

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

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

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
 - A. Appeal Hearing in cases:
 - a. T16-0546; Green v. Tran
 - b. T17-0070; Lee v. Dixon
 - c. L17-0061; Feiner et al. v. Tenants
5. ADJOURNMENT

Accessibility & Foreign language interpreters. 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, Cantones, 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。
谢谢。

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

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

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

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

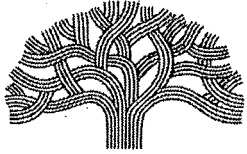
CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0546
Case Name: Green v. Tran
Property Address: 1373 107th Avenue, #A, Oakland, CA
Parties: Patricia Green (Tenant)
Melinda Tran (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	October 4, 2016
Owner Response filed	November 9, 2016
Hearing Decision issued	March 27, 2017
Owner Appeal filed	April 12, 2017

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CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

2017 For date stamp
APR 12 AM 8:31

APPEAL

Appellant's Name <i>Melinda Tran</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>1373 107th Ave. #A Oakland CA. 94603</i>			
Appellant's Mailing Address (For receipt of notices) <i>1924 Park Blvd. Oak. CA. 94606</i>		Case Number <i>716-0546</i>	
		Date of Decision appealed <i>03/27/17</i>	
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.)

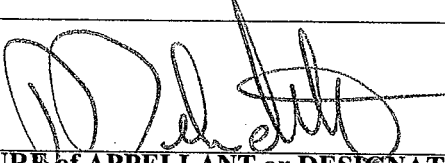
Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.

Number of pages attached: 2.

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

I declare under penalty of perjury under the laws of the State of California that on 04/11, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Patricia Green
Address	1373 107th Ave # A
City, State Zip	Oakland, CA. 94603
Name	
Address	
City, State Zip	

	<u>04/11/17</u>
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.
- 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.

To: City of Oakland
Rent Adjustment Program
Attention of: Mrs. Barbara M. Cohen

April 10, 2017

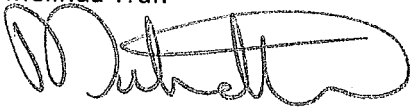
Case Number; T16-0546, Green v. Tran
Property Address: 1373 107th Ave. #A Oakland, Ca.

I would like to Appeal:

For the month of March 2017 rent arrived late, mail postmarked 03/14/2017, check dated 03/03/17. Today April 10, 2017 Mrs. Green has not pay her rent. I informed her 04/07/17, she disputed and she will look into it.

Mrs. Green lives in my apartment over 10 years, rent has not increase since.
I would like to apply for rent increase 6%
From \$850.00 to \$901.00 effective April 01, 2017.

Respectfully
Melinda Tran



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PATRICIA GREEN
1373 107TH AVE APT A
OAKLAND, CA 94603-3807

3499

11-4288/1210 4077
0369369541

March 2, 2017
Date

Pay to the
Order of

Vanessa Tran

Eight Hundred fifty ~~00~~ ⁰⁰/₁₀₀

\$ 850⁰⁰

Dollars



Photo
Safe
Deposit
Code on back



Wells Fargo Bank, N.A.
California
wellsfargo.com

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For March's Rent

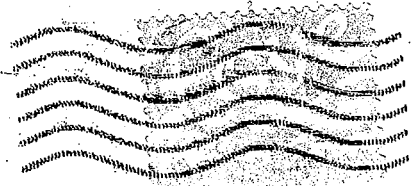
Patricia Green

⑆ 121042882⑆ 0369369541⑆ 03499

1373-107th Ave #A
Oakland, Ca 94603

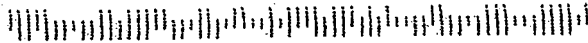
OAKLAND CA 946

14 MAR 2017 PM 6 L



attn:
V. Tran

May's Cleaners
1924 Park Blvd.
Oakland, Ca 94606



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(2)



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: T16-0546, Green v. Tran
PROPERTY ADDRESS: 1373 107th Ave, #A, Oakland, CA
DATES OF HEARING: January 18, 2017, March 20, 2017
DATE OF DECISION: March 27, 2017
APPEARANCES: Patricia Green, Tenant
Lloyd Lewis, Witness
Celestine Lewis, Witness
Melinda Tran, Owner

SUMMARY OF DECISION

The tenant's petition is granted in part. The legal rent for the tenant's unit is set forth in the Order below.

INTRODUCTION

The tenant filed a petition on October 4, 2016, contesting a rent increase from \$850 to \$1,165 a month, effective January 1, 2017, on the following grounds:

- The increase exceeds the Consumer Price Index (CPI) Adjustment, is unjustified or is greater than 10%;
- No written notice of the Rent Program (*RAP Notice*) was given to her together with the rent increase; and,
- No *RAP Notice* was given to her at least six months prior to the effective date of the rent increase.

