

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

April 19, 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. T17-0152; Holt v. Tang
T17-0313; Holt v. Tang
 - b. T16-0734; Beard v. Stewart
5. SCHEDULING AND REPORTS
6. ADJOURNMENT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2018 APR 11 PM 3:45

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

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.

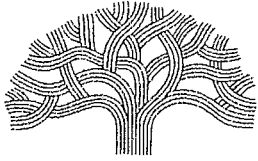
CHRONOLOGICAL CASE REPORT

Case No.: T17-0152 & T17-0313
Case Name: Holt v. Tang
Property Address: 2800 Nicol Ave., Oakland, CA
Parties: Anthony Holt (Tenant)
Susan Tang (Owner)

TENANT APPEALS

<u>Activity for T17-0152</u>	<u>Date</u>
Tenant Petition filed	March 2, 2017
Owner Response filed	June 5, 2017
Hearing Decision issued	August 30, 2017
Tenant Appeal filed	September 15, 2017

<u>Activity for T17-0313</u>	<u>Date</u>
2 nd Tenant Petition filed	May 19, 2017
Owner Response filed	June 5, 2017
Hearing Decision issued	August 30, 2017
Tenant Appeal filed	September 15, 2017



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank Ogawa Plaza, Suite 53135
Oakland, CA 94612
(510) 238-3721

For date stamp.

APPEAL

Appellant's Name ANTHONY L. HOYT		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 2800 NICOL AVE OAKLAND CA 94602			
Appellant's Mailing Address (For receipt of notices) 2800 NICOL AVE #108 OAKLAND CA 94602		Case Number T-17-0152 T-17-0313	
		Date of Decision appealed	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):
 - a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)*
 - b) The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
 - c) The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
 - d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
 - e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) Other. (In your explanation, you must attach a detailed explanation of your grounds for appeal.)

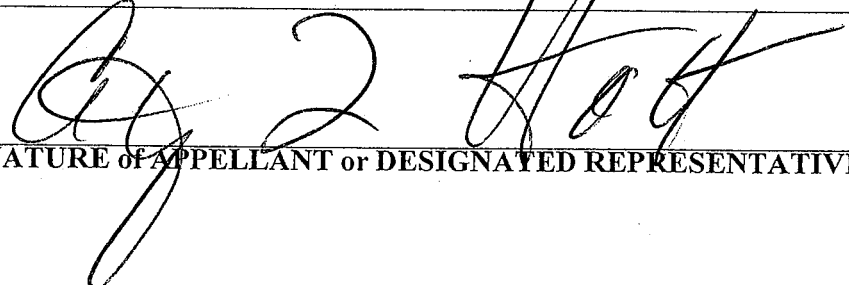
Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.

Number of pages attached: 23

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 Sept 15, 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>	FANG
<u>Address</u>	FHN LLC PO Box 28152
<u>City, State Zip</u>	OAKLAND CA 94604
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	9-15-17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

For more information phone (510) 238-3721.



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

CITY OF OAKLAND

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T17-0152 Holt v. Tang
T17-0313 Holt v. Tang

PROPERTY ADDRESS: 2800 Nicol Ave, Unit 108, Oakland, CA

DATE OF HEARING: July 11, 2017

DATE OF DECISION: August 30, 2017

APPEARANCES: Anthony Holt, Tenant
Susan Tang, Owner
Chao-Hun Tang, Owner

SUMMARY OF DECISION

The tenant's petitions are denied.

CONTENTIONS OF THE PARTIES

On March 2, 2017, tenant Anthony Holt filed a petition claiming that his housing services have decreased and that at present there exists a health, safety, fire or building code violation in his unit, because of water damage in his unit due to rain (unit 108). On May 19, 2017, the tenant filed a second petition claiming additional decreased housing services. His list of decreased services includes complaints about pet odor, a rundown carpet, crack in toilet, and hole in the floor in unit 208, the temporary unit he was relocated to while repairs were done to his original unit (unit 108); lack of garage door opener; lack of front gate key; and broken mailbox.

The owners filed a timely response to the petitions denying all claims of decreased housing services.

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THE ISSUES

(1) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

Rent History and RAP Notice

Official Notice is taken of cases T15-0541, T16-0250, and T16-0446, prior cases between the parties. In those cases, it was determined that the tenant moved into unit 108 in April of 2008 at an initial rent of \$850 a month and the tenant was served with the *RAP Notice* in September of 2015.

In the prior cases, it was determined that Mr. Holt had suffered decreased housing services. In case T16-0446, the Order stated:

20. The banked rent increase of \$51 is valid. The tenant's base rent, effective September 1, 2016, is \$901 a month.
21. Due to ongoing decreases in housing services found in case T16-0250, the tenant's rent was reduced by 22% (\$198.22). The tenant's current legal rent is \$702.78 a month.
22. Due to past decreased services found in case T16-0250 and rent underpayments tenant Holt is owed restitution in the amount of \$1,364.53. This overpayment is adjusted by a rent decrease for the next 12 months in the amount of \$113.71 a month.
23. Tenant Holt's rent for the months of January 2017 through December of 2017 is \$589.07 per month. His rent reverts to \$702.78 a month in January of 2018, if no repairs are made and/or rent increase notices are served.

The tenant testified that he is currently paying \$589.07 in rent monthly based on the decision in case T16-0446.

Decreased Housing Services

Water Damage in Unit 108: The tenant testified that on February 9, 2017, water started seeping into his unit due to heavy rain, and on February 21, 2017, there was flooding in his unit due to the rain. The flooding was in his bedroom, dining room, and living room. The flooding damaged the carpet and caused mold and mildew in the unit. The tenant testified that he ripped up the carpet to prevent more mold from forming. After he notified the owners of the flooding, they sent in a maintenance crew to assess the situation. There was water in the unit so the workers had to wait for the apartment to dry before they could begin repairs. They also had to make several visits before they were able to determine the source of the flooding. Once they located the source of the

flooding, they realized the repairs would be more complicated, requiring the opening up of a wall. In addition, the tiles underneath the carpet would need to be replaced before a new carpet could be installed.

The owners offered to relocate the tenant to a different unit while they completed the repairs. There is a factual dispute as to when the owners first offered to relocate the tenant to another unit during the repairs.

The tenant testified that the first time the owners offered to relocate him to another unit during repairs was on March 22, 2017, when they offered to move him to a unit on High Street. While they were in the process of discussing the relocation, unit 101 and unit 208 became available in his building. On March 28, 2017, he viewed both units; unit 101 had a lot of mold, so he chose to relocate to unit 208.

The owners testified that after the tenant notified them of the flood on February 21, 2017, they immediately offered to relocate the tenant to a unit in their building on High Street while they repaired his unit. The tenant refused to move to High Street. The owners testified that due to the tenant's failure to cooperate, they had to wait until another unit became available in the subject building before they could relocate the tenant and begin repairs. In March, both unit 101 and 208 became available. On March 28, 2017, the tenant inspected both units, and agreed to relocate to unit 208 during the repairs to his apartment.

Both parties testified that the repairs to tenant's unit were completed on May 19, 2017. The repairs included installing a new carpet, patching up the wall and painting the entire unit. The tenant testified that after the repairs were completed he slowly began moving his things back into his apartment, and was completely moved back in by June 1, 2017.

Decreased Housing Services in Unit 208: The tenant testified that he was temporarily relocated to unit 208 while the owners did repairs to his original unit (unit 108). He testified that before moving in, he did a walkthrough of unit 208 with the owners on March 28, 2017, and at that time, he notified the owner of issues in the unit, including a dog smell throughout the unit, a rundown carpet, crack in toilet, and a soft spot in the floor. He further testified that the owners shampooed the carpet and cleaned the kitchen and bathroom before he moved in.

The owners testified that after the prior tenants moved out of unit 208, they only had one day to clean the unit and prepare it for Mr. Holt to move in. They shampooed and cleaned the unit and Mr. Holt viewed and accepted the condition of the unit before he moved in.

Garage Door Opener: The tenant testified that there is a gate in the back of the building that provides entry into the parking lot area. That gate is currently broken and kept open. In April of 2017, the owners started passing out garage door openers to other tenants for access to the parking lot area but they never gave him a garage door

opener. The tenant testified that since the gate to the parking lot is broken and remains open, he has continued to park his car in the parking lot but he is afraid that if the gate to the parking lot is ever repaired and closed, he will be unable to access the parking lot. The owners testified that the garage door openers for access to the parking lot are only for tenants who have parking included in their lease. Mr. Holt does not have parking included in his lease so he was not given a garage door opener. The owners further testified that the gate to the parking lot is broken and kept open.

Front Gate Key: The tenant testified that on March 28, 2017, the owner, Mr. Tang, asked tenant for his front gate key so he could duplicate it and he has not returned the tenant's key. As of the hearing, the tenant still does not have a key to the front gate of his building. The owners testified that they do not recall taking tenant's front gate key, and if they did take it and have failed to return it, it was simply an oversight. They testified that the tenant never reached out to them to ask for a front gate key, and did not notify them of any issues with his front gate key prior to filing his petition.

Mailbox: The tenant testified that his mailbox is broken and has been broken since March of 2017. He did not notify the owners of the broken mailbox. The owners testified that the tenant never notified them of any issues with his mailbox prior filing his petition.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹ and may be corrected by a rent adjustment.² However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy, or one that is required to be provided in a contract between the parties, or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted.

Additionally, the tenants have the burden of proof with respect to each claim.

Water Damage in Unit 108: There is conflicting testimony as to when the owners offered to relocate the tenant to another unit so they could begin repairs in tenant's unit. The hearing officer credits the owners' testimony that they offered to relocate the tenant to a unit on High Street immediately after being notified of the flooding in tenant's unit, which the tenant refused, so they had to wait for a unit to become available in tenant's building before they could relocate the tenant and begin repairs, and this caused the delay in completing the repairs in tenant's unit. It is found that the owners made diligent

¹ O.M.C. Section 8.22.070(F)

² O.M.C. Section 8.22.110(E)

attempts to relocate the tenant to a temporary unit as soon as possible and completed the repairs to his unit within a reasonable amount of time. Therefore, compensation for this claim is denied.

Decreased Housing Services in Unit 208: The tenant viewed unit 208 prior to moving in and all the decreased housing services listed for unit 208 (dog smell throughout the unit, rundown carpet, crack in toilet, and soft spot in floor) were present before the tenant moved in. Because Mr. Holt viewed and accepted the condition of the unit before he moved in, compensation for this claim is denied.

Garage Door Opener: The tenant testified that he has not been provided with a garage door opener to the parking lot but he is still able to access the parking lot because the gate to the lot is broken and kept open. Because the tenant still has access to the parking lot, and has not suffered any loss in housing services, this claim is not yet ripe for consideration and denied for that reason.

