge to the *City of Oakland* of \$206.55.⁴³ No comparable invoice or permit was provided.

An invoice from the *Oakland Fire Department* was provided showing a charge of \$255 on September 2, 2015.⁴⁴ Someone wrote on the receipt that it was to "review fire sprinkler plans." Proof of payment was provided.⁴⁵

A credit card receipt dated October 23, 2015, for \$127.50, was provided from the *City of Oakland*.⁴⁶ No comparable invoice was provided.

A permit record from the *City of Oakland* dated February 23, 2016, was provided for \$206.55 to complete the plumbing permit.⁴⁷ An additional permit record from *Oakland* dated the same date for \$206.55 was provided to complete the mechanical permit.⁴⁸ And a third permit record from *Oakland* dated the same date for \$206.55 was provided to complete the electrical permit.⁴⁹ Proof of payment was provided.⁵⁰

A credit card receipt from the *City of Oakland* dated February 26, 2016, for \$206.55 was provided.⁵¹ A *City of Oakland* document relates this charge to the subject building.⁵²

An *Inspection Work Order* from the *Fire Department* was provided showing a charge of \$158 for a sprinkler inspection on March 3, 2016.⁵³ Proof of payment was provided.⁵⁴

³⁷ Exhibit 107

³⁸ Exhibit 108

³⁹ Exhibit 114

⁴⁰ Exhibit 115

⁴¹ Exhibit 116

⁴² Exhibit 117

⁴³ Exhibit 119

⁴⁴ Exhibit 120

⁴⁵ Exhibit 120

⁴⁶ Exhibit 121

⁴⁷ Exhibit 122

⁴⁸ Exhibit 124

⁴⁹ Exhibit 126

⁵⁰ Exhibit 123. This Exhibit is for multiple permit charges, including the \$206.55 charged three times for the related permits.

⁵¹ Exhibit 127

⁵² Exhibit 127

East Bay Blue Print: The owner representative testified that *East Bay Blue Print* was the vendor the owner used to provide the plans to the *City of Oakland* for the permits. Invoices dated December 19, 2012, totaling \$73.74; dated December 20, 2012, totaling \$39.15; dated January 18, 2013, totaling \$155.26; dated July 28, 2015, totaling \$120.56; and dated June 30, 2016, totaling \$127.52 were provided.⁵⁵ The owner did not produce copies of checks for these invoices; instead it produced the top portion of a check with handwritten notes in each instance except for the June 30, 2016 invoice.⁵⁶ That invoice was provided together with a credit card receipt showing proof of payment.⁵⁷

Windows and Doors: The owner representative testified that *Empire Glass and Door* provided the windows and doors for the project. An invoice dated June 9, 2014, for \$15,014 was provided along with proof of payment.⁵⁸ A second invoice from *Empire* dated September 15, 2014, for \$12,300 was provided.⁵⁹ This invoice has handwritten notes that the total was reduced to \$11,500, and proof of payment of that amount was provided.⁶⁰

Cabling for phone lines: The owner representative testified that *Enterprise Communications, LLC* installed the COAX cable lines and phone lines for the project. Two invoices were provided, one for \$7,770 and one indicating a total cost of \$3,340.⁶¹ Proof of payment of \$1,500 and \$1,840, for a total cost of \$3,340 was provided.⁶² There were notes on the original invoice indicating that *Enterprise* accepted the \$3,340 payment as payment in full.

Electrical Supplies: The owner representative testified that the owner purchased electrical supplies from *American Emperor, LLC*, on December 18, 2013, totaling \$7,773.88.⁶³ Proof of payment was provided.⁶⁴

Architectural Services: The owner representative testified that the owner hired *Saucedo Design Studio* to do the architectural design. The original proposal, dated August 20, 2012, did not have a specific cost associated with it, and had many handwritten overwrites, making it impossible to determine the costs.⁶⁵ No actual check copies were provided. The owner produced the top portion of several checks.⁶⁶

⁵³ Exhibit 128

⁵⁴ Exhibit 129

⁵⁵ Exhibit 131, 134, 137, 140 and 141.

⁵⁶ Exhibits 132, 135, and 138

⁵⁷ Exhibit 140

⁵⁸ Exhibit 143-144

⁵⁹ Exhibit 146

⁶⁰ Exhibit 148

⁶¹ Exhibit 150 and 153

⁶² Exhibits 152 and 155

⁶³ Exhibit 157

⁶⁴ Exhibit 158

⁶⁵ Exhibits 161-165

⁶⁶ Exhibit 166, 169, 171, 173, 175, 177, and 179

A second *Proposal for Architectural Services*, dated May 30, 2014, was provided showing various charges.⁶⁷ Proof of payment of \$1,500 (\$1,000 and \$500) was provided, in two checks, written on May 30, 2014, and January 23, 2015.⁶⁸

An additional invoices from *Saucedo Design Studios* was produced dated March 6, 2015, showing a charge of \$1,850.⁶⁹ Proof of payment of \$1,600 was provided.⁷⁰ An additional payment to *Saucedo*, dated March 12, 2015, for \$1,600, was provided.⁷¹ No invoice for this payment was produced.

Another proposal from *Saucedo* was provided dated May 22, 2015, for \$600.⁷² Proof of payment was provided of \$300 for this invoice.⁷³

Additional payments to *Saucedo*, dated August 3, 2015, for \$1,100, and dated September 4, 2015 for \$500 were provided.⁷⁴ No invoice for this payment was produced.

An invoice from *Saucedo* dated October 20, 2015, for \$1,155 was provided.⁷⁵ This invoice states that the negotiated total was \$1,000, and that it was paid in full. Proof of payment was provided.⁷⁶

Concrete Path: The owner produced proof of payment to *SAI Investments* in a check dated June 24, 2015, totaling \$12,672.80, for a rear concrete path and for ADA foot pedals for door entries.⁷⁷ No invoice or proposal was provided.

Security Gate: The owner representative testified that *Rio Brothers* was hired to do the installation of security gates on the premises that are on the front of the building.⁷⁸ A check dated June 10, 2014, totaling \$3,000, was provided. No invoice or proposal was provided.

SEI Homes: The owner representative testified that no invoices from *SEI Homes* were provided. There was an itemized invoice provided by *SEI Homes* at the end of the project but this document was not produced. *SEI Homes* was hired to do the construction on the project. The following checks were provided:

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⁶⁷ Exhibits 181-185

⁶⁸ Exhibits 187 and 194

⁶⁹ Exhibit 195

⁷⁰ Exhibit 197

⁷¹ Exhibit 198

⁷² Exhibit 200

⁷³ Exhibit 202

⁷⁴ Exhibit 203 and 205

⁷⁵ Exhibit 206

⁷⁶ Exhibit 208

⁷⁷ Exhibit 210

⁷⁸ Exhibit 213

Date:	Amount:	Date:	Amount:	Date:	Amount:
7/24/13	\$10,000	8/2/13	\$25,000	8/14/13	\$25,000
8/23/13	\$25,000	9/18/13	\$25,000	9/20/13	\$25,000
12/2/13	\$50,000	1/30/14	\$35,000	2/28/14	\$10,000
4/30/14	\$35,000	5/27/14	\$30,000	6/4/14	\$20,000
6/12/14	\$25,000	7/9/14	\$25,000	7/3/14	\$25,000
8/1/14	\$25,000	8/8/14	\$25,000	8/18/14	\$25,000
8/28/14	\$25,000	9/19/14	\$25,000	10/17/14	\$25,000
10/30/14	\$25,000	11/13/14	\$15,000	12/1/14	\$15,000
12/5/14	\$10,000	12/12/14	\$10,000	1/2/15	\$25,000
1/16/15	\$25,000	6/15/15	\$20,000	2/5/16	\$25,000
2/12/16	\$20,000	2/29/16	\$20,000	9/6/16	\$40,000
12/30/16	\$10,000				

Sprinkler Systems Installation: The owner representative testified that there was no invoice provided for this work that was done to install a sprinkler system in the building. Proof of payment of \$18,000 was provided.⁷⁹ Two of the checks were made payable to *Sings Investment* and one was made to *Zhao Sheng*.

Thomas Dolan Architects: The owner representative testified that this was a second architect who worked on the project. An invoice for \$2,977.50 was provided along with proof of payment.⁸⁰

Villatoro Construction: The owner produced an invoice from *Villatoro Construction* for roofing replacement and dry rot repair. The invoice was for \$39,380, but had markings on it indicating that \$38,000, was the agreed upon cost.⁸¹ Proof of payment of \$38,000 was provided.⁸²

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Are the units exempt from the Rent Adjustment Program because they have been Substantially Rehabilitated?

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

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

⁷⁹ Exhibits 284-289

⁸⁰ Exhibits 291-293

⁸¹ Exhibit 295

⁸² Exhibits 297 and 299

- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.⁸³

The tables issued by the Building Services agency refer to a dollar amount per square foot (Exhibit "A" attached). Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

Square Footage: At the hearing, the owner presented two documents which list the square footage of the building. One of them was downloaded from a website that provides general information about buildings and the other was from the architect on the project. The square footage is listed as 13,083 from the website and 12,876 from the architect. It is found that the architect's determination, involving actual calculations, is more accurate. The information contained in the architect's drawings is found to be reliable evidence. The building is therefore determined to be 12,876 square feet.

Expenses: To establish whether or not the owner has paid fifty percent of the average basic cost for new construction it is necessary for the owner to produce business records that establish the work that was done on the units (contracts and/or invoices) plus proof of payment of same.