Additionally, the tenant claimed that her housing services had decreased. The claims of decreased services include having to pay for water and garbage; retaliation for asserting her legal rights; that the owner has changed the unit to a "no smoking" unit; the owner's

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failure to respond to her noise complaints about other tenants in the building; and, lack of room in the recycle and garbage bins.

The owner filed a timely response to the tenant's petition, claiming that the contested rent increase is justified by banking and denying that the tenant's housing services had decreased.

THE ISSUES

1. Was the tenant current on her rent at the time she filed her petition?
2. When, if ever, was the tenant first served with the *RAP Notice*?
3. Is the rent increase notice valid?
4. Can the owner increase the rent by charging the tenant for garbage and water bills when the initial lease provided that the owner pay these charges?
5. Have the tenant's housing services been decreased? If yes, in what amount?
6. Does the RAP have jurisdiction over the tenant's claims of retaliation?
7. What, if any, restitution is owed to the tenant and how does it affect the rent?

EVIDENCE

Rent History and RAP Notice: The tenant testified that she moved into the rental unit in October of 2005 at an initial rent of \$850. The lease provides that up to two people can live in the unit.¹ When she moved in she was not given a *RAP Notice*. She first received a *RAP Notice* with a rent increase she received on September 25, 2016.² She received the *RAP Notice* and rent increase letter in an envelope that was postmarked on September 24, 2016.³ The rent increase notice purported to increase the rent for the unit to \$1,094.39 and to also start charging the tenant \$41 a month for garbage and recycling and \$29.89 for water and sewer. Prior to this rent increase the tenant had been paying \$850 a month.

The tenant further testified that she has continued to pay the old rent of \$850 a month and will continue to do so until she gets a Hearing Decision in this matter. The only time the tenant has paid less than \$850 a month has been in response to a Hearing Decision issued in a prior case between the parties, T16-0222.

Official Notice is taken of the prior case between the parties in case T16-0222. A Hearing Decision was issued in that case on September 14, 2016. That decision has not been appealed by either party. Due to past decreased services, the tenant's rent was decreased for three months to \$807.50 a month. The tenant testified that she paid the rent pursuant to the Hearing Decision and went back to paying \$850 a month beginning in January of 2017.

The owner did not provide conflicting testimony.

¹ Exhibit 3, page 1. This Exhibit, and all other Exhibits referred to in this Hearing Decision, were admitted into evidence without objection.

² Exhibit 1, pages 1-2

³ Exhibit 2

The tenant further testified that her October rent was mailed on October 1, 2016. It was a money order purchased on October 1, 2016.⁴ A photograph of the postmarked envelope was provided showing that the rent was mailed to the owner on October 1, 2016.

The tenant further testified that on October 11, 2016, she received an email from the owner saying she had not yet received her rent for that month.⁵

The owner testified that she did not receive the rent for October 2016 until October 15, 2016. The tenant's rent is normally paid on time. Neither the tenant nor the owner had an explanation as to why the tenant's rent was not delivered until October 15, 2016.

The owner testified that she never gave the tenant a copy of the *RAP Notice* until she served her with the rent increase notice at issue in this case.

Decreased Housing Services:

Water and Garbage: The tenant testified that when she moved into the unit the lease provided that the tenant pay all utilities except water and garbage.⁶ The rent increase notice she received in September of 2016, purported to charge the tenant \$41 a month for garbage and recycling and \$29.89 for water and sewage.

The owner produced a copy of an *EBMUD* bill showing that she was charged \$415.79 for the billing period July 1, 2016 through August 29, 2016.⁷ Additionally, she produced a copy of a *Waste Management* bill showing charges of \$399.96 for three months of service.⁸ She based the request that the tenant pay part of the utility charges on these bills. There are three residential units on the property.

Smoking: The tenant is a smoker and has been for many years, including when she moved into the unit. When she moved into the unit, the owner did not place any limits on her ability to smoke in the unit. When the tenant received the *RAP Notice* with the rent increase notice in September of 2016, she noticed that the *RAP Notice* states that smoking is not permitted in her unit.⁹ This is the first she has heard of any limitation on her right to smoke in her unit. She does not smoke outside the unit, only inside.

On cross-examination the tenant testified that sometimes she might walk outside with a lit cigarette in her mouth if she had been smoking before she walks to her car or the garbage cans.

The owner testified that she did not know the tenant was a smoker when she rented the unit to her. She did not know that the tenant smoked until she saw her outside with a

⁴ Exhibit 6, page 11

⁵ Exhibit 6, page 8

⁶ Exhibit 3, page 1

⁷ Exhibit 8, page 1

⁸ Exhibit