Front Gate Key: The owners testified credibly that they do not recall taking tenant's front gate key to duplicate, and that the tenant did not make any requests for the front gate key to be returned. For this reason, this claim is denied. However, the owners are now on notice that the tenant does not have a front gate key and one needs to be provided to him.

Mailbox: The owners testified credibly that the tenant did not notify them of any problems with his mailbox prior to the hearing, therefore, compensation for this claim is denied.

ORDER

1. Petitions T17-0152 and T17-0313 are denied.
2. The claim for decreased housing services is denied.

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

Dated: August 30, 2017

Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T17-0152

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

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

Tenant

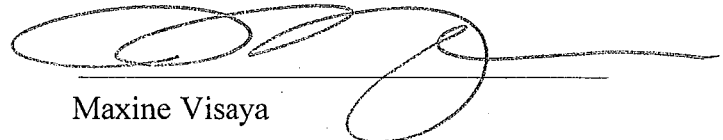
Anthony L. Holt
2800 Nicol Ave #108
Oakland, CA 94602

Owner

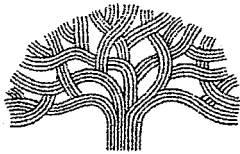
Susan Tang
P.O. Box 28152
Oakland, CA 94604

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 08, 2017 in Oakland, CA.


Maxine Visaya

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CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp.
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

2017 JUN -5 AM 9:57

PROPERTY OWNER
RESPONSE

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

CASE NUMBER T17-0152 MS/MA

Your Name <i>FUN LLC</i>	Complete Address (with zip code) <i>P.O. Box 28152 Oakland CA 94604</i>	Telephone: <i>415 722 7805</i>
		Email: <i>Susan@funllc.com</i>
Your Representative's Name <i>Susan Tang Case # T17-0152</i>	Complete Address (with zip code) <i>P.O. Box 28152 Oakland CA 94604</i>	Telephone: <i>510 369 0964</i>
		Email: <i>CSA04.Tang@fmaet.com</i>
Property Address (If the property has more than one address, list all addresses) <i>2800 Nicol Ave #108 Oakland CA 94602</i>		Total number of units on property <i>23</i>

Have you paid your business license? Yes No Number *28058957*

Have you paid the Rent Program Service Fee (\$69 per unit)? Yes No APN: *027-0859-023-01*

Date on which you acquired the building *9/16/15*

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

Type of unit (Circle One): House / Condominium / Apartment, room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations. 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.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

Board Regulations. 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.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return</u>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on 4-1-08.

The tenant's initial rent including all services provided was: \$ 850 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?
 Yes No I don't know

If yes, on what date was the Notice first given? 9-17-15

Is the tenant current on the rent? Yes No

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

CITY OF OAKLAND
 RENT ADJUSTMENT PROGRAM
 JUN - 5 AM 9:18

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
		\$	\$	<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

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

V. 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.

Property Owner's Signature

Date

6/3/17

2017 JUN 06 AM 9:58
 CITY OF OAKLAND
 DEPARTMENT OF COMMUNITY DEVELOPMENT

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 70243, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center.. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

Mediation Program

Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.

Property Owner's Signature

Date

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

RECEIVED
MAY 5 AM 9:58
RENT ADJUSTMENT PROGRAM

T17-0152 MS/MA Holt vs Tang

PROPERTY OWNER RESPONSE:

Residential Lease Agreement page 4 #31 Insurance: Tenant's personal property is not insured by Landlord against damage due to rain, water or any other cause. Tenant's renter's insurance protects Tenant from any such damage. Anthony Holt; therefore, would not be reimbursed for his molded clothing.

Holt was offered to move into either unit #101 or #208 on Feb 21, 2017 because we need unit #108 to be emptied in order to work in it. After his inspection, Holt chose to move into #208 but his clothes were still inside his closet in #108 on May 4, 2017. On March 2, 2017, Holt filed case T17-0152 complaining about the house has not been padded or carpet; yet, Holt didn't cooperate with our maintenance crew which caused the delay to bring his unit #108 back earlier for his return. On May 23, 2017 Holt was moving some stuff back to #108 but as of today, 6/3/17, he is still occupying #208. I am asking for reimbursement for his continuous stay in unit #208 since May 23rd.

Holt unit #108 living & dining room, and bedroom have new carpets. Vinyl floor was old and dirty but was not damaged by the rain; therefore, was not replaced.

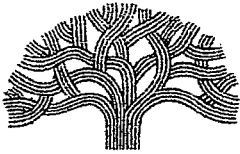
T17-0313 MS/BKB Holt vs Tang

PROPERTY OWNER RESPONSE:

We served a 24 hour notice on May 27 to inspect #208 because Holt filed a complaint of inconvenience on May 19 that all over carpet ran down and has dog smell, toilet crack, and floor has a hole in it. On May 29, Chao and Eddie inspected #208 and there was no pet smell of any kind. Toilet tank cover was cracked but Eddie said he didn't recall the tank was cracked at the time Holt moved in. If floor has a hole in it, that will be resolved after Holt moved back into #108. For the record, unit#208 prior tenant moved out on Feb 20, 2017 and we only had one day to get the unit kitchen and bathroom cleaned for #108 to move in on the 21st of Feb.

Unit #208 bathroom and kitchen were cleaned and Holt inspected and accepted the conditions before he moved in. Holt had never reported to us of any issues or concerns in unit #208 during his stay since Feb 21. Holt filed RAP cases T17-0313 on May 19 and that was the first time we heard about the complaints.

000017



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp.

2017 JUN -5 AM 9:57

**PROPERTY OWNER
RESPONSE**

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

CASE NUMBER T17-0313 ms/BKB

Your Name TUN LLE	Complete Address (with zip code) P.O. Box 28152 Oakland CA 94604	Telephone: 415 722 7805
		Email: SusanTang@att.net
Your Representative's Name SusanTang CHAACH TANG	Complete Address (with zip code) P.O. Box 28152 Oakland CA 94604	Telephone: 510 369 0964
		Email: CHAACH.TANG@gmail.com
Property Address (If the property has more than one address, list all addresses) 2800 Nicol Ave #108 Oakland CA 94602		Total number of units on property 23

Have you paid your business license? Yes No Number 28058957

Have you paid the Rent Program Service Fee (\$69 per unit)? Yes No APN: 027-0859-023-01

Date on which you acquired the building 9/16/15

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

Type of unit (Circle One): House / Condominium / Apartment / room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations. 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.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

Board Regulations. You can get additional information and copies of Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return</u>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on 4-1-08.

The tenant's initial rent including all services provided was: \$ 850 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants?
 Yes No I don't know

If yes, on what date was the Notice first given? 9-17-15

Is the tenant current on the rent? Yes No

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
		\$	\$	<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

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

V. 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.



Property Owner's Signature

6/3/17

Date

RECEIVED
MAY 15 2017
CITY OF OAKLAND

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), P.O. Box 70243, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

Mediation Program

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Date

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T17-0152 MS/MA Holt vs Tang

PROPERTY OWNER RESPONSE:

Residential Lease Agreement page 4 #31 Insurance: Tenant's personal property is not insured by Landlord against damage due to rain, water or any other cause. Tenant's renter's insurance protects Tenant from any such damage. Anthony Holt; therefore, would not be reimbursed for his molded clothing.

Holt was offered to move into either unit #101 or #208 on Feb 21, 2017 because we need unit #108 to be emptied in order to work in it. After his inspection, Holt chose to move into #208 but his clothes were still inside his closet in #108 on May 4, 2017. On March 2, 2017, Holt filed case T17-0152 complaining about the house has not been padded or carpet; yet, Holt didn't cooperate with our maintenance crew which caused the delay to bring his unit #108 back earlier for his return. On May 23, 2017 Holt was moving some stuff back to #108 but as of today, 6/3/17, he is still occupying #208. I am asking for reimbursement for his continuous stay in unit #208 since May 23rd.

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T17-0313 MS/BKB Holt vs Tang

PROPERTY OWNER RESPONSE:

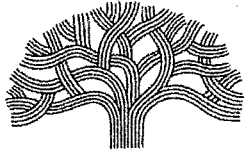
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5 19 2017
AM 9:59

T17-0152 MS/MA

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
For date stamp.

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	PROGRAM 2 PM 2:33
	<u>TENANT PETITION</u>	

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

Please print legibly

Your Name ANTHONY L. HOLT	Rental Address (with zip code) #108 2800 NICOL AVE OAKLAND CA 94602	Telephone: 510-938-0955
		E-mail: ANTHONY.HOLT@gmail.com
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) SUSANTANG	Mailing Address (with zip code) P.O. BOX 28152 OAKLAND CA 94602	Telephone: Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 23

Type of unit you rent (check one)	<input type="checkbox"/> House	<input type="checkbox"/> Condominium	<input checked="" type="checkbox"/> Apartment, Room, or Live-Work
Are you current on your rent? (check one)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

If you are not current on your rent, please explain. (If you are legally withholding rent state what, if any, habitability violations exist in your unit.)

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

<input type="checkbox"/>	(a) The CPI and/or banked rent increase notice I was given was calculated incorrectly.
<input type="checkbox"/>	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(c) I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI Adjustment and the available banked

	rent increase.
	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
	(e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).
	(f) The rent increase notice(s) was (were) not given to me in compliance with State law.
	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
X	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
X	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake (OMC 8.22, Article I)
	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.

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

Date you moved into the Unit: April 08 Initial Rent: \$ \$850⁰⁰ /month

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

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 90 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you did not receive a *RAP Notice* with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

- Yes
 No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for problems in your unit, or because the owner has taken away a housing service, you must complete this section.

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

If you answered "Yes" to any of the above, or if you checked box (h) or (i) on page 2, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include the following:

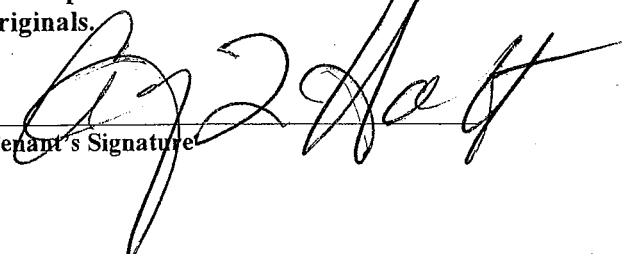
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

You have the option to have a City inspector come to your unit and inspect for any code violation. To make an appointment, call the City of Oakland, Code of Compliance Unit at (510) 238-3381.