In a precedent decision, the Board held that:

"[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction"⁸⁴

An owner has the burden of proving every element of his/her case by a preponderance of the evidence. Invoices, proposals, or estimates alone are not sufficient evidence of an expense; proof of payment is also required. Similarly, proof of payment alone is not sufficient, a corresponding invoice must be provided.

All the spreadsheets produced by the owner were spreadsheets prepared using the owner's own internal accounting software. These documents are not sufficient to establish the costs expended for this project. Additionally, there are several expenditures which are only substantiated by the top portion of a check stub. (See East Bay Blueprint records, Exhibits 130-140).

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

⁸³ O.M.C. § 8.22.030(B)(2)

⁸⁴ HRRRB Decision, T04-0158, *Ulman v. Breen & Orton*

evidence, the evidence offered should be viewed with distrust.”⁸⁵ The top portion of a check stub is not sufficient proof of payment. One can write anything on the top portion of the check stub, as that stub is only used for internal accounting and is not negotiated in the course of business. Only those expenditures which are established by check copies or credit card payments are considered here.

The applicable rules of evidence are stated in Government Code § 11513⁸⁶:

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 reasons that invoices or contracts are required is because these documents explain the work done. Since the work must be to the building (and not to landscaping or driveways) and must be for permanent installations (and not appliances), it is imperative to view and analyze the proper documentation.

The reason that proof of payment is required is because evidence of invoices alone do not establish that a bill has been paid. In fact, there are numerous invoices in this case where the owner did not pay the original invoice amount, but instead negotiated a better price after the work was done. Without evidence of both an invoice (or contract) and proof of payment the costs are not credited here.

In certain circumstances in this case the owner has produced invoices that are not for work done to rehabilitate the building; but instead are for other costs related to the project. For example, the work for the concrete path is not allowed as this expenditure is not for work that is part of the square footage of the building.⁸⁷ In order for a cost to be eligible as a substantial rehabilitation cost it must be for work done on the structure of the building.

Furthermore, in this case there are many expenditures for which there is no corresponding permit. The RAP Regulations (O.M.C. § 8.22.30 B) state:

“3. Substantially rehabilitated buildings.

- a. In order to qualify for the substantial rehabilitation exemption, the rehabilitation work must be completed within a two (2) year period after the issuance of the building permit for the work unless the Owner demonstrates good cause for the work exceeding two (2) years.”

Since the regulations require that to qualify for the exemption, the work must be done within two years of a permit being issued, it is therefore true that before a unit can qualify for the substantial rehabilitation exemption, a permit must be issued. In this case, there is no permit for some of the work. Therefore, that work cannot be considered

⁸⁵ Evidence Code, § 412

⁸⁶ Regulations, § 8.22.110(E)(4)

⁸⁷ Additionally, the concrete path was not approved because no invoice was provided.

in the determination of whether the owner has spent the requisite threshold to prove substantial rehabilitation.

Attached to this Hearing Decision as Exhibit A is a spreadsheet documenting all the costs the owner submitted into evidence. Where there was a discrepancy between the invoice amount and the proof of payment, the lower figure was included in the spreadsheet in the column "allowed amount". Additionally, there is a list at the bottom of the spreadsheet that shows the reasons for the denial of each listed cost. This spreadsheet establishes that the proven cost of the project was \$81,150.04.

The Calculation: The evidence established that the subject building is of wood frame construction. Exhibit "B" lists square foot construction costs, effective May 1, 2015. A Type V building is a building that is made from allowable materials that are not "non-combustible materials."⁸⁸ A wood frame building is combustible, and hence a Type V.

The Exhibit states that for Type V construction of an apartment building greater than 2 units the cost for new construction as of May 1, 2015, was \$145.07. Since the work on this building was going on from 2013 through 2016, based on the evidence produced, it is proper to use the cost for new construction as of May 1, 2015.

To determine if the owner is entitled to the exemption the following calculation is necessary. Multiply the square footage of 12,876 by \$145.07 (\$1,867,921.30) and then divide that by 2. Therefore, if the owner spent at least \$933,960.65 on the construction project, the building is exempt from the Rent Ordinance.

The owner has provided invoices and proof of payment that it spent \$81,150.04. This amount is far below the necessary sum of \$933,960 and, therefore, the building has not been "substantially rehabilitated." The rental units at 5268-5296 Foothill Boulevard are not exempt from the Rent Ordinance based on substantial rehabilitation.

ORDER

1. Petition L16-0070 is denied. The units at 5268-5296 Foothill Boulevard are not exempt from the Rent Adjustment Ordinance based on substantial rehabilitation.

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

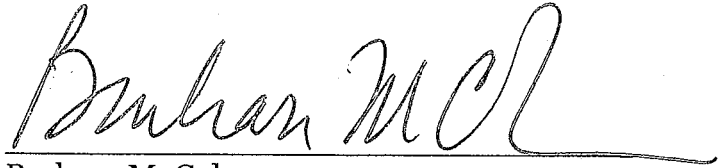
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⁸⁸ See California Building Code § 602.1-602.5.

the appeal may be filed on the next business day.

Dated: June 5, 2017

A handwritten signature in black ink, appearing to read "Barbara M. Cohen", written over a horizontal line.

Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

Date	Provider	For	Invoice Amount	Proof of Payment	Notes on Permit	Allowable Amount	Reason for Not Granting	Evidence
9/9/2014	Albion Plumbing	Sewer Lateral	\$6,900.00	\$2,341.00				58-61
9/30/2014	Albion Plumbing	Sewer Lateral Additional Work	\$1,350.00	\$5,909.00				62-64
	Total for Albion		\$8,250.00	\$8,250.00	No permit	\$0.00	b	66-74
10/10/2013	Araz Electric	Electrical upgrades	\$27,000.00	\$28,000.00		\$27,000.00		76-82
11/13/2016	BYC Construction	Roofing	\$2,750.00	\$2,750.00	No permit	\$0.00	b	
5/2/2013	City of Oakland	Permit for conversion	\$4,956.59	\$4,956.59	No check, but receipt included	\$4,956.59		84-85
4/3/2013	City of Oakland	Permits		\$178.94	No permit, just payment	\$0.00	a	87
5/2/2013	City of Oakland	Permits	n/a	\$2,004.91	No permit, just payment and fee history	\$0.00	b	89-90
7/10/2013	City of Oakland	Permits	\$121.64	n/a	Not correct property	\$0.00	c	92-93
7/10/2013	City of Oakland	Permits	\$774.57	\$1,273.74		\$774.57		94-95
7/10/2013	City of Oakland	Permits	\$377.53	\$1,273.74	Furnaces	\$377.53		96-97
9/30/2013	City of Oakland	Permits	\$2,061.77	\$2,061.77		\$2,061.77		99-101
1/8/2014	City of Oakland	Permits	\$81.48	\$81.48	Extension Request	\$81.48		102-104
10/31/2014	City of Oakland	Permits	\$227.21	\$1,651.82		\$227.21		105-106
4/7/2015	City of Oakland	Permits	\$2,197.36	\$2,197.36		\$2,197.36		109-110
4/13/2015	City of Oakland	Permits	n/a	\$113.60		\$0.00	a	111
4/24/2015	City of Oakland	Permits	n/a	\$113.60		\$0.00	a	112
5/26/2015	City of Oakland	Permits	n/a	\$113.61		\$0.00	a	113
11/20/2014	City of Oakland	Fire Department	\$158.00	\$158.00		\$158.00		107-108
9/2/2015	City of Oakland	Fire Department	\$255.00	\$255.00		\$255.00		114-115
6/22/2015	City of Oakland	Fire Department	n/a	\$255.00		\$0.00	a	116
7/22/2015	City of Oakland	Permits	n/a	\$413.10		\$0.00	a	117
8/21/2015	City of Oakland	Permits	n/a	\$206.55		\$0.00	a	119
9/2/2015	City of Oakland	Fire Department	\$255.00	\$255.00	Sprinkler	\$255.00		120
10/23/2015	City of Oakland	Permits	n/a	\$127.50		\$0.00	a	121
2/23/2016	City of Oakland	Permits	\$206.55	\$569.16		\$206.55		122-123
2/23/2016	City of Oakland	Permits	\$206.55	\$569.16		\$206.55		124-125
2/23/2016	City of Oakland	Permits	\$206.55	\$206.55		\$206.55		126-127
3/2/2016	City of Oakland	Fire Department	\$158.00	\$158.00		\$158.00		128
12/19/2012	East Bay Blueprints	Blueprints	\$73.74	n/a		\$0.00	d	131-132
12/20/2012	East Bay Blueprints	Blueprints	\$39.15	n/a		\$0.00	d	134-135
1/18/2013	East Bay Blueprints	Blueprints	\$155.26	n/a		\$0.00	d	137-138
7/28/2015	East Bay Blueprints	Blueprints	\$120.56	\$120.56		\$0.00	d	140
6/9/2014	Empire Glass and Doors	Windows and doors	\$15,014.00	\$15,014.00		\$15,014.00		143-145

Reasons for not granting:

a: no invoice or bill

b: no permit shown

c: incorrect property

d: no proof of payment

e: not the "building"

Exhibit "A"

Oakvel Enterprises v. Tenants

116-0070

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes on Permit	Allowable Amount	Reason for Not Granting	Evidence
9/15/2014	Empire Glass and Doors	Windows and doors	\$12,300.00	\$11,500.00		\$11,500.00		146-148
8/27/2014	Enterprise Communications	Cabling	\$7,770.00	\$1,500.00				150-152
8/27/2014	Enterprise Communications	Cabling	\$1,840.00	\$1,840.00				153-155
	Total for Enterprise		\$9,610.00	\$3,340.00		\$3,340.00		
12/18/2013	American Emperor	Electrical supplies	\$7,773.88	\$7,773.88		\$7,773.88		157-159
8/20/2012	Saucedo Design Studio	Architectural Services	various	n/a			d	161-180
5/30/2014	Saucedo Design Studio	Architectural Services	various	\$1,000.00		\$1,000.00		181-187
5/30/2014	Saucedo Design Studio	Architectural Services	various	\$500.00		\$500.00		188-194
3/6/2015	Saucedo Design Studio	Architectural Services	\$1,850.00	\$1,600.00		\$1,600.00		195-198
3/12/2015	Saucedo Design Studio	Architectural Services	n/a	\$1,600.00		\$0.00	a	199
5/22/2015	Saucedo Design Studio	Architectural Services	\$600.00	\$300.00		\$300.00		200-202
8/3/2015	Saucedo Design Studio	Architectural Services	n/a	\$1,100.00		\$0.00	a	203
9/4/2015	Saucedo Design Studio	Architectural Services	n/a	\$600.00		\$0.00	a	205
10/20/2015	Saucedo Design Studio	Architectural Services	\$1,155.00	\$1,000.00		\$1,000.00		206-208
6/24/2015	S&I Investments	Construction of concrete path	n/a	\$12,672.80		\$0.00	a, e	211
6/10/2014	Rio Brothers	Security Gate	n/a	\$3,000.00		\$0.00	a	214
7/24/2013	SEI Development	Construction	n/a	\$10,000.00		\$0.00	a	219
8/2/2013	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	221
8/14/2013	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	223
8/23/2013	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	225
9/18/2013	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	227
9/20/2013	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	229
12/2/2013	SEI Development	Construction	n/a	\$50,000.00		\$0.00	a	231
1/30/2014	SEI Development	Construction	n/a	\$35,000.00		\$0.00	a	233
2/28/2014	SEI Development	Construction	n/a	\$10,000.00		\$0.00	a	235
4/30/2014	SEI Development	Construction	n/a	\$35,000.00		\$0.00	a	237
5/27/2014	SEI Development	Construction	n/a	\$30,000.00		\$0.00	a	239
6/4/2014	SEI Development	Construction	n/a	\$20,000.00		\$0.00	a	241
6/12/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	243
7/9/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	245
7/3/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	247
8/1/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	249
8/8/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	251
8/18/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	253
8/28/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	255
9/19/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	257
10/17/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	259
10/30/2014	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	261

Reasons for not granting:

- a: no invoice or bill
- b: no permit shown
- c: incorrect property
- d: no proof of payment
- e: not the "building"

Exhibit "A"

Oakvel Enterprises v. Tenants

L16-0070

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes on Permit	Allowable Amount	Reason for Not Granting	Evidence
11/21/2014	SEI Development	Construction	n/a	\$15,000.00		\$0.00	a	262
12/1/2014	SEI Development	Construction	n/a	\$15,000.00		\$0.00	a	264
12/5/2014	SEI Development	Construction	n/a	\$10,000.00		\$0.00	a	266
12/12/2014	SEI Development	Construction	n/a	\$10,000.00		\$0.00	a	268
1/2/2015	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	270
1/16/2015	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	272
6/15/2015	SEI Development	Construction	n/a	\$20,000.00		\$0.00	a	274
2/5/2016	SEI Development	Construction	n/a	\$25,000.00		\$0.00	a	276
2/12/2016	SEI Development	Construction	n/a	\$20,000.00		\$0.00	a	277
2/29/2016	SEI Development	Construction	n/a	\$20,000.00		\$0.00	a	278
9/8/2016	SEI Development	Construction	n/a	\$40,000.00		\$0.00	a	280
12/30/2016	SEI Development	Construction	n/a	\$10,000.00		\$0.00	a	282
	Total for SEI			\$876,514.98				
6/27/2015	Sings Investment	Sprinkler	n/a	\$5,000		\$0.00	a	285
9/23/2015	Sings Investment	Sprinkler	n/a	\$10,000.00		\$0.00	a	287
3/16/2016	Zhao Sheng	Sprinkler	n/a	3,000		\$0.00	a	289
	TOTAL					\$81,150.04		

- Reasons for not granting:
a: no invoice or bill
b: no permit shown
c: incorrect property
d: no proof of payment
e: not the "building"

PROOF OF SERVICE

Case Number L16-0070

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

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

Tenants

Brandon Carrol
5280 Foothill Blvd #5
Oakland, CA 94601

Christopher Seelig
5280 Foothill Blvd #3
Oakland, CA 94601

Delightful Foods
5292 Foothill Blvd
Oakland, CA 94601

Dianne Avila
5280 Foothill Blvd #6
Oakland, CA 94601

Julian Ramos
5272 Foothill Blvd
Oakland, CA 94601

Keny Romero
5276 Foothill Blvd
Oakland, CA 94601

Kevin Johnson & Tyrone
5296 Foothill Blvd
Oakland, CA 94601

Lucila & Chris Oangela
5280 Foothill Blvd #2
Oakland, CA 94601

Owner

Oakvel Enterprises Inc.
4849 E. 12th St
Oakland, CA 94601

000096

Olga Figuero
5268 Foothill Blvd
Oakland, CA 94601

Omar & Desiree
5280 Foothill Blvd #4
Oakland, CA 94601

Resident
5288 Foothill Blvd
Oakland, CA 94601

Rosalinda & Juan
5284 Foothill Blvd
Oakland, CA 94601

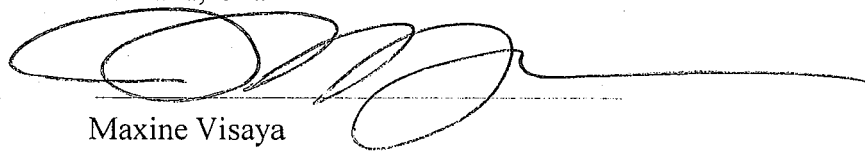
Tupou Kefu
5280 Foothill Blvd #1
Oakland, CA 94601

Owner Representative

Harmit S. Mann
4849 E. 12th St
Oakland, CA 94601

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 05, 2017 in Oakland, CA.


Maxine Visaya

ACTIVITY LOG

HCD - Rent Adjustment Program

DATE	ACTIVITY	INITIAL
10.11.16	Case opened.	TG
11.8.16	File review by Brandon Carroll	MW
11/14/16	TITs Seelig, Carroll & Keju submitted TIT responses (see attached). Keju response missing signature page.	KAM
11/18/16	mailed copy of tenant response to owner and owner rep w/ POS	KR
1/12/17	TIT submitted photos (see attached).	(KAM)
1/18/17	Hearing held. Continued to later date b/c no docs produced & not all tenants notified. (No recording, malfunction of recorder but no substantive evd at hearing - all put over to 5/1/17) Told owner to produce invoices & p of p.	(BC)
1.19.17	mailed tenant packet to the 2 commercial units w/ POS.	TG
1.19.17	mailed amended notice of hearing w/ POS.	TG
4/24/17	owner submitted docs (see attached).	(KAM)
	BINDER	
5.2.17	Hearing held. Docs in separate binder	(BC)
6.5.2017	MAILED: HEARING DECISION to all parties w/ P.O.S.	(MW)
6.26.17	APPEAL NEVER GIVEN TO HEAR PROCESS, UPDATE DATABASE.	(KAM)
6.30.17	Reviewed Appeal	(BC)
7/19/17	Reviewed Appeal Acknowledgement of Appeal sent to owner (see attached original)	(KAM)
2/26/18	mailed notice of appeal hearing before appeal panel to all parties w/ POS	KR

116-0070 KM/BC

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. <p style="text-align: center;">2016 SEP 19 PM 3: 12</p> <p style="text-align: center;"><u>LANDLORD PETITION</u> <u>FOR CERTIFICATE OF EXEMPTION</u> (OMC §8.22.030.B)</p>
---	---

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name Oakvel Enterprises Inc.	Complete Address (with zip code) 4849 E. 12th Street Oakland, CA, 94601	Telephone Day: 510-533-6194
Your Representative's Name Harmit S. Mann	Complete Address (with zip code) 4849 E. 12th Street Oakland, CA, 94601	Telephone Day: 510-599-6266
Property Address 5268 Foothill Blvd, Oakland, CA, 94601		Total number of units in bldg or parcel. Thirteen (13)
Type of units (circle one)	Single Family Residence (SFR)	Condominium
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Apartment or Room N/A Yes No

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

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

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

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

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), please answer the following questions on a separate sheet:


1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building, housing, fire, or safety codes in the unit or building?
5. Is the unit a single family dwelling or condominium that can be sold separately?
6. Did the 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?
8. When did the tenant move into the unit?

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

<input type="checkbox"/>	New Construction
<input checked="" type="checkbox"/>	Substantial Rehabilitation
<input type="checkbox"/>	Single Family Residence or Condominium (Costa-Hawkins)

Section 4. Verification Each petitioner must sign this section.