IV. VERIFICATION: The tenant must sign:

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

Tenant's Signature: 

Date: 3-2-17

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

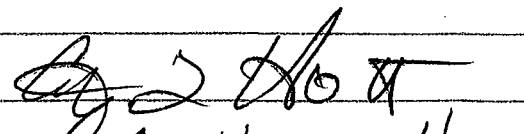
Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

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

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

MARCH 2, 17

ON FEB 9, 2017 MY APT WAS WATER DAMAGE DUE TO RAIN ALSO FEB 21, RAIN CAME IN ONCE AGAIN. MOLD-MILDEW SMELL CAME. SO WE PULLED THE CARPET UP. THE HOUSE HAS NO PAD OR CARPET NOW JUST TILE. MY CLOTHING WAS WATER DAMAGED I WOULD LIKE TO BE REIMBURSED FOR MY MOLDED CLOTHING.



ANTHONY L. HOYT
510-938-0955

Deceased Esq

2800 N. COLA AVE #108
OAKLAND CA 94602
000027

T17.0313 MS/BKB

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
For date stamp.
2017 MAY 19 AM 11:12

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

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

Please print legibly

Your Name <i>ANTHONY L. HOLT</i>	Rental Address (with zip code) <i>2800 NICOL AVE #108 OAKLAND CA 94602</i>	Telephone: <i>510.938-0955</i>
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) <i>SUSAN TANG</i>	Mailing Address (with zip code) <i>P.O. Box 28152 OAKLAND CA 94604</i>	Telephone: <i>510-368-0964</i>
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 23

Type of unit you rent (check one)	<input type="checkbox"/> House	<input type="checkbox"/> Condominium	<input checked="" type="checkbox"/> Apartment, Room, or Live-Work
Are you current on your rent? (check one)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

If you are not current on your rent, please explain. (If you are legally withholding rent state what, if any, habitability violations exist in your unit.)

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

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(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake (OMC 8.22, Article I)
(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
(n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.

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

Date you moved into the Unit: 4-08 Initial Rent: \$ \$ 50.00 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: NO. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 90 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you did not receive a *RAP Notice* with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

- Yes
- No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:

T17-0152

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for problems in your unit, or because the owner has taken away a housing service, you must complete this section.

Are you being charged for services originally paid by the owner? Yes No

Have you lost services originally provided by the owner or have the conditions changed? Yes No

Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

If you answered "Yes" to any of the above, or if you checked box (h) or (i) on page 2, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include the following:

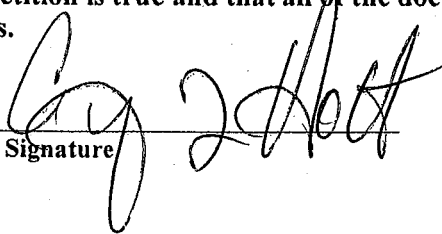
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

You have the option to have a City inspector come to your unit and inspect for any code violation. To make an appointment, call the City of Oakland, Code of Compliance Unit at (510) 238-3381.

IV. VERIFICATION: The tenant must sign:

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


Tenant's Signature

5-19-17
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

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

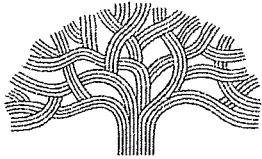
- _____ Printed form provided by the owner
- _____ Pamphlet distributed by the Rent Adjustment Program
- _____ Legal services or community organization
- _____ Sign on bus or bus shelter
- _____ Rent Adjustment Program web site
- _____ Other (describe): _____

CHRONOLOGICAL CASE REPORT

Case No.: T16-0734
Case Name: Beard v. Stewart
Property Address: 1470 Alice St., #206, Oakland, CA
Parties: James Beard (Tenant)
Lucky Stewart (Owner)
Nancy M. Conway (Owner's Representative)

TENANT APPEAL

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	December 29, 2016
Owner Response filed	February 3, 2017
Hearing Decision issued	August 3, 2017
Tenant Appeal filed	September 6, 2017



CITY OF OAKLAND

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

For date stamp.

SEP -6 AM 9:57

APPEAL

Appellant's Name James Beard		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1470 Alice Street, #206			
Appellant's Mailing Address (For receipt of notices) 1470 Alice Street, #206 Oakland, CA 94612		Case Number T16-0734	Date of Decision appealed 8/3/2017 decision 8/14/2017 served by mail stated.
Name of Representative (if any) Nancy M. Conway		Representative's Mailing Address (For notices) 345 Franklin Street, Second Floor San Francisco, CA 94102	

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

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):
 - a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)*
 - b) The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
 - c) The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
 - d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
 - e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

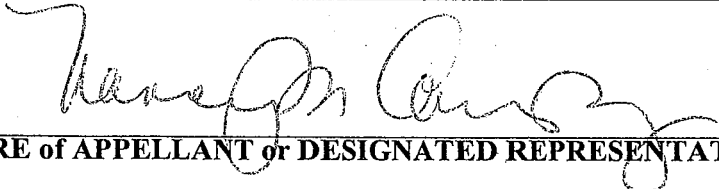
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) Other. (In your explanation, you must attach a detailed explanation of your grounds for appeal.)

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

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 September 5, 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>	JR Mc Connell
<u>Address</u>	300 Frank H. Ogawa Plaza, Ste. 460
<u>City, State Zip</u>	Oakland, CA 94612
<u>Name</u>	Thomas Preston
<u>Address</u>	1145 Bush St.
<u>City, State Zip</u>	San Francisco, CA 94109

	9/5/2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

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Tenant Petitioner James Beard appeals the decision of the Hearing Officer on the basis that certain findings of fact were not based on substantial evidence; the decision is inconsistent with a prior decision in case T15-0395 and the state and local law was not properly applied to the facts.

1. CARPET

There was no substantial evidence to support Hearing Officer Kasdin's findings of fact and conclusions of law denying decreased housing services for damaged and poorly installed carpet that the Hearing Officer who inspected found posed a tripping hazard.

To verify the condition of the carpet and to determine if it constituted a tripping hazard as the Petitioner tenant testified, the Hearing Officer Kasdin sent another Hearing Officer Cohen to the subject premises to verify that the condition of the carpet was consistent with the tenant's testimony. Hearing Officer Cohen inspected and reported back under oath that the carpet was tripping hazard.

The only evidence presented by the landlord on the condition of the carpet was that seven months earlier an city inspector did not cite the landlord for the carpeting condition. The tenant asserted that he called the Department of Building Inspection to the premises primarily for the garage and storage unit issues and that the inspector was a building not housing code inspector and did not cite the landlord for any housing code issues. The tenant submitted evidence he had emailed his complaints regarding the carpet to the manager. He also attested to the fact that he filled out and deposited maintenance requests in the unattended lobby box. The evidence did not support the finding.

Hearing officer Cohen observed the carpet was "a tripping hazard" and corroborated the tenant's testimony and description of the carpet's condition. She documented the condition with photographs and sworn statement. Hearing officer Kasdin's denial of this decreased housing service and his conclusion that the condition could only have been caused by the tenant's vandalism was without any factual basis and was inconsistent with tenant petitioner's testimony of the tenant and testimony of inspecting hearing officer Cohen. There was no testimony offered from the building inspector or property management as to the carpet's condition.

The tenant could have presented testimony related to the condition of the carpet including that of witness who visited his apartment, his discussions with the building inspector - who advised the tenant to contact the property owner to see if they would fix it, prior to him citing the owner, and the fact that the carpet was replaced in his unit after the inspection and that there were similar problems in other units. He was denied an opportunity to present said evidence. At the hearing the only issue according to the Hearing Officer was the condition of the carpet. There would have been no reason to send out Hearing Officer Cohen to arrive at his decision.

2. EXTERIOR SLIDING GLASS DOOR LOCK TO PATIO. SECURITY CONCERN.

On January 30, 2017, after the instant Petition was filed the landlord hired a contractor to repair the sliding glass door lock. The tenant credibly testified that the lock had never been repaired and was not lockable. He testified that in December of 2016 it became not only unlockable but jammed and was unable to be opened because the lock jammed shut.

There was no evidence the lock was replaced at any time prior to January 30th, 2017, nor was there any written notice that the locking mechanism was replaced or repaired nor that the tenant was notified of said fact by management.

The neighboring resident building manager attested to having fixed the door a couple of times, but the tenant denied that and there was nothing to corroborate the locking mechanism was replaced. The prior decision of the hearing officer stands in stark contrast to the current decision and points out that it is a security concern to have a non-operative lock on the exterior door in the City of Oakland.

There may have been some confusion on the part of the resident manager as to the door being jammed, the door coming off its track and the locking mechanism that was ordered repaired by the prior decision, in case case T15-0395.

3. SLIDING SCREEN DOOR TO PATIO. COMFORT & HEALTH & SAFETY (INSECTS, MOSQUITOES)

The sliding screen door is to a private outdoor patio. The patio doorway contains both the sliding glass door and the sliding screen door. The screen door was removed in April 2016 by maintenance and was not returned for 9 months, until after the petition was filed. The amount of reduction for loss of this service was arbitrarily low. There is no air conditioning in the unit. The screen door provides ventilation and was an amenity that the tenant found desirable and was marketed as benefit when the property was rented to the tenant.

4. COMMON AREA CLEANLINESS

Other tenants of the subject property testified in rent board hearing that since the present property manager took over cleanliness of the common area deteriorated and that they had never observed the common areas to be cleaned or vacuumed by the current property manager.

5. RESIDENT MANAGER

California law 25 CCR Section 42, requires buildings with 16 units or more to have a resident property manager. Hearing Officer Kasdin found that the owners complied with the requirement because the manager testified that she lived in an adjacent building in a contiguous parcel. The Hearing Officer apparently assumed that the subject premises were owned by the

same property owners. However there was no evidence to support that theory. At the hearing it was implied that the property was part of a contiguous parcel owned by the same owner, there was no evidence to support that. The hearing officer referenced building inspector's hearsay comments in reaching his finding and rendering his decision. Building Inspector Woo's comment that the comments that the owners complied with the requirement because their manager testified that she lived in the adjacent building in a contiguous parcel.

Public records disclose there is not any fact basis for this conclusion and that the apartment buildings are on separate parcels, owned by different owners. See attached evidence. Additionally, the hearing officer refused to allow examination of the resident manager on the number of hours, schedule or payment arrangements between her and her husband and the owners of the subject property.

The property the subject of this petition is owned by Alice B Building LLC. The property occupied by the alleged resident manager is owned by 885 25th Avenue LLC, with a completely different mailing address.

Inquiries as to when the manager comes to the property, how she and her husband are compensated and any documentation of the cleaning schedule were not allowed to be explored by the hearing officer.

There previously had been a resident manager for the subject 22 unit building. Now there is none. The resident manager was replaced by a box in the entry of the building, where you cannot get rent receipts or response to complaints. Complaints about maintenance must be deposited in the unmanned drop box and the same as requests for repairs. There is no way to document receipt of rent, nor to document requests for repairs.

6. RENT INCREASES INVALID

Prior decision awarded tenant petitioner a decreased housing service of \$70 per month because the exterior sliding glass door lock was inoperable. Prior to the filing of the instant petition it was not repaired.