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



Owner's Signature

9/14/16

Date

Owner's Signature

Date

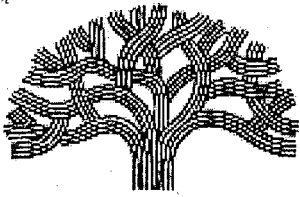
Important Information

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

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

ADDRESS: 5268 FOOTHILL BLVD, OAKLAND, CA 94601

Unit Number	Unit Type	Tenant's Name
5268 Foothill Blvd	Residential	Olga Figuero
5272 Foothill Blvd	Residential	Julian Ramos
5276 Foothill Blvd	Residential	Keny Romero
5280 Foothill Blvd #1	Residential	Tupou Kefu
5280 Foothill Blvd #2	Residential	OAngela, Lucila and Chris
5280 Foothill Blvd #3	Residential	Christopher Seelig
5280 Foothill Blvd #4	Residential	Omar Omar & Desiree
5280 Foothill Blvd #5	Residential	Brandon Carroll
5280 Foothill Blvd #6	Residential	Dianne Avila
5284 Foothill Blvd	Residential	Rosalinda & Juan
5288 Foothill Blvd	Residential	VACANT
5292 Foothill Blvd	Commercial	Delightful Foods
5296 Foothill Blvd	Commercial	Kevin Johnson & Tyrone



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp ONLY RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 NOV 14 PM 3:59

CASE NUMBER L16-0070

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Christopher M. Seelig</i>	Complete Address (with Zip Code) <i>5280 Foothill Blvd.</i>	Telephone <i>5104149506</i>
Your Representative's Name <i>Above ↑</i>	Complete Address (with Zip Code) <i>Same</i>	Telephone

Number of Units on the parcel:

13

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

01-13-15
~~Jan 8, 15~~

Date you moved into this unit:

01-13-15

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

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

Exemption Contested

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

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

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

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

There is not currently a need for repairs or improvements to this facility therefore substantial rehabilitation does not apply.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
Appx Jan 16		\$ 1395. ⁰⁰	\$ 1418. ⁰⁰	<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

Verification

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

Chris Sully

11/14/16

Tenant's Signature

Date

Tenant's Signature

Date

Important Information

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

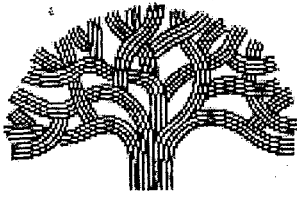
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2016 NOV 14 PM 4:35

CASE NUMBER L16-0070

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Brandon B CARROLL	Complete Address (with Zip Code) 5280 Foothill Blvd Apt 5 94601	Telephone (805) 905 1915
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units
on the parcel:

13

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

1/9/15

Date you moved into this unit:

1/10/15

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

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

Exemption Contested

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

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

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

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

No substantial rehabilitation to my unit, or any common area. Substantial decrease in housing services -- decreased security (broken front door, broken and unsecure mail boxes, frequently broken side gate). NO repairs or improvements made to my unit since move-in.

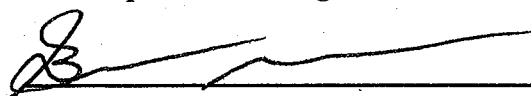
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
11/16/15	2/1/16	\$ 1250	\$ 1271.25	<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

Verification

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



 Tenant's Signature

11/12/16

 Date

 Tenant's Signature

 Date

Important Information

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

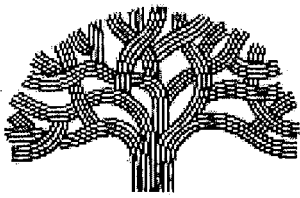
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
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CASE NUMBER L16-0070

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Tupou Kefu</i>	Complete Address (with Zip Code) <i>5280 Foothill Blvd. #1</i>	Telephone <i>650 868 4878</i>
Your Representative's Name <i>Tupou Kefu</i>	Complete Address (with Zip Code) <i>Same as above.</i>	Telephone

Number of Units on the parcel:

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

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

Exemption Contested

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

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

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

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.


It is incorrect because these units are not in need of improvements or repairs therefore the Substantial Rehabilitation Grounds doesn't apply.

CHRONOLOGICAL CASE REPORT

Case No.: E17-0002 & E17-0003
Case Name: Husain v. Tenant
Property Address: 332 Lenox Ave., Units #3 and #6, Oakland, CA
Parties: Urfana Husain (Owner)
Alana Grice Conner (Owner's Representative)
John Sargentini (Tenant Unit #3)
Amelia Bunch (Tenant Unit #6)

OWNER APPEAL

<u>Activity</u>	<u>Date</u>
Owner Petition filed	February 6, 2017
Hearing Decision issued	June 20, 2017
Owner Appeal filed	July 12, 2017

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	2017 JUL 12 PM 3:39 RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM
		<u>APPEAL</u>

Appellant's Name Urfana Husain		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 332 Lenox Avenue #3 & #6 Oakland, CA			
Appellant's Mailing Address (For receipt of notices) 332 Lenox Avenue Avenue #8 Oakland, CA 94610		Case Number E17-0002/E17-0003	
		Date of Decision appealed	
Name of Representative (if any) Alana Grice Conner Fried & Williams LLP		Representative's Mailing Address (For notices) 1901 Harrison Street, 14th Floor Oakland, CA 94612	

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: 4.

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

I declare under penalty of perjury under the laws of the State of California that on July 12, 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>	Amelia Bunch
<u>Address</u>	3310 Liberty Avenue
<u>City, State Zip</u>	Alameda, CA 94501
<u>Name</u>	Amelia Bunch
<u>Address</u>	332 Lenox Ave #6
<u>City, State Zip</u>	Oakland, CA 94610

	<u>12 July 17</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

2017 JUL 12 PM 3:39

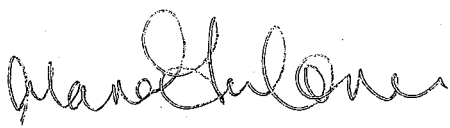
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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: 0

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 12 July, 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>	John Sargentini
<u>Address</u>	332 Lenox Avenue #3
<u>City, State Zip</u>	Oakland, CA 94610
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	12 July 2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

2017 JUL 21 AM 10:34

1 Alana Grice Conner, Esq., SBN 182676
Fried & Williams LLP
2 1901 Harrison Street, 14th Floor
Oakland, CA 94612
3 Telephone: 510-625-0100
aconner@friedwilliams.com

4 Attorneys for Owner
Urfana Husain

6 CITY OF OAKLAND
7 RENT ADJUSTMENT PROGRAM

8 Urfana Husain,

9 Petitioner/Owner

10 v.

11 Tenant,

12 Respondent/Tenant

CASE NO.: E17-0002, E17-0003

**OWNER'S APPEAL FROM HEARING
DECISION**

Decision Date: June 20, 2017
Hearing Date: May 2, 2017
Time: 10:00 A.M.
Suite: 5313

15 Urfana Husain appeals the decision issued June 20, 2017 in the case E17-0002 & E17-
16 0003, Husain v. Tenant on the following grounds:

17 1) The conclusion that "Under the circumstance of this case, the owner should have
18 promptly issued notices for tenants to vacate their units in order to make repairs" is inconsistent
19 with the Oakland Municipal Code ("O.M.C.") in effect at the time of the fire.

20 2) The owner petitioned for increased time to conduct repairs because the rent board
21 ordered her to do so and threatened to issue an administrative citation if Owner did not.

22 3) The factual finding that tenants were constructively evicted is improper as it was
23 outside the scope of issue of the decision and such language could trigger liability for the Owner.

24 1) In the Findings of Fact and Conclusions of Law section, the decision dated June 20, 2017
25 concluded that "Under the circumstances of this case, the owner should have promptly issued
26 notices for tenants to vacate their units in order to make repairs." (Please see Hearing Decision
27 attached hereto as **Exhibit A**) However, it is not clear that O.M.C. § 8.22.360(A)(10) required
28 the owner to issue a notice to vacate or that the owner met the requirements of that provision. In

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1 particular, O.M.C. § 8.22.360(A)(10) requires that the owner obtains “all necessary permits from
2 the City of Oakland on or before which notice to vacate is given” and completes substantial
3 repairs which “are necessary to bring the property into compliance with applicable codes and
4 laws.”

5 As noted by the decision dated June 20, 2017, “The City of Oakland never issued Notice
6 to Vacate or Notice of Violation for the subject building.” In light of O.M.C. §
7 8.22.360(A)(10)(c)’s use of the phrase “notice terminating tenancy” rather than “notice to
8 vacate” as used in O.M.C. § 8.22.360(A)(10), the Owner was not clear that the statute was
9 applicable to her situation. To interpret what the statute meant by its “notice to vacate”
10 prerequisite and its requirement that the owner be completing repairs which “are necessary to
11 bring the property into compliance with applicable codes and laws,” the Owner turned to the
12 Relocation Ordinance in effect at the time of the fire. This seemed like a logical source of
13 comparison as the relocation provisions reference similar situations where the unit needs to be
14 vacated to conduct substantial repairs and O.M.C. § 8.22.360(A)(10)(c) requires the owner, when
15 issuing a notice terminating tenancy, to provide a “statement informing tenants as to their right to
16 payment under the Oakland Relocation Ordinance.”

17 The Relocation Ordinance at the time of the fire has since been amended and thus is not
18 the same version which is applicable today. Under the O.M.C. version in effect at the time, the
19 relocation provision found in § 15.60.040(A) provided that a tenant is eligible for relocation
20 payments from a property owner if the tenant household is displaced from its rental unit due to
21 the city’s code enforcement activities. A tenant household is “deemed to be displaced from its
22 rental unit due to code enforcement activities if such household either: (1) Receives a notice from
23 the property owner requiring the household to vacate or quit the rental unit or room at any time
24 after the city or a court has issued a notice to vacate, notice to abate life-threatening condition, or
25 declaration of substandard covering that unit or room; or (2) vacates its unit or room...after (a)
26 the city or court has issued by a notice to vacate, notice to abate life-threatening condition, or
27 declaration of substandard covering that unit or room, and (b) the abatement period has expired
28 without correction of the noncomplying condition.”