In order to raise the rent to its original base rent the landlord had to first replace the broken lock and then issue a notice of change in the terms of tenancy, restoring the rental amount. Here there was no evidence presented that the lock was repaired by the landlord. The tenant testified the sliding glass door lock was repaired for the first and only time on January 30, 2017, after the tenant challenged the rent increases. There was no evidence presented by the landlord to corroborate the date the sliding glass door lock was repaired.

The tenant formally wrote and questioned the rent increases. The manager never responded. The rent was increased and the reason for the increase not explained as required by the Ordinance and the Hearing Officer's Decision in case T15-0395 .

The patio door never locked until a new locking mechanism was installed by a locksmith

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January 30, 2017, after the Petition was filed. The notice of change in terms of tenancy was not served as required by law to lawfully increase the rent. Thus the amount of rent increased by \$70 and then by banked increases on top of that amount should be null and voided and refunded to the tenant petitioner. A proper notice of change in terms of tenancy must be served prior to any rent increase. Civil Code Section 827.

7. TESTIMONY OF “RESIDENT MANAGER” not substantiated or corroborated.

Resident manager provided no documentation to corroborate her testimony. Her testimony was self serving. Her performance was at issue and apparently no one supervises her work. She claimed to have made repairs to the door on which the hearing officer relied on for his decision. There was no substantive evidence that the door was repaired prior to the rent increase. Nor was there any evidence to corroborate that repairs were made to the patio door. There were no receipts and no notices that repairs are completed so your rent is being increased. Manager conceded the lock was replaced in January 30, 2017, undisputed.

The lock needed to be replaced and same was adjudicated in prior decision. The door lock was fixed was not fixed and operable until January 30th, 2017. The landlord presented no correspondence or evidence that the lock was replaced or fixed prior to that date. Property management retaliated against Petitioner Beard by removing his screen door from the premises in April 2016, claiming it was “being repaired.” The sliding screen door was not returning it despite many calls until after this second petition was filed.

8. Good cause for day delay in filing.

Petitioner met with his attorney last Thursday, August 31, 2017 to discuss his appeal. The last day for filing was September 5, 2017. The attorney representative agreed to prepare and file the instant appeal. However, she was called from her office to the VA Hospital at Fort Miley on Friday, where her son had an emergency amputation. She spent the weekend with her son and planned to return to work but received a call at midnight Labor Day he had a severe infection and was at the hospital with him first thing in the morning to meet with his team of doctors. Upon returning to her office, late Tuesday afternoon, petitioner’s attorney finalized the appeal. It was timely served on the representative for the landlord respondent.



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0734, Beard v. Stewart

PROPERTY ADDRESS: 1470 Alice St., #206, Oakland, CA

DATE OF HEARING: May 25, 2017

DATE OF INSPECTION: June 21, 2017

DATE OF DECISION: August 3, 2017

APPEARANCES: James Beard (Tenant)
Nancy M. Conway (Attorney for Tenant)
Thomas Preston (Landlord Agent)
Joanna Ediin (Witness for Landlord)
Steve McSween (Witness for Landlord)
Greg McConnell (Landlord Representative)
J. R. McConnell (Landlord Representative)

SUMMARY OF DECISION

The tenant's petition is partly granted.

CONTENTIONS OF THE PARTIES

The tenant filed a petition on December 29, 2016, which alleges that a proposed rent increase from \$1,400 to \$1,450.86 per month, effective December 1, 2016, and past rent increases, exceed the CPI Adjustment and are unjustified or is greater than 10%; that the owner did not give him a summary of the justification for the proposed rent increase despite his written request; that the current contested rent increase is the second rent increase in a 12-month period; that at present there exists a health, safety, fire or building code violation in his unit; and that his housing services have been decreased, as follows:

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- (1) Water damaged storage room
- (2) Lack of resident manager
- (3) Exposed wiring in garage electrical sockets
- (4) Improper plumbing
- (5) Change in front door entry system
- (6) Worn carpeting
- (7) Sliding screen door removed
- (8) Cleanliness of common areas
- (9) Sliding glass door does not lock
- (10) Inadequate pest control
- (11) Sliding glass door is jammed
- (12) Leaking overhead pipes in garage

The owner filed a response to the petition, which alleges that the alleged prior rent increases were, in fact, not rent increases, but restoration of prior rent after the tenant was awarded restitution in connection with decreased housing services; that the current proposed rent increase is justified by banking; and denies that the tenant's housing services have decreased.

THE ISSUES

- (1) What rent increases are at issue in this case?
- (2) Was the tenant given a summary of the justification for the proposed rent increase?
- (3) When did the tenant receive the form Notice to Tenants (RAP Notice)?
- (4) Is a rent increase justified by banking and, if so, in what amount?
- (5) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

Contested Rent Increases: The tenant's petition alleges that in the year 2016, his rent was increased from \$1,261.50 to \$1,331.50 and from \$1,331.50 to \$1,400 per month, in addition to the increase from \$1,400 to \$1,450.86.

Official Notice is taken of Case No. T15-0395, Beard v. The Lapham Co. The Order in that case, issued on January 6, 2016, states, in part: "2. The Base Rent is \$1,400 per month. 3. Because of an ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$1,330 per month. 4. Because of past decreased housing services, the tenant has overpaid rent in the amount of \$822. This overpayment is adjusted by a rent reduction for 9 months. 5. The rent is temporarily reduced by \$68.50 per month, to \$1,261.50 per month . . . 6. In November 2016, the rent will increase to \$1,330 per month. 7. When the balcony doors lock, the owner may increase the rent by \$70 per month . . ."

Rent History: At the Hearing, the tenant testified that, consistent with the statement in his petition, he moved into the subject rental unit on March 1, 2014, at a rent of \$1,400 per month. The parties agreed that the tenant's rent is current and that he has continued to pay rent of \$1,400

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per month. The tenant testified that he will continue to pay this amount until there is a Hearing Decision in this case.

Justification for the Rent Increase: The contested current rent increase notice¹ refers to the proposed rent increase as a “banked increase.”

RAP Notice: At the Hearing, the tenant testified that he had received the RAP Notice in 2014.

Decreased Housing Services:

Storage Area: The tenant testified that he has a storage locker provided by the owner that is next to his parking space in the parking garage below the building in which he lives. The tenant keeps tools and supplies that he uses for his work in this locker, including lengths of rope, carabiners, and wrenches. This is very convenient, since he can easily load needed equipment into his truck and go to work. It is also a secure area, in which the tenant is comfortable leaving his tools, rather than leaving them in his truck, where they can be stolen. In the winter of 2015-2016, rain water flooded into the storage locker, which ruined some his equipment and made it impossible for him to use the locker.

He moved his tools into his apartment in or about April 2016. The tenant submitted photos of the locker, which depict water damaged and moldy walls and floor of the locker, and rust or mold on a number of tools.² He also submitted photos of tools and tool bags against a wall inside his apartment, which extend for an estimated 8 feet.³

The tenant submitted a copy of an email to the owner’s agent on December 9, 2016.⁴ This email states, in part: “As you can tell, I have been trying to get you and the previous management to fix the water damages in the building including my storage space.” The tenant testified that the locker was repaired in mid-April 2017.

The owner submitted a page of a document entitled “Addendum A – House Rules,” which was attached to the tenant’s lease.⁵ This document states, in part: “Tenant assumes all risks associated with the loss, damage, or destruction of personal property of items kept in the storage space.”

Resident Manager: The tenant testified that there is no resident manager in the 22-unit building in which he lives; there is only a “drop box” for payment of rent. Further, the owner’s agents have been unresponsive to emails and a letter regarding maintenance requests.

Joanna Ediin, a witness for the owner, testified that she has been the manager for the building in which the tenant lives since April 2016. She resides at 1450 Alice St. – which is 2 doors away –

¹ Exhibit No. 9. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence unless otherwise noted.

² Exhibit Nos. 3A, B, C & F

³ Exhibit Nos. 3 D & E

⁴ Exhibit No. 1A

⁵ Exhibit No. 8B

and is the manager of both buildings. She receives email requests for repairs, and tenants can call her 24 hours a day. The owner submitted an email from Wing Loo, a City of Oakland Building Inspector, to J. R. McConnell, one of the owner's representatives, dated November 16, 2016.⁶ This email states, in part: "manager can be within a group of apartment buildings which are in close proximity to each other; close complaint as non-actionable. Wloo."

Exposed Wiring: The tenant testified that there is an electrical outlet approximately 20 feet from his parking space in the garage that he used to charge the battery on his electric drill. In or about October 2016, the outlet box was damaged so that there was an exposed wire. He then used other outlets in the garage. However, in April 2017, "blocking caps" were placed over all outlets in the garage, which prevents anyone from using them. Ms. Ediin testified that the garage outlets are for the use of building management, not the tenants, and that they were covered over because they were felt to be a fire hazard.

Plumbing / Garage: The tenant testified that an overhead pipe in the garage was leaking in the Fall of 2016, and the owner placed buckets on the pipe to catch leaking water. The tenant submitted a photo depicting this, as well as a photo showing 2 areas of standing water on the floor of the garage.⁷ The tenant played a video taken on March 13, 2016, which showed water appearing to enter under a wall of the garage, approximately 10 feet from his parking space. The tenant testified that he was afraid of slipping in the wet areas. Ms. Ediin testified that the drain in the garage becomes clogged from time to time.

Entry System: The tenant testified that, consistent with the attachment to his sworn petition, the system for entering the front door of the building was changed in April 2016.

Carpeting: The tenant testified that several areas of the carpet in his unit are bumpy and coming undone. The tenant further testified that he told the building management people about this in October 2016. On June 21, 2017, the unit and building premises were inspected by Barbara Cohen, a Hearing Officer with the Rent Adjustment Program, in the presence of the tenant and owner representatives; the tenant's attorney participated by telephone. Following her inspection, Ms. Cohen wrote a Declaration, a copy of which is attached as Attachment "A."

Ms. Cohen's Declaration states, in part: "Opening the [front] door was an obvious challenge because the carpet in the unit was stuck underneath the door . . . The door did not open all the way. In order to enter the unit I had to walk over the carpet, which was bunched up and raised off the floor. This was a tripping hazard. . . In the center of the living room, there is a raised bump in the carpet. This is also a tripping hazard. Additionally, in the corner of the living room, the carpet is pulling away from the wall." These conditions are depicted in photographs taken by Ms. Cohen, which are part of her Declaration.

Ms. Ediin testified that tenants have been informed that she receives all written requests for repairs, and that she has never received a repair request from the tenant regarding his carpeting. She checks the box in which tenants place repair requests 5 days a week. On questioning by the owner's representative, the tenant testified that a City Building Inspector inspected his unit at his

⁶ Exhibit No. 7A

⁷ Exhibit Nos. 5A & 5B

request. The tenant further testified that the Inspector found no Code violations in his unit. The owner submitted a document from the City Inspection Services agency, which states that on November 2, 2016, the tenant requested an inspection.⁸ The tenant's request did not include any condition inside his unit, including the carpeting, and the inspection record from various days in November 2016, does not mention carpeting.

Screen Door: The tenant testified that the sliding screen door to his balcony came off its track in August 2016. A maintenance person removed the door, and it was not replaced until April 2017.

Common Areas: The tenant testified that the quality of common area cleaning – such as hallway and elevator cleaning – has declined since a new management company took over in April 2016. Ms. Ediin testified that she is at the subject building 5 days a week, and that the common areas are swept and cleaned weekly by herself and her husband, Steve McSween. She further testified that, on more than one occasion, the tenant has written insulting comments on notices that she has posted.

Sliding Glass Door: The tenant testified that the sliding glass door to his balcony did not lock and was not repaired until January 30, 2017. This claim was the subject of a prior petition, Case No. T15-0395, and the tenant was granted a rent reduction until it was repaired. At the Hearing, the tenant also testified that the door jammed shut around Christmas, 2016, and was repaired on January 30, 2017. Ms. Ediin testified that the door has been repaired twice since April 2016, when she became the building manager

Pest control: The tenant testified that, because there was no screen door leading to the balcony, insects would enter his unit if the door was open. The tenant further testified that, under prior management, the building was treated for insects twice a year. This practice has stopped and, as a result, flies enter his unit through the vent in the bathroom. Ms. Ediin testified that common areas are professionally treated to control pests once a month.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Rent Increase at Issue: Aside from the proposed rent increase from \$1,400 to \$1,450.86, the other “rent increases” alleged in the petition are not rent increases at all. Rather, the tenant's rent had been temporarily reduced due to substandard conditions and rent overpayments.

RAP Notice: It is found that the tenant received the RAP Notice in the year 2014.

Justification for the Rent Increase: The rent increase notice states that the proposed rent increase is justified by banking. Since the tenant was given this information, there was no need for the owner to again state this justification in response to an inquiry by the tenant.

Banking: An owner is allowed to bank rent increases and use them in subsequent years, subject to certain limitations.⁹ The parties agree on the dates and rent amounts entered into the Banking

⁸ Exhibit Nos. 6 & 7

⁹ O.M.C. Section 8.22.070(C); Regulations Appendix, Section 10.5.1

calculations shown on the attached Table. The method of calculation on this Table has been approved by the Rent Board.¹⁰ Therefore, as set forth in this Table, the maximum rent for the tenant's unit is \$1,450.85 per month, effective December 1, 2016.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹¹ and may be corrected by a rent adjustment.¹² However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit.

There is also a time limit for claiming decreased housing services. A tenant petition must be filed within 90 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.¹³

However, when a tenant complains of ongoing problems with his or her unit, the Board has declared that such claims should not be completely denied if the tenant received the RAP Notice more than 90 days before the petition was filed. The tenant first received the RAP Notice in the year 2014, far more than 90 days before filing his petition on December 29, 2016. Therefore, in accordance with the Regulations and Board decision,¹⁴ the tenant can only be granted relief on his claims for decreased housing services beginning 90 days before the date on which he filed his petition. Allowable claims of decreased housing services therefore begin on September 29, 2016.

Storage Area: The section of the rental agreement cited by the owner releases the owner from liability for "loss or damage to tenant's property." However, the tenant's claim is not one for damages; rather, it is the loss of his ability to use the storage space. Therefore, the lease provision – which is contained in a form document prepared by the owner and is therefore to be strictly construed against the owner – does not defeat the tenant's claim.

The tenant parks his truck next to the storage area, in which he stores the tools that he needs for work. This is certainly an important amenity for the tenant. Otherwise, he must either leave the equipment in his truck - where it would not be secure - or else carry it to and from his apartment each day. It is found that the owner had notice of the flooding no later than December 9, 2016, and the leak should reasonably have been repaired by mid-January 2017. It was not repaired until mid-April 2017. The tenant's lack of use of his storage area reduced the package of housing services by 5% from mid-January through mid-April 2017. As set forth on the Table below, the tenant overpaid rent during that time.

¹⁰ Appeal Decision, Case No. 98-02, et al. Merlo v. Rose Ventures III et al. The Board has designated this decision to be a Precedent Decision.

¹¹ O.M.C. Section 8.22.070(F)

¹² O.M.C. Section 8.22.110(E)

¹³ O.M.C. Section 8.22.090(A)(2)

¹⁴ Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

Resident Manager: Both Oakland¹⁵ and California¹⁶ law require that every apartment building with 16 or more units to have a resident manager, janitor, housekeeper or other responsible person.

The California Code of Regulations states that:

“A manager, janitor, housekeeper, or other responsible person shall reside upon the premises and shall have charge of every apartment house in which there are 16 or more apartments, ... in the event that the owner ... does not reside upon said premises. Only one caretaker would be required for all structures under one ownership and on one contiguous parcel of land.”¹⁷

It is found that, consistent with the statement of Wing Loo, the owner has complied with this requirement. Further, the tenant presented no evidence that his housing services were diminished because a resident manager does not live in his building. Therefore, the claim is denied.

Exposed Wiring: The testimony of the owner's agent that the garage outlets were never intended to be used by tenants is credited. Further, the “exposed wire” and closure of the outlets had minimal effect upon the tenancy. The claim is denied.

Plumbing / Garage: Water on the floor of a large parking garage is neither unusual nor particularly dangerous. This had little effect upon the tenant, and the claim is denied.

Entry System: This change occurred more than 90 days before the tenant filed his petition; this claim is untimely and denied.

Carpeting: It is noted that the City Inspector found no problem in the tenant's unit in November 2016. It is frankly inconceivable that the extent of carpet damage described by Ms. Cohen could have developed in only a few months as a result of natural wear and tear, rather than by vandalism or misuse. The claim is denied.

Screen Door: The door should reasonably have been replaced in the Fall of 2016. The lack of a screen door reduced the package of housing services by 1% from September 29, 2016 until April 2017. As set forth on the Table below, the tenant overpaid rent during that time.

Common Areas: Standards of cleanliness are very subjective, and the testimony of both the tenant and Ms. Ediin was equally convincing. Additionally, Ms. Cohen found no problems related to common area cleanliness. Therefore, the tenant has not sustained his burden of proof, and the claim is denied.

Sliding Glass Door: It is found that the owner acted reasonably in repairing the door more than once, and the claim is denied.

¹⁵ O.M.C. 15.08.230.R

¹⁶ 25 Cal.C.Regs., Section 42

¹⁷ 25 CCR § 42

Pest control: It is found that the owner's contract for pest control is adequate. Further, the tenant's claim that insects enter because there was no screen door is part of his claim regarding the screen door, as discussed above. Therefore, the claim is denied.

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Storage Area	15-Jan-17	15-Apr-17	\$1,400	5%	\$70.00	4	\$280.00
Screen Door	1-Oct-16	15-Apr-17	\$1,400	1%	\$14.00	7	\$98.00
TOTAL LOST SERVICES							\$378.00

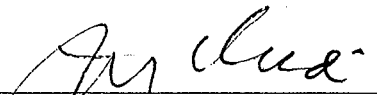
Conclusion: Before consideration of past decreased housing services, the rent is \$1,450.85 per month, effective December 1, 2016. The tenant has therefore underpaid rent of \$50.85 per month for 9 months, a total of \$457.65. This amount is set off against the \$378.00 overpayment for decreased housing services, resulting in total underpayment of \$79.65. The underpayment is ordered repaid over a period of 3 months.¹⁸

The rent is temporarily increased by \$26.55 per month, to \$1,477.40 per month, beginning with the rent payment in September 2017 and ending with the rent payment in November 2017.

ORDER

1. Petition T16-0734 is partly granted.
2. The Base Rent is \$1,450.85 per month.
3. Because of rent underpayments, the rent is temporarily increased by \$26.55 per month, to \$1,477.40 per month, beginning with the rent payment in September 2017 and ending with the rent payment in November 2017.
4. In December 2017, the rent will decrease to \$1,450.85 per month.
5. Right to Appeal: **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) 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: August 15, 2017



 Stephen Kasdin
 Hearing Officer
 Rent Adjustment Program

¹⁸ Regulations, Section 8.22.110(F)

Rent Adjustment Program

CITY OF OAKLAND

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

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

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	15-Mar-2014	MUST FILL IN D9, D10, D11 and D14	Case No.:	CHANGE YELLOW CELLS ONLY	
Effective date of increase	1-Dec-2016		Unit:		
Current rent (before increase and without prior cap. improve pass-through)	\$1,400				
Prior cap. imp. pass-through					
Date calculation begins	15-Mar-2014	If the planned increase includes other than banking put an X in the box→			
Base rent when calc. begins	\$1,400				

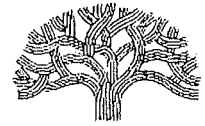
ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
3/15/2016				1.7%	\$ 24.25	\$ 1,450.85
3/15/2015				1.9%	\$ 26.60	\$ 1,426.60
3/15/2014				-	-	\$1,400

Calculation of Limit on Increase

Prior base rent	\$1,400.00
Banking limit this year (3 x current CPI and not more than 10%)	6.0%
Banking available this year	\$ 50.85
Banking this year + base rent	\$ 1,450.85
Rent ceiling w/o other new increases	\$ 1,450.85

CITY OF OAKLAND



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

Department of Housing and Community Development
Rent Adjustment Program

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

DECLARATION RE: SITE INSPECTION

CASE NUMBER: T16-0734, Beard v. Stewart
PROPERTY ADDRESS: 1470 Alice Street, #206, Oakland, CA
DATE OF INSPECTION: June 21, 2017

I, Barbara M. Cohen, declare as follows:

1. I am a Hearing Officer with the City of Oakland's Rent Adjustment Program.
2. On June 21, 2017, I performed an inspection at 1470 Alice Street, #206, Oakland, CA, in the unit and the common areas of the building.
3. I was asked to inspect the building regarding the tenant's claims of decreased housing services.
4. Present at the inspection were tenant James Beard, owner representative JR McConnell, manager Joanne Ediin, owner representative Thomas Preston, and owner representative Steve (last name unknown). The tenant representative, Nancy Conway, appeared by phone. Only JR McConnell and Joanne Ediin accompanied me into the tenant's unit. All the parties accompanied me on the common area inspection.
5. In this case I was asked to inspect the carpet in the tenant's unit; whether insects are coming through the bathroom fan assembly; the tenant's storage unit in the garage; water on the floor in the garage; and common area cleanliness.
6. When I knocked on the tenant's apartment door from the common area hallway, the tenant came to the door from inside the unit and attempted to open his door. Opening the door was an obvious challenge because the carpet in the unit was stuck underneath the door, making it difficult to open the door. The door did not open all the way. In order to enter the unit I had to walk over the carpet, which was now bunched up and raised off the floor. This was a tripping hazard. (See photographs of the carpet, attached as Photographs 1-4)