29 In addition, in Subsection (B) of O.M.C. § 15.60.040 it states that “notwithstanding the
30 above, a tenant household shall not be deemed to be displaced due to code enforcement activities
31 in any of the following cases...(7) The tenant household is required to vacate the unit or room

1 due solely to damage resulting from an earthquake, fire, flood, natural disaster, civil disturbance,
2 or accident outside the control of the property owner, if (a) the vacation is required within 30
3 months of such event, and (b) the property owner can demonstrate that such damage was not
4 caused by the acts or the negligence of the property owner or by a preexisting condition in the
5 building in violation of applicable building, housing, fire, or other health and safety code.”

6 Thus, under the O.M.C. in effect at the time of the fire, a notice to vacate, notice to abate
7 life-threatening condition, or declaration of substandard issued by the City of Oakland was
8 required in order to be eligible for relocation payments. O.M.C. § 15.60.040(B)(7) also explicitly
9 deemed a household to “not be deemed displaced due to code enforcement activities” in
10 circumstances where a fire, outside the control of the property owner, is the main reason the
11 tenant is displaced.

12 In light of O.M.C. § 15.60.040(A)’s undefined requirement of a notice to vacate, O.M.C.
13 § 8.22.360(A)(10)(c)’s use of “notice terminating tenancy” rather than “notice to vacate”, and the
14 relocation ordinance’s requirement of a notice to vacate which is specifically issued by the City
15 of Oakland, to the reasonable observer it would seem most likely that O.M.C. § 15.60.040(A)’s
16 notice to vacate prerequisite is referring to a notice to vacate issued by the City of Oakland.

17 Also, it is not clear that the owner could claim that she was completing repairs which “are
18 necessary to bring the property into compliance with applicable codes and laws.” The City
19 declined to issue a Notice of Violation or any code citations, the Fire Department determined the
20 fire to be accidental, and O.M.C. § 15.60.040(B)(7) explicitly stated that “a tenant household
21 shall not be deemed to be displaced” in the case of an accidental fire.

22 The plain language of the statute, the particular facts of this case, and the comparable
23 protections for similar situations in the relocation ordinance make the conclusion in the decision
24 that the property owner should have issued a notice to vacate inconsistent with the O.M.C. in
25 effect at the time of the fire.

26 2) Three of the displaced tenants filed a petition with the Rent Board claiming a decrease in
27 housing services. The hearing officer, Linda Muroz, issued a decision which stated that the
28 temporary displacement of the tenants due to a fire does not warrant a rent decrease nor is it a
loss of services. (Please see consolidated hearing decision dated January 9, 2017 T-16-0387,
T16-0399 & T16-0424 attached hereto as **Exhibit B**). Ms. Muroz continued in her decision

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1 stating that Oakland's Relocation Ordinance applied to the situation but then ordered a Notice of
2 Intent to Issue Administrative Citation because the Owner failed "to apply for extension of time
3 to complete repairs when the repairs exceeded a three-month period. The Owner felt like she had
4 no other choice but to file a petition for increased time for repairs. It was her belief that O.M.C. §
5 8.22.360(A)(10) was not applicable to her circumstances. As previously discussed, the plain
6 language of O.M.C. § 8.22.360(A)(10) required her to obtain "all necessary permits from the City
7 of Oakland on or before which notice to vacate is given." No notice to terminate was ever served
8 and the City of Oakland never issued a Notice to Vacate.

9 Given the ambiguity of O.M.C. § 8.22.360(A)(10), she compared its prerequisites and
10 requirements with the relocation ordinances referenced by O.M.C. § 8.22.360(A)(10)(c). As
11 previously mentioned, O.M.C. § 15.60.040(B)(7)'s explicit determination that a tenant household
12 is deemed to not have been displaced in the case of an accidental fire and O.M.C. §
13 15.60.040(A)'s requirement of a notice to vacate which is specifically issued by the City of
14 Oakland led her to reasonably conclude that O.M.C. § 8.22.360(A)(10) was indeed inapplicable.
15 When she received notice of the City's intent to issue an Administrative Citation but still needed
16 more time to complete adequate and thorough repairs, she felt like she had no other choice but to
17 file this petition.

18 3) In the Findings of Fact and Conclusions of Law section, the decision concluded that
19 "The tenants had no PG&E service – certainly a necessary element of modern living – and they
20 were therefore constructively evicted." This conclusion is improper given the scope of the issue
21 being decided and the nature of the circumstances. This conclusion by Stephen Kasdin was well
22 beyond the scope of the petition and the Rent Board's jurisdiction. The issue being considered
23 was only whether the landlord should be given additional time to complete repairs to the
24 building. In denying the petition, the answer is clearly no, but a determination of whether the
25 tenants were evicted, constructively or otherwise, is outside the scope of the inquiry presented.
26 The rent board does not have jurisdiction to make this kind of ruling. The purpose of the rent
27 regulation ordinance does not include making determinations regarding evictions. The scope is
28 narrowly defined in O.M.C. 8.22.010C, which is attached hereto as **Exhibit C**.

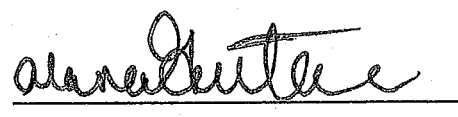
This petition arises from a good faith attempt to comply with a previous rent board
decision. Neither the Oakland Relocation Ordinance nor the "Just Cause" Ordinance applied to
this specific circumstance. Despite this fact, even if it is determined that O.M.C. §

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1 8.22.360(A)(10) was triggered somehow, the use of the term "constructively evicted" is improper
2 and should be stricken because it is outside of the rent board's jurisdiction and, in the interest of
3 due process, the decision should limit its holding to the specific issue as defined by the petition.
4

5 Date: July 21, 2017

Fried & Williams LLP


Alana Grice Conner

By: Alana Grice Conner
Attorney for Owner
Urfana Husain

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Exhibit A



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

CITY OF OAKLAND

Community and Economic Development Agency
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: E17-0002 & E17-0003, Husain v. Tenant
PROPERTY ADDRESS: 332 Lenox Ave., #3 & #6, Oakland, CA
DATE OF HEARING: May 2, 2017
DATE OF DECISION: June 20, 2017
APPEARANCES: Urfana Husain (Owner)
Sairah Husain (Witness for Owner)
Alana Grice Conner (Attorney for Owner)

SUMMARY OF DECISION

The owner's petition is denied.

CONTENTIONS OF THE PARTIES

On February 6, 2017, the owner filed petitions pursuant to Oakland Municipal Code (O.M.C.) Section 8.22.360(A)(10) which alleges that she will need to extend time to complete repairs to the subject unit until December 31, 2017.

THE ISSUE

Is there a valid reason to allow the owner additional time to complete repairs to the subject units?

EVIDENCE

At the Hearing, the owner and her witness testified that there was a fire in the subject apartment building in May 2016. The owners consulted with a building contractor soon thereafter, and were informed that it would take more than 3 months to repair the building. As a result of the fire, there was no gas or electric service for the building. The owner did not serve any tenants

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with a notice to vacate their units. However, all tenants eventually moved out, and the building was vacant as of September or October 2016.

In August 2016, three tenants filed petitions with the Rent Adjustment Program, claiming decreased housing services. In their petitions, the tenants alleged that they had to leave their rental units; they were not given relocation compensation; they were not given assurance that they could return to their units once necessary work was completed; and they asked that repairs be completed in a timely manner in accordance with the law.

A Hearing Decision in the consolidated cases was issued on January 9, 2017, which Decision has long since been final. The Decision states that temporary displacement of tenants due to a fire is not considered a decreased or loss of housing services under the Rent Adjustment Ordinance, and denied the tenants' petitions. However, the Order states: "A Notice of Intent to Issue Administrative Citation is hereby being issued to the owner for non-compliance with O.M.C. Section 8.22.360A(10)(a) due to failure to apply for extension of time to complete repairs when the repairs exceeded a three-month period."

At the Hearing in the present case, the owner and her witness testified that they filed the subject petitions in response to the prior Hearing Decision quoted above. They further testified that soon after the fire, they were told by both an insurance adjuster and a building contractor that the necessary repairs would take more than 3 months: "3-6 months, roughly." The City of Oakland has never issued a Notice to Vacate or Notice of Violation for the subject building, and tenants in 2 of the units in the building still have possessions in their units.

The owner contends that, since she never issued a Notice to Terminate Tenancy to any tenant, the provisions of the "Just Cause for Eviction" were never triggered. Therefore, the owner has not unreasonably delayed making repairs or filing for an extension of time within which to make repairs.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

O.M.C. Section 8.22.360(A)(10) – a subsection of the "Just Cause for Eviction" Ordinance – states that one ground for evicting a tenant is when:

The Owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied . . .

The tenant shall not be required to vacate in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. . .

The above-cited Ordinance envisions granting a reasonable extension of time beyond the usual 90 days for cases involving extensive repairs or common delays that are experienced in

construction projects. Although such a delay may well impose additional hardship and inconvenience for displaced tenants, reasonable discretion is allowed in unusual circumstances.

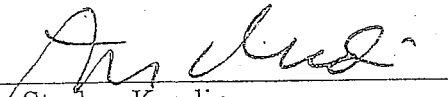
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Under the circumstance of this case, the owner should have promptly issued notices for tenants to vacate their units in order to make repairs. The tenants had no PG&E service – certainly a necessary element of modern living – and they were therefore constructively evicted. The fact that the tenants moved out voluntarily – rather than in response to notices that the owners were legally required to give – may not be used as a shield by the owner to evade the requirements of the law. The owner's petitions are therefore denied.

ORDER

1. Petitions E17-0002 & E17-0003 are denied.
2. 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: June 20, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number E17-0003

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

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

Tenants

Amelia R. Bunch
3310 Liberty Ave
Alameda, CA 94501

Amelia R. Bunch
332 Lenox Ave #6
Oakland, CA 94610

Owner

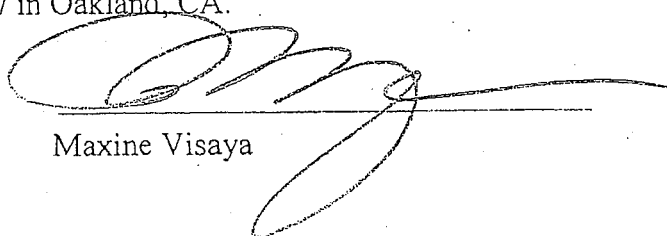
Munawar Husain
332 Lenox Ave #8
Oakland, CA 94610

Owner Representative

Fried & Williams LLP/Alana Grice Conner
1901 Harrison St 14th Flr.
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 June 22, 2017 in Oakland, CA.



Maxine Visaya

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PROOF OF SERVICE

Case Number E17-0002

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

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

Tenant

John Sargentini
332 Lenox Ave #3
Oakland, CA 94610

Owner

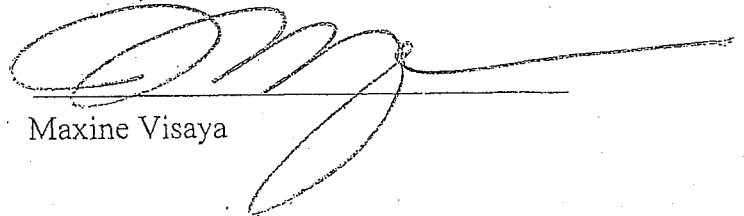
Munawar Husain
332 Lenox Ave #8
Oakland, CA 94610

Owner Representative

Fried & Williams LLP/Alana Grice Conner
1901 Harrison St 14th Flr.
Oakland, CA 94610

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 22, 2017 in Oakland, CA.



Maxine Visaya

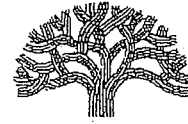
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Exhibit B

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2017 JUL 21 AM 10:35

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: T16-0387, Bunch v. Husain (Unit #6)
T16-0399, Majdiak v. Husain (Unit # 5)
T16-0424, Fedoruk v. Husain (Unit #4)

PROPERTY ADDRESS: 332 Lenox Ave., Oakland, CA

DATE OF HEARING: October 31, 2016

DATE OF DECISION: January 9, 2017

APPEARANCES: Amelia Bunch, Tenant (Unit #6)
James Vann, Tenant's Representative
Urfana Husain, Owner
Sairah Husain, Owner Representative and daughter.

SUMMARY OF DECISION

The tenant petitions are denied. A Notice of Intent to Issue Administrative Citation is hereby being issued to the Owner.

CONTENTIONS OF THE PARTIES

The tenants in Units #4, #5 and #6 filed tenant petitions alleging (1) decreased housing services; (2) code violations; (3) lost services that were originally provided by the owner; and (4) serious problems with the condition of each rental unit.

The owner filed a timely response to the tenant petitions, alleging that the tenants were required to temporarily relocate due to a fire and the extensive repairs that had to be undertaken.

THE ISSUES

- (1) Have the tenants' housing services been decreased, and if so, by what amount?
- (2) Can the tenants file a petition under the Just Cause Ordinance?

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EVIDENCE

Background and Evidence

The subject units are located in a residential building consisting of six (6) residential units.

On May 9, 2016, a fire occurred at the subject property, the power had to be shut off and the tenants were asked to temporarily vacate their units until the fire damage was repaired. The tenants have not paid rent since May 1, 2016.

As of the date of the hearing, more than five months after the fire, the tenants were still displaced out of their units because the repairs are not completed. This evidence was not disputed.

Decreased Housing Services

With their petitions, the tenants submitted a statement explaining that they regard their relocation due to the fire as an eviction under the Just Cause Ordinance but received no relocation compensation. In addition, the time period to make repairs extended beyond the three-month period and the owner did not file application to extend time for repairs.

Just Cause Eviction

The tenants' representative argued that the tenants' petitions are filed under the Just Cause Ordinance and not under the Rent Adjustment Ordinance. The tenants allege that they have been temporary evicted, they have not received a relocation fee, and that owner violated the ordinance by failing to file an application for extension of time to do repairs when it became clear that the repairs would extend beyond the three-month period.

The owner argued that there was no eviction and therefore the Just Cause Ordinance does not apply. The owner testified that from the time of the incident, she diligently worked with the insurance company and the contractor to complete the repairs and get them approved by the City of Oakland building inspectors.

Copies of emails were submitted showing communications between the owner and the tenants from May 11, 2016, through October 23, 2016, regarding updates on the repairs caused by the fire damage.¹

¹ Exhibits A and B

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2017 JUL 21 AM 10:35

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent² and may be corrected by a rent adjustment.³ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that is required to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

Temporary Relocation: Temporary displacement of tenants due to a fire is not considered a decreased or loss of housing service under the Rent Adjustment Ordinance. Therefore, this claim is denied. In addition, the Rent Adjustment Ordinance allows reduction of rent as a remedy. Because the tenants have not paid any rent while being displaced, the rent cannot be further reduced even if this claim would be regarded as a decreased service. Therefore, this claim is also denied for this reason.

Relocation of tenants is governed by the City of Oakland's Relocation Ordinance.⁴ However, the Rent Adjustment Program has the authority to issue a citation for a violation of the Rent Adjustment Laws.⁵ Therefore, a Notice of Intent of Administrative Citation is hereby being issued pursuant to RAP Regulations.⁶

Just Cause for Eviction Ordinance

The Rent Adjustment Ordinance states that the tenant may file a petition permitted by the Just Cause of Eviction ordinance (Measure EE) O.M.C. 8.22.300.⁷ However, the petitions brought under the Just Cause of Eviction Ordinance are limited to those where the owner applies for an extension of time to complete repairs if the repairs are taking more than three months.⁸ Section 10(a) states that the owner shall proceed without unreasonable delay to effect the needed repairs and that the tenant shall not be required to vacate for a period in excess of three months; however, such time period may be extended by the Rent Board upon application by the landlord. The Rent Board shall adopt rules and regulations to implement the application procedure.⁹

It is undisputed that after May 9, 2016, the tenants had to vacate the units to make repairs and that the repairs were not completed in three months. The owner did not file application for extension of time. As of the date of the hearing, on October 31,

² O.M.C. §8.22.070(F)

³ O.M.C. §8.22.110(E)

⁴ Code Enforcement Relocation Program, Chapter 15.60

⁵ O.M.C. §8.22.150 A and B; also Regulations §8.22.170A(3)

⁶ RAP Regulations §8.22.170A (1) and (3)

⁷ O.M.C. §8.22.090A(c)

⁸ O.M.C. §8.22.360A(10)

⁹ O.M.C. §8.22.360A(10)(a)

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2016, the tenants were still displaced from the property and no application by the owner was submitted to the Rent Adjustment Program.

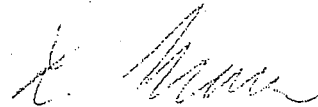
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ORDER

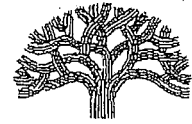
1. Tenant Petitions T16-0387, T16-00399 and T16-0424 are denied.
2. A Notice of Intent to Issue Administrative Citation is hereby being issued to the owner for non-compliance with O.M.C §8.22.360A(10)(a) due to failure to apply for extension of time to complete repairs when the repairs exceeded a three-month period.
4. A Notice of Intent to Issue Administrative Citation is attached to this Hearing Decision and Order.

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

Dated: January 9, 2017



Linda M. Moroz
Hearing Officer
Rent Adjustment Program



2017 JUL 21 AM 10:35

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

NOTICE OF INTENT TO ISSUE ADMINISTRATIVE CITATION

CASE NUMBERS: T16-0387, Bunch v. Husain (Unit #6)
T16-0399, Majdiak v. Husain (Unit # 5)
T16-0424, Fedoruk v. Husain (Unit #4)

PROPERTY ADDRESS: 332 Lenox Ave., Oakland, CA

PARTIES NOTIFIED: Urfana Husain, Owner
Sairah Husain, Owner Representative and daughter

Pursuant to O.M.C. §8.22.170 (A)(3), the Rent Adjustment Program may issue a notice of intent based on having reason to believe a violation has occurred.

Based on the Hearing Decision relating to the above-referenced cases, the Rent Adjustment Program has a reason to believe that a violation has occurred when the owner failed to file an application to extent time for repairs when the repairs could not be completed in a three-month period as required under O.M.C. §8.22.360(10)(a).

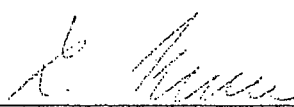
In accordance with O.M.C. §8.22.170(A)(3)(d) and the corresponding Regulations, you are allowed to cure this violation without a penalty being imposed if, no later than ten (10) calendar days after service of this Notice, the Rent Adjustment Program receives either:

- (1) Evidence that you have cured the violation; or
- (2) Your statement of denial that you have committed the violation, together with evidence which supports your denial.

If a sufficiently documented response is not received by the Rent Adjustment Program within the stated time limit, an Administrative Citation may be issued against you imposing monetary penalties.

If you have any questions, you may contact Susan Ma, Program Analyst, at (510) 238-7108.