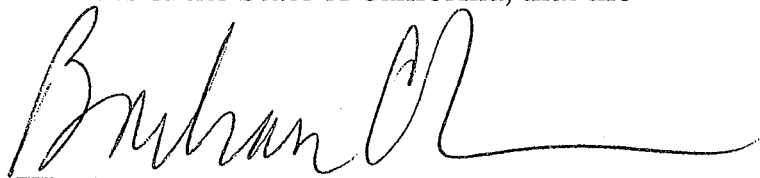
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ATTACHMENT "A", p.1

7. In the center of the living room, there is a raised bump in the carpet. This is also a tripping hazard. Additionally, in the corner of the living room, the carpet is pulling away from the wall.
8. The tenant was asked to show me the insects coming through the bathroom fan assembly. He stated that he had sprayed Raid, which had killed the insects and that since his screen door had been repaired, this condition was no longer as bad as it had been in the past.
9. The tenant accompanied me to the garage, pointing out areas of concern regarding common area cleanliness as we went. He pointed to several cigarette butts that were in a rock garden under the stairwell and stated that the elevator was dusty. I saw three cigarette butts in the rock garden, and noticed that the floor in the elevator was stained, but otherwise the common area seemed well kept. (See photographs 5-8.)
10. In the garage the tenant pointed to a pipe on the ceiling in front of parking space 12 (which is not the tenant's parking space.) The pipe had an obvious leak. (Photo 9.) There were two small puddles of water underneath the pipe, on the garage floor. These puddles are in a path that the tenant could take from his parking space to the garage exit. There is a wide enough space in the garage that it is possible to walk around these puddles. (Photos 10-12.)
11. The tenant also pointed out an area on the floor of the garage where there are signs of water staining. He stated that this area, which is adjacent to his parking space, gets very wet when it is raining. He also pointed out several areas on the ceiling where there are signs of water damage. He stated that when it is raining water enters the garage from the ceiling and drips onto the floor. (Photographs 12-15.)
12. The photographs attached to this Declaration are true and correct copies of the photographs I took at the inspection.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

June 22, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

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ATTACHMENT "A", P. 2



Photo 1, Beard v. Stewart, Carpet

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ATTACHMENT A, P. 3

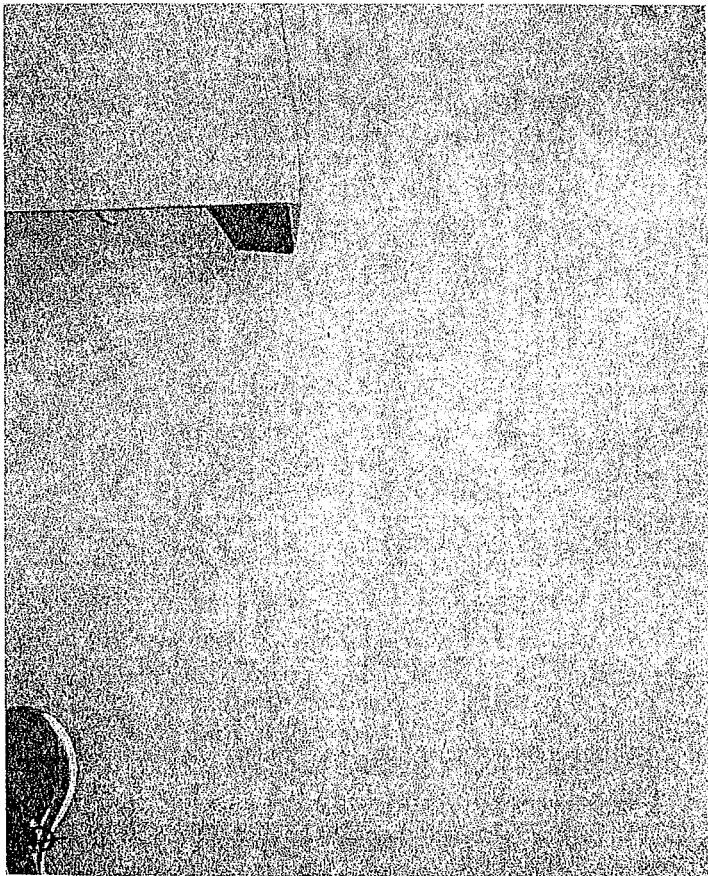


Photo 2, Beard v. Stewart,
Carpet

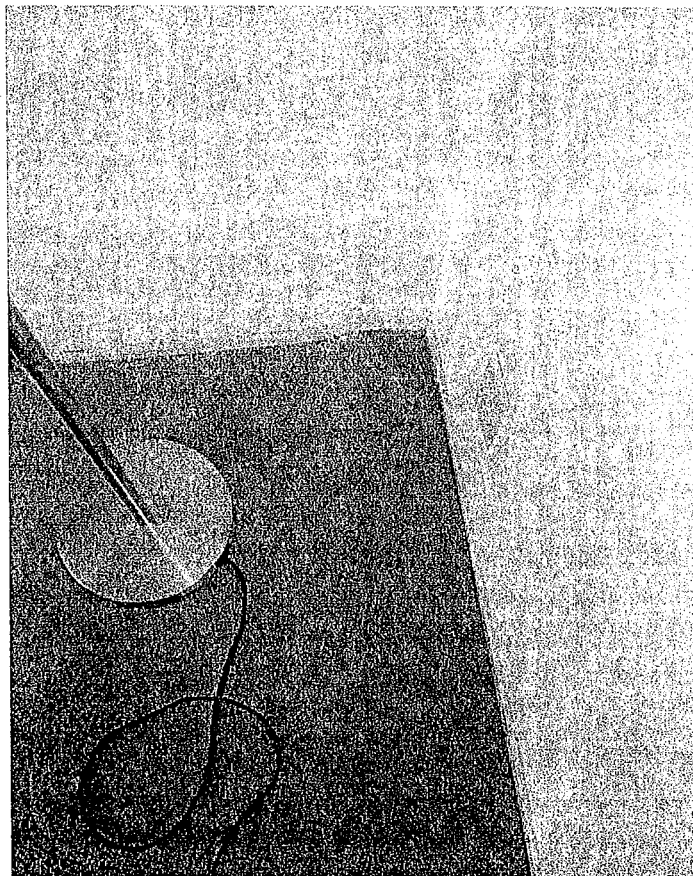


Photo 3, Beard v. Stewart,
Carpet

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ATTACHMENT "A," P. 4

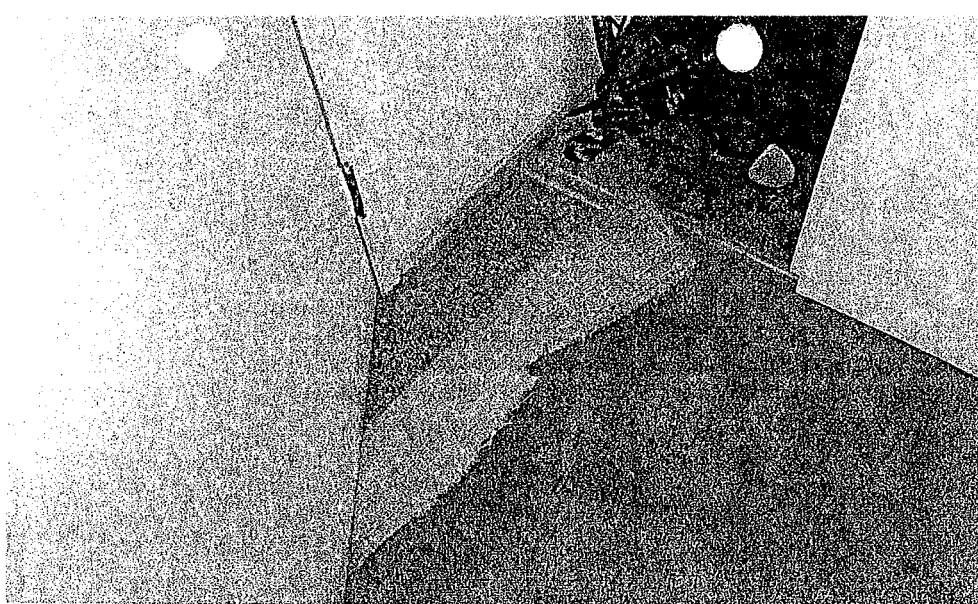


Photo 4, Beard v. Stewart, Carpet

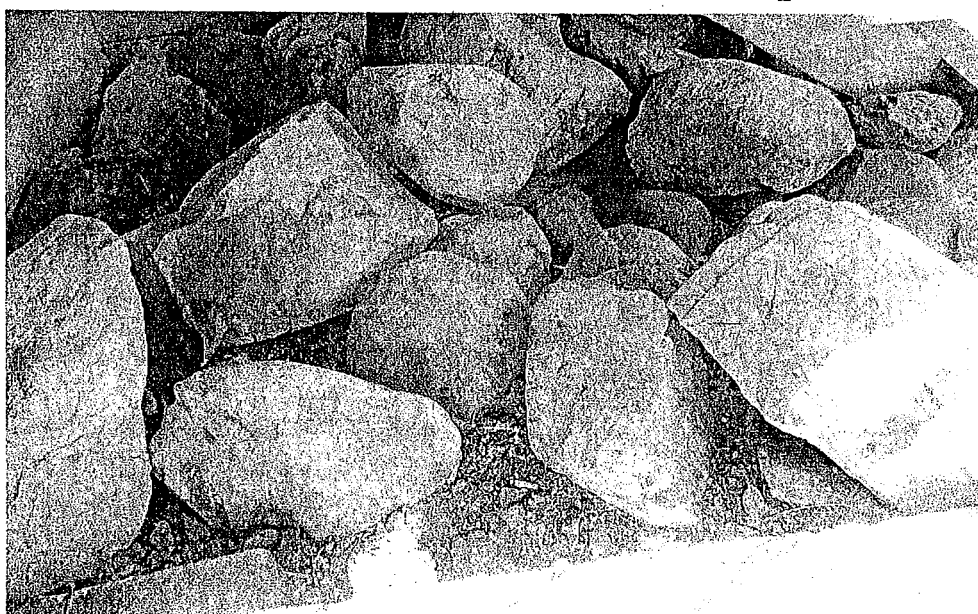


Photo 5, Beard v. Stewart, Rock Garden

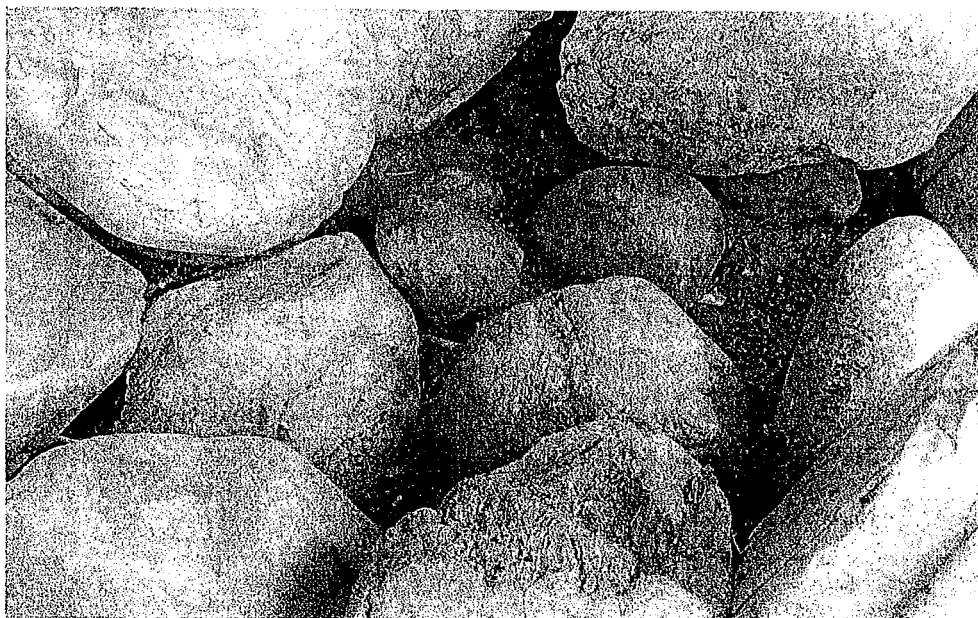


Photo 6, Beard v. Stewart, Rock Garden

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ATTACHMENT "A," P. 5

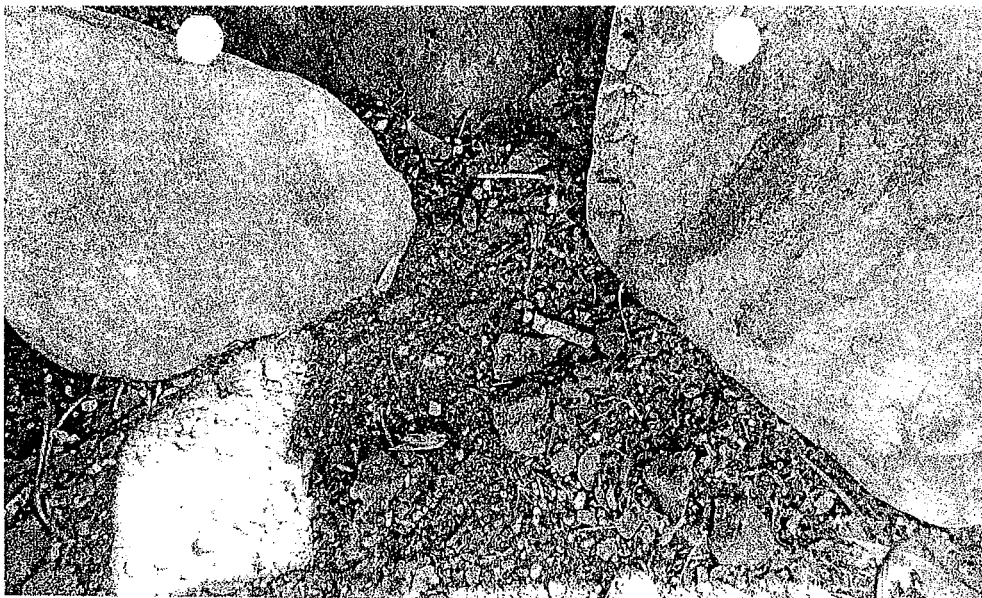


Photo 7, Beard v. Stewart, Rock Garden

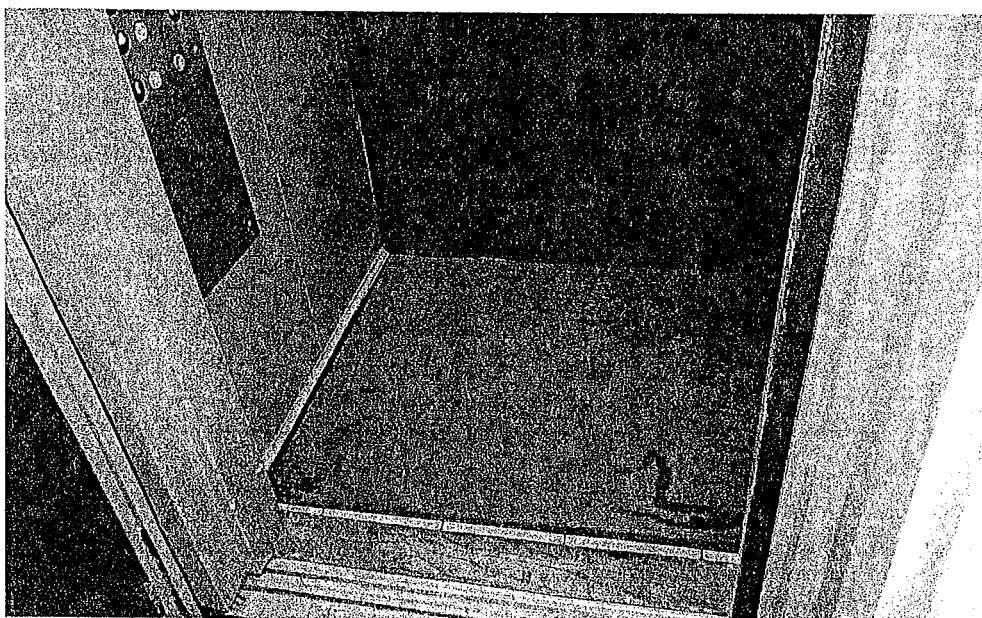


Photo 8, Beard v. Stewart, Elevator

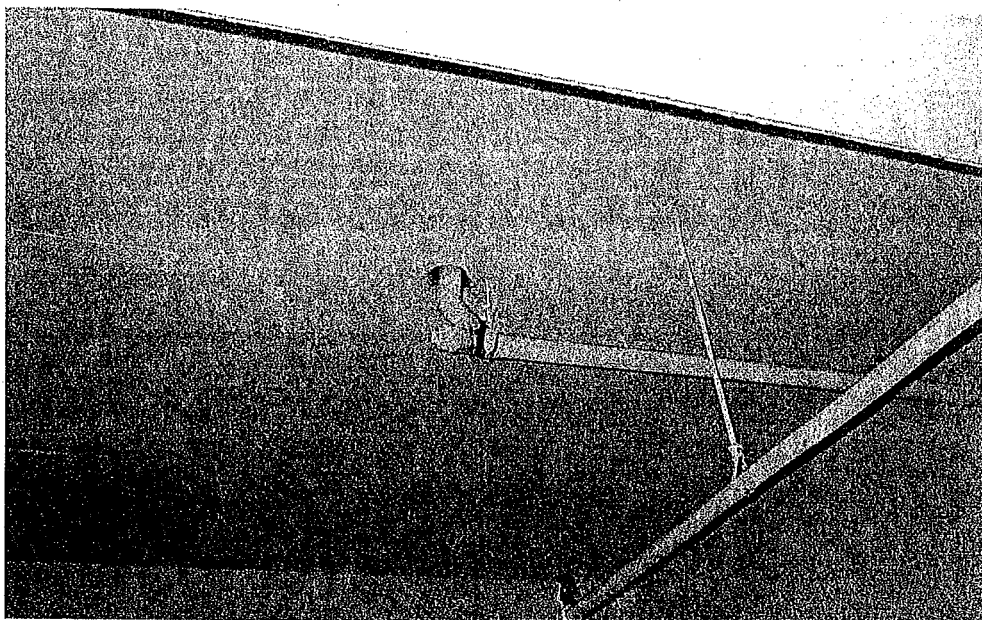


Photo 9, Beard v. Stewart, Leaking Pipe

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ATTACHMENT A, P. 6

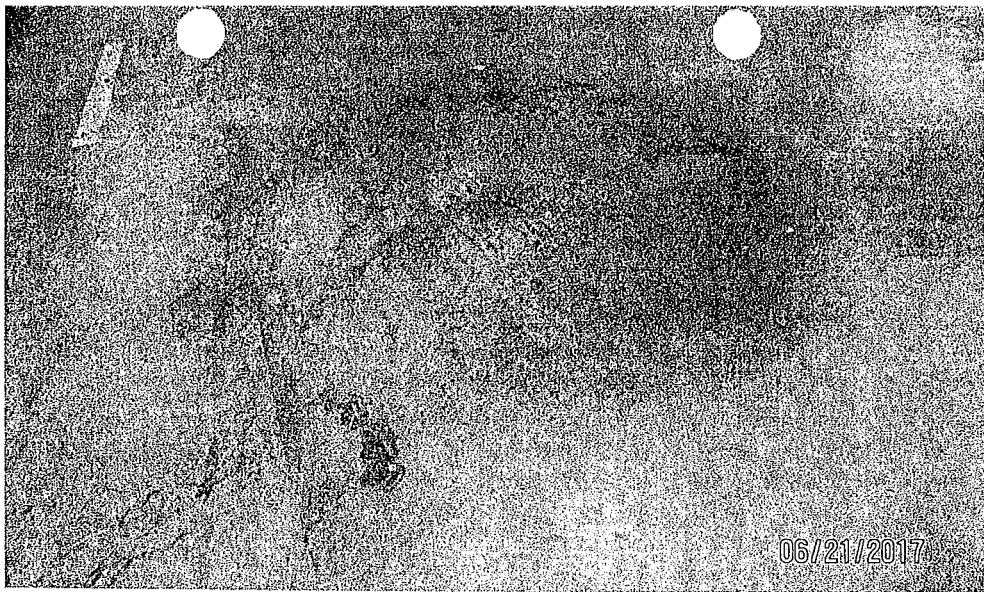


Photo 10, Beard v. Stewart, Water garage floor



Photo 11, Beard v. Stewart, Water garage floor



Photo 12, Beard v. Stewart, water garage floor

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ATTACHMENT "A," p. 7



Photo 13, Beard v. Stewart, water stains

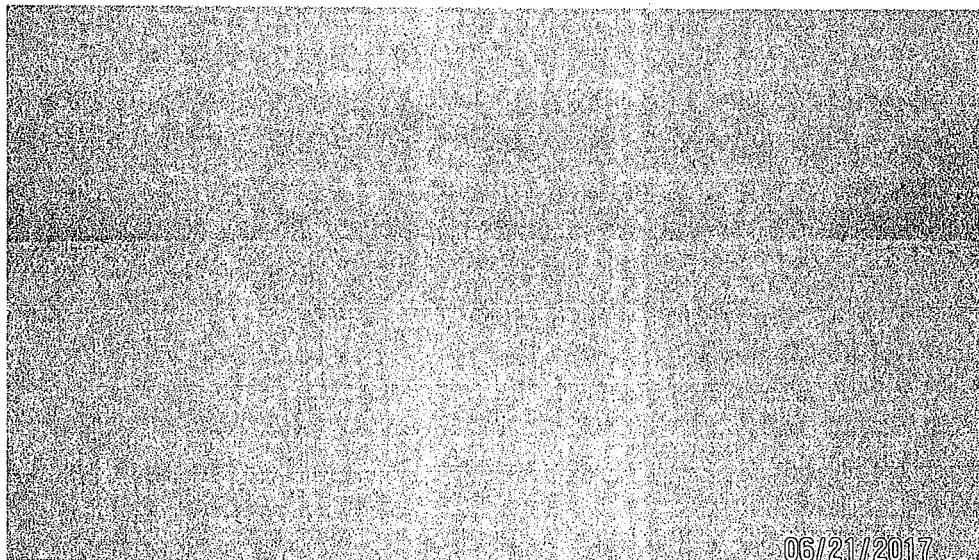


Photo 14, Beard v. Stewart, Signs of water entry

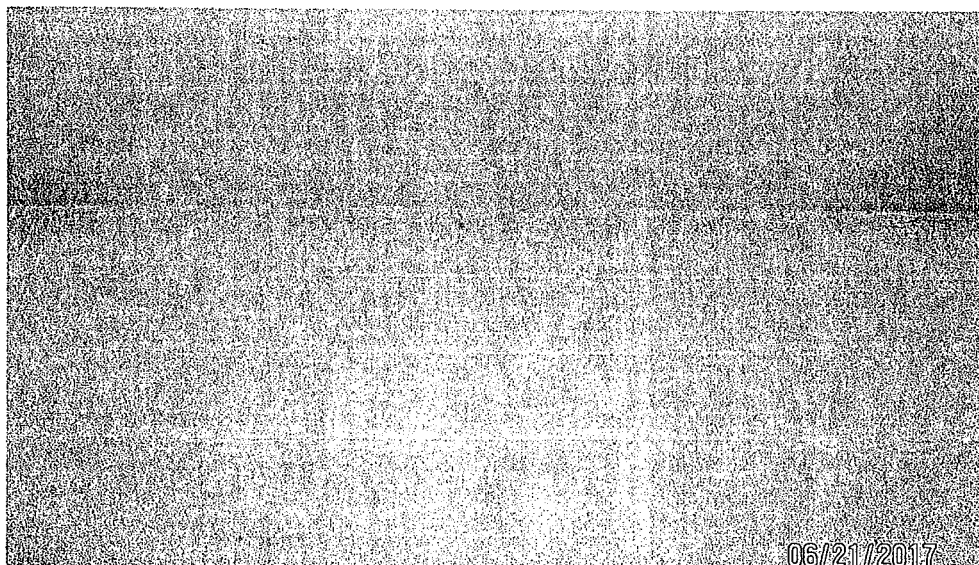


Photo 15, Beard v. Stewart, Signs of water entry

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ATTACHMENT "A," A.F

PROOF OF SERVICE

Case Number T16-0734

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

James Beard
1470 Alice St #206
Oakland, CA 94612

Tenant Representative

Nancy M. Conway
345 Franklin St
San Francisco, CA 94102

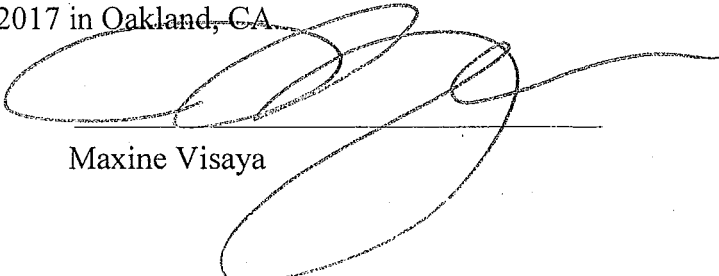
Owner Representative

The McConnell Group
300 Frank Ogawa Plaza Ste. 460
Oakland, CA 94612

Thomas Preston
1145 Bush St
San Francisco, CA 94109

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 14, 2017 in Oakland, CA.


Maxine Visaya

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CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM 2017 FEB -3 PM 3:09
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16- 0734

OWNER RESPONSE

Please print legibly.

Your Name Lucky Stewart Alice B. Building, LP	Complete Address (with zip code) 1145 Bush St. San Francisco, CA 94109	Phone: 415-434-9700 x209 Email: Lstewart@mmgprop.com
Your Representative's Name (if any) Greg McConnell JR McConnell The McConnell Group	Complete Address (with zip code) 300 Frank H. Ogawa Plaza Suite 460 Oakland, CA 94612	Phone: 510-834-0400 Fax: 510-834-3515 Email: gmc@themcconnellgroup.com jr@themcconnellgroup.com
Tenant(s) name(s) James Beard	Complete Address (with zip code) 1470 Alice St. #206 Oakland, CA 94612	georgiacyclone@sbcglobal.net

Have you paid for your Oakland Business License? Yes No Number _____
(Provide proof of payment.) Included, page 5

Have you paid the Rent Adjustment Program Service Fee? (\$30 per unit) Yes No
(Provide proof of payment.) Included, page 6

There are 22 residential units in the subject building. I acquired the building on 4 / 15 / 16.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on March 15, 2014.

The tenant's initial rent including all services provided was \$ 1400 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 3/15/14

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
11/1/16	12/1/16	\$ 1,400.00	\$ 1,450.85	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
* 4/28/16	6/1/16	\$ 1,261.50	\$ 1,331.50	<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

* Per rent program order in tenant petition T15-0395

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
12/1/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

**** Justification - See attached RAP banking calculator ****

III. DECREASED HOUSING SERVICES

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

**** Justification - See Attachment A ****

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

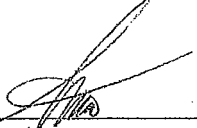
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

2/3/17

Date

VII. MEDIATION AVAILABLE

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

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

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

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

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

Owner's Signature

Date

T16.0734 NS/SK

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp 2016 DEC 29 PM 2: 25</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name James Beard	Rental Address (with zip code) 1470 Alila St #200 Oakland, CA 94612	Telephone 510-289-5301
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Lucky Stewart Alice S. Bailey LLC	Mailing Address (with zip code) 1145 Bush St San Francisco, CA 94109	Telephone 415-434-9700 ex 200

Number of units on the property: 21

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

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

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

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

Date you moved into the Unit: 3-15-2014 Initial Rent: \$ 1400 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 03/2014. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