Dated: January 9, 2017



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

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PROOF OF SERVICE

2017 JUL 21 AM 10:36

Case Number T16-0424

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

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

Tenant

Laura Fedoruk
332 Lenox Ave #4
Oakland, CA 94610

Owner

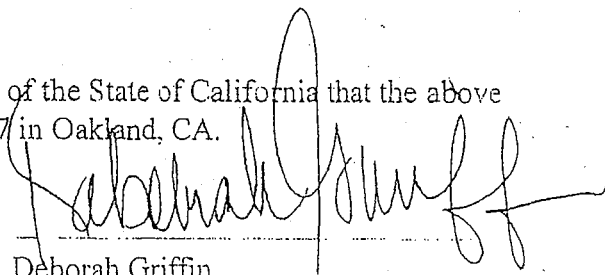
Urfana Husein
332 Lenox Ave #8
Oakland, CA 94610

Tenant Representative

James Vann
251 Wayne Ave
Oakland, CA 94606

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 17, 2017 in Oakland, CA.



Deborah Griffin

PROOF OF SERVICE
Case Number T16-0387

2017 JUL 21 AM 10:36

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

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

Tenants

Amelia Bunch
332 Lenox Ave #6
Oakland, CA 94610

Amelia Bunch
3310 Liberty Ave.
Alameda, CA 94501

Owner

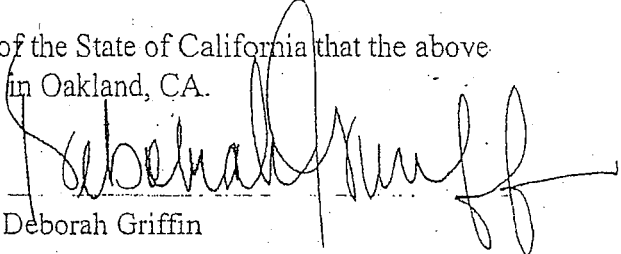
Urfana Husein
332 Lenox Ave #8
Oakland, CA 94610

Tenant Representative

James Vann
251 Wayne Ave
Oakland, CA 94606

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 17, 2017 in Oakland, CA.


Deborah Griffin

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2017 JUL 21 AM 10:36

PROOF OF SERVICE

Case Number T16-0399

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

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

Tenant

Sarah Majdiak
332 Lenox Ave #5
Oakland, CA 94610

Owner

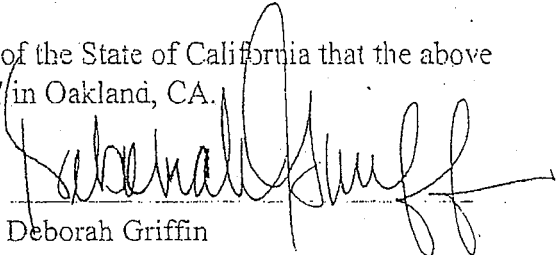
Urfanz Husein
332 Lenox Ave #8
Oakland, CA 94610

Tenant Representative

James Vann
251 Wayne Ave
Oakland, CA 94606

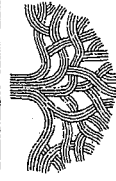
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 17, 2017 in Oakland, CA.


Deborah Griffin

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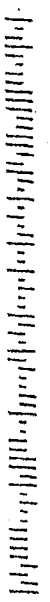
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2017 JUL 21 AM 10:36



CITY OF OAKLAND
HOUSING AND COMMUNITY DEVELOPMENT
DEPARTMENT
RENT ADJUSTMENT PROGRAM
P.O. BOX 70243
OAKLAND, CA 94612-0243

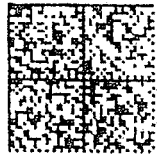
Ufana Husein
332 Lenox Ave #8
Oakland, CA 94610

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FIRST CLASS

(Need 1/24/2017)



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Article I. - Residential Rent Adjustment Program

8.22.010 - Findings and purpose.

- A. The City Council finds that a shortage of decent, safe, affordable and sanitary residential rental housing continues to exist in Oakland. This shortage is evidenced by a low vacancy rate among such units throughout the city and a continually increasing demand for such housing. Many residents of Oakland pay a substantial amount of their monthly income for rent. The present shortage of rental housing units and the prevailing rent levels have a detrimental effect on the health, safety, and welfare of a substantial number of Oakland residents, particularly senior citizens, persons in low and moderate income households, and persons on fixed incomes. Stability in their housing situation is important for individuals and families in rental housing. In particular, tenants desire to be free from the fear of eviction motivated by a rental property owner's desire to increase rents. Rental property owners desire the ability to expeditiously terminate the tenancies of problem tenants.
- B. Further, the welfare of all persons who live, work, or own residential rental property in the City depends in part on attracting persons who are willing to invest in residential rental property in the city. It is, therefore, necessary that the City Council take actions that encourage investment in residential housing while also protecting the welfare of residential tenants.
- C. Among the purposes of this chapter are providing relief to residential tenants in Oakland by limiting rent increases for existing tenants; encouraging rehabilitation of rental units; encouraging investment in new residential rental property in the city; reducing the financial incentives to rental property owners who terminate tenancies under California Civil Code Section 1946 ("Section 1946") or where rental units are vacated on other grounds under state law Civil Code Sec. 1954.50, et seq. ("Costa-Hawkins") that permit the city to regulate initial rents to new tenants; and allowing efficient rental property owners the opportunity for both a fair return on their property and rental income sufficient to cover the increasing cost of repairs, maintenance, insurance, employee services, additional amenities, and other costs of operation.
- D. The City Council also wishes to foster better relations between rental property owners and tenants and to reduce the cost and adversarial nature of rent adjustment proceedings under This chapter. For these reasons, This chapter includes options for rental property owners and tenants to mediate rent disputes that would otherwise be subject to a hearing process, and to mediate some evictions.
- E. Terminations of Tenancies. On November 5, 2002, Oakland voters passed the Just Cause for Eviction Ordinance (Measure EE). The enactment of the Just Cause for Eviction Ordinance by the electorate makes unnecessary the need for the eviction restrictions in This chapter, Article I (Rent Adjustment Ordinance) for a tenant whose tenancy is terminated by California Civil Code Section 1946 and also overrides portions of the Rent Adjustment Ordinance.
- F. The City Council believes that the relationship between landlords and tenants in smaller owner-occupied rental properties involve special relationships between the landlord and the tenants residing in the same smaller property. Smaller property owners also have a difficult time understanding and complying with rent and eviction regulation. The Just Cause for Eviction Ordinance recognizes this special relationship and exempts from its coverage owner-occupied properties divided into a maximum of three units. For these reasons, the City Council believes owner-occupied rental properties exempt from the Just Cause for Eviction Ordinance should similarly be exempt from the Rent Adjustment Program so long as the property is owner-occupied. In order to permit tenants to adjust to the possibility of unregulated rents and to address the potential for abuse of the owner-occupancy exemption by landlords who are motivated to move into a property to gain an exemption just to increase rent and not to reside in the property, this exemption should not take effect for one year after the amendment to This chapter exempting these rental units is adopted, or one year after the landlord begins owner-occupancy, whichever is later.

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JUL 21 AM 10:36

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 the date below, I served the attached, concerning the action known as (*Husain v. Tenant*, Oakland's Rent Adjustment Program case nos. E17-0002, E17-0003:

OWNER'S APPEAL FROM HEARING DECISION

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:

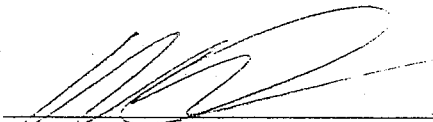
Tenants:

Amelia R. Bunch
332 Lenox Avenue, #6
Oakland, CA 94610

Amelia R. Bunch
3310 Liberty Avenue
Alameda, CA 94501

John Sargentini
332 Lenox Avenue, #3
Oakland, CA 94610

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 July 21, 2017, at Oakland, California.



Matthew Lanza



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

CITY OF OAKLAND

Community and Economic Development Agency
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: E17-0002 & E17-0003, Husain v. Tenant
PROPERTY ADDRESS: 332 Lenox Ave., #3 & #6, Oakland, CA
DATE OF HEARING: May 2, 2017
DATE OF DECISION: June 20, 2017
APPEARANCES: Urfana Husain (Owner)
Sairah Husain (Witness for Owner)
Alana Grice Conner (Attorney for Owner)

SUMMARY OF DECISION

The owner's petition is denied.

CONTENTIONS OF THE PARTIES

On February 6, 2017, the owner filed petitions pursuant to Oakland Municipal Code (O.M.C.) Section 8.22.360(A)(10) which alleges that she will need to extend time to complete repairs to the subject unit until December 31, 2017.

THE ISSUE

Is there a valid reason to allow the owner additional time to complete repairs to the subject units?

EVIDENCE

At the Hearing, the owner and her witness testified that there was a fire in the subject apartment building in May 2016. The owners consulted with a building contractor soon thereafter, and were informed that it would take more than 3 months to repair the building. As a result of the fire, there was no gas or electric service for the building. The owner did not serve any tenants

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with a notice to vacate their units. However, all tenants eventually moved out, and the building was vacant as of September or October 2016.

In August 2016, three tenants filed petitions with the Rent Adjustment Program, claiming decreased housing services. In their petitions, the tenants alleged that they had to leave their rental units; they were not given relocation compensation; they were not given assurance that they could return to their units once necessary work was completed; and they asked that repairs be completed in a timely manner in accordance with the law.

A Hearing Decision in the consolidated cases was issued on January 9, 2017, which Decision has long since been final. The Decision states that temporary displacement of tenants due to a fire is not considered a decreased or loss of housing services under the Rent Adjustment Ordinance, and denied the tenants' petitions. However, the Order states: "A Notice of Intent to Issue Administrative Citation is hereby being issued to the owner for non-compliance with O.M.C. Section 8.22.360A(10)(a) due to failure to apply for extension of time to complete repairs when the repairs exceeded a three-month period."

At the Hearing in the present case, the owner and her witness testified that they filed the subject petitions in response to the prior Hearing Decision quoted above. They further testified that soon after the fire, they were told by both an insurance adjuster and a building contractor that the necessary repairs would take more than 3 months: "3-6 months, roughly." The City of Oakland has never issued a Notice to Vacate or Notice of Violation for the subject building, and tenants in 2 of the units in the building still have possessions in their units.

The owner contends that, since she never issued a Notice to Terminate Tenancy to any tenant, the provisions of the "Just Cause for Eviction" were never triggered. Therefore, the owner has not unreasonably delayed making repairs or filing for an extension of time within which to make repairs.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

O.M.C. Section 8.22.360(A)(10) – a subsection of the "Just Cause for Eviction" Ordinance – states that one ground for evicting a tenant is when:

The Owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied . . .

The tenant shall not be required to vacate in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. . .

The above-cited Ordinance envisions granting a reasonable extension of time beyond the usual 90 days for cases involving extensive repairs or common delays that are experienced in

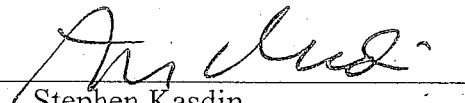
construction projects. Although such a delay may well impose additional hardship and inconvenience for displaced tenants, reasonable discretion is allowed in unusual circumstances.

Under the circumstance of this case, the owner should have promptly issued notices for tenants to vacate their units in order to make repairs. The tenants had no PG&E service – certainly a necessary element of modern living – and they were therefore constructively evicted. The fact that the tenants moved out voluntarily – rather than in response to notices that the owners were legally required to give – may not be used as a shield by the owner to evade the requirements of the law. The owner’s petitions are therefore denied.

ORDER

1. Petitions E17-0002 & E17-0003 are denied.
2. 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: June 20, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number E17-0002

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

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

Tenant

John Sargentini
332 Lenox Ave #3
Oakland, CA 94610

Owner

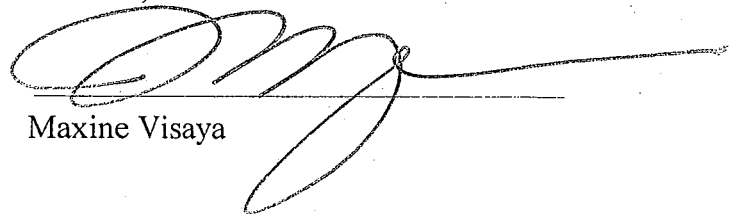
Munawar Husain
332 Lenox Ave #8
Oakland, CA 94610

Owner Representative

Fried & Williams LLP/Alana Grice Conner
1901 Harrison St 14th Flr.
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 22, 2017 in Oakland, CA.



Maxine Visaya

PROOF OF SERVICE

Case Number E17-0003

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

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

Tenants

Amelia R. Bunch
3310 Liberty Ave
Alameda, CA 94501

Amelia R. Bunch
332 Lenox Ave #6
Oakland, CA 94610

Owner

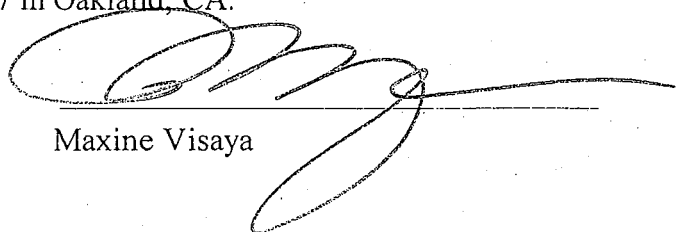
Munawar Husain
332 Lenox Ave #8
Oakland, CA 94610

Owner Representative

Fried & Williams LLP/Alana Grice Conner
1901 Harrison St 14th Flr.
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 June 22, 2017 in Oakland, CA.



Maxine Visaya

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E17-0002 KM/SK

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CITY OF OAKLAND
RENT ARBITRATION PROGRAM

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA. 94612 (510) 238-3721 Phone (510) 238-3691 Fax	For date started 2017 FEB -6 PM 3:18 LANDLORD PETITION TO EXTEND TIME FOR TENANT VACANCY TO MAKE REPAIRS
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Please Fill Out This Form Completely. If you need more space, you may attach additional pages. Failure to provide needed information may result in your response being rejected or delayed.

Your Name Urfana Husain as attorney in fact for Munawar Husain, General Partner of United Group, a General Partnership	Mailing Address (with zip code) 332 Lenox Avenue, #8 Oakland, California 94610	Telephone Day: 510- 256-9801 ²⁰⁷⁻²⁵⁷⁹ 44 Evening: 510- 256-9801 ^{SAME} 44
Your Representative's Name Alana Grice Conner Fried & Williams LLP	Mailing Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Telephone Day: 510-625-0100 Evening: 510-625-0100
Tenant(s) names (s) John Sargentini	Address of unit being repaired (with zip code) 332 Lenox Avenue, #3 Oakland, California 94610	Telephone Day: Evening: 415-601-6840
Tenant(s) names (s) John Sargentini	<u>Current Address (if known)</u> (with zip code)	Telephone Day: Evening:

Date of Termination notice to tenant: Tenants displaced due to accidental fire – please see attached explanation

I (We) will need to extend the time to complete repairs to the following date: December 31, 2017

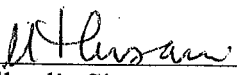
Reason for delay in completing repairs:

Please attach a separate sheet with a full explanation of reason for delay.

Verification

Each petitioner must sign this Section:

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



 Landlord's Signature
 By Urfana Husain as attorney in fact for
 Munawar Husain, General Partner of United Group, a General Partnership

February 6, 2017
 Date

2017 FEB -6 PM 3:18

Attachment to Landlord Petition to Extend Time for Tenant Vacancy to Make Repairs

An accidental, electrical fire occurred in May 2016. The source of the fire was determined to be in a wall of the basement/storage room by the Oakland Fire Department. The multi-unit building has balloon framing, as a result, during the fire, hot steam and heavy smoke shot up the walls throughout the building. The main electrical meter is located in the basement/storage room. Electricity and gas have been shut off to the entire building until all areas affected by smoke and heat have been checked, and if necessary, repaired for safety. The plumbing system will also be inspected and repaired, if necessary.

The scope of work remains unclear because the landlord and insurance company are engaged in ongoing discussions about coverage. In the testing so far authorized by the insurance company, the back three units (#2, #4 and #6) from the ground to the roof attic spaces show evidence of smoke damage. During the fire, smoke was also billowing out of the roof eaves, so the roof system of the whole house has been affected. Evidence of smoke was found in the front attic space - an area furthest away from the fire. The back three units' walls and floors will be opened to check and correct/repair all affected electric, plumbing, and gas line systems throughout these units and common areas. Depending on what further testing, pending our insurance company's authorization, reveals, this work may need to be done in the walls of the front three units as well.

More testing is pending on the remaining front three units (#1, #3 and #5). Heavy smoke was present throughout the building and hallways and there may be damage in the front three units (#1, #3 and #5) as well.

The central heat system, which is a forced air boiler with ducting and intake/outtake vents throughout the building, was on during the fire and may need to be replaced and repaired throughout the building. Thus, there will be no heat to the building until all other repairs are complete.

In #7 the fire caused extensive structural damage with damage to weight-bearing joists, wall studs, and wall contents. The fire caused damage to the floors in the units above.

In #6 there is an active presence of charred material and evidence of smoke residue in the bedroom closet. The walls and floors in the bedroom of #6 were intensely hot. These areas will have to be demolished to check and repair the heat and smoke damage, as well as ensure the electric, plumbing, and gas systems are repaired and safe.

In #3 there was smoke present, especially the back kitchen area closest to the common hallways there was a heavy presence of smoke. These areas will be tested with further environmental testing to determine if these walls are affected. There will be extensive repairs in this unit to the walls and windows due to cracks in the lath and plaster.

The contractor and city inspectors have said that the gas system will be the last to be turned back in an extensive construction situation like this. Once the repairs to the building are complete all systems including gas will be restored to the building. Without gas, there will be no heating or hot water.

Three of the tenants filed Case Nos. T16-0387, T16-0399 and T16-0424. These matters were consolidated and a hearing decision issued on January 9, 2017. The hearing officer denied the petitions but required the Landlord to file this petition for an extension of time to complete repairs under threat of issuing an administrative citation. This petition is filed to comply with that decision.

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RENT ARBITRATION PROGRAM

2017 FEB -6 PM 3:17

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Your Name Urfana Husain as attorney in fact for Munawar Husain, General Partner of United Group, a General Partnership	Mailing Address (with zip code) 332 Lenox Avenue, #8 Oakland, California 94610	Telephone 207-8579 Day: 510-256-9804 Evening: 510-256-9801 SAME MH
Your Representative's Name Alana Grice Conner Fried & Williams LLP	Mailing Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Telephone Day: 510-625-0100 Evening: 510-625-0100
Tenant(s) names (s) Amelia R. Bunch	Address of unit being repaired (with zip code) 332 Lenox Avenue, #6 Oakland, California 94610	Telephone Day: Evening: 503-267-8973
Tenant(s) names (s) Amelia R. Bunch	<u>Current Address (if known)</u> (with zip code) 3310 Liberty Avenue Alameda, California 94501	Telephone Day: Evening:

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