11-3-2016	12-1-2016	\$ 1400	\$ 1450.86	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
10-27-2016	11-1-2016	\$ 1331.50	\$ 1400	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4-28-2016	6-1-2016	\$ 1261.50	\$ 1331.50	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

List case number(s) of all Petition(s) you have ever filed for this rental unit: 715-0395 & 716-0228

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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

James P. Reed
Tenant's Signature

11-15-2016
Date

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

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

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

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

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

James P. Reed
Tenant's Signature

11-16-2016
Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Decreased Services 2016

1. Water Damaged Storage Room: I reported the damage to previous property manager, Sandra Berry by phone in December 2015. I sent an email for a request to repair water damaged storage room in January 2016. Sandra made a visual inspection but never assigned anyone to repair it. I showed the current manager the water damages in the garage and storage unit in June 2016. See Oakland Code enforcement record ID#1604227. Notified building code inspection 11/2/2016. Violation verified.
2. Lack of Management: Building code violation verified, record ID#1604229. California state law requires a 24-hour manager to live on site if the apartment complex has 16 or more units. 1470 Alice street has at least 21 units. There is no central office inside the building for me to drop by and talk to the resident manager one on one and they never return my phone calls. They only take maintenance request forms to be put in the mail drop box but there is never any request forms available and when I do get in contact with management they deny my maintenance requests.
3. Exposed wiring in the garage electrical sockets: building code violation verified 11-3-2016, record ID#1604227. In the parking garage where there is also reported water damage there is an exposed electrical socket with live wire sticking out of the socket. Electricity also travels through water. Safety hazard. Its hazardous to have an electrical socket without an electrical cap. A simple cap will solve this issue.
4. Improper plumbing done without permits and not up to code: violation verified by Oakland building code inspection on 11/3/2016. Record ID#1604227 ABS replacement piping was discovered in 2 areas of the garage which should be cast iron piping. Also buckets hanging from the pipes to catch leaks. One of the buckets contained human waste.
5. Front door entry code was removed from the digital code/call box: The service was removed in late April 2016. Sandra Berry gave me the entry code to the building when I moved in on 3-15-2014. A reasonable solution is to change the code and not remove it all together. A perfect example, if the front door entry code is 5150 and its been an existing code for 10 years then change the code to 2020. The code should be changed every 2 years, not removed all together. I need this code in case I lose my front door key, I can get in the building to get into my unit. Since the removal of the front door entry code took place, I have made several requests to get a spare key to the building and they refused in writing.
6. Carpet in my unit is coming undone and there are bumps and waves in my carpet. I have been reporting this since early fall.
7. My screen sliding door was removed but never replaced: I reported screen door issues to the Alice B building management team early May 2016. The screen door could not stay on the tracks property management removed it in early august 2016 with the promise to replace it that never happened and now I'm the only tenant in the whole building without a screen door. The screen door is necessary so I can open my sliding glass door in the spring through fall months and get air flow without dangerous insects entering my unit causing allergic reactions and medical attention.
8. Cleaning services in common areas have been removed since may 2016. As soon as the new owners took possession of the apartment complex they fired the old management team and

Commented [J1]:

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cleaning service personnel and discontinued regular cleaning services in all common areas that kept the building odor free and clean.

9. The sliding glass door doesn't lock: See the judgment for T15-0395. Non locking sliding glass door was reported to property management prior to T15-0395. Despite judges order in T15-0395, the lock was never properly fixed.
10. Pest control services have been decreased since the new owners and property management has taken over in late April 2016. A few times a year pest control would treat our apartment units and the building to prevent pests. There are yellow jackets, spiders, fruit flies that have entered my unit since the removal of pest control prevention services and screen door.
11. Sliding glass door is jammed: the sliding glass door is jammed shut and it will not open. I reported it December 26,2016. This isn't the first time this has happened.
12. The overhead pipes leak in the garage and there are large floods every time it rains. That's a slip hazard I have been reporting all water related issues, leaks and floods since January 2016.

090000

Sent from my iPhone

Print

12/20/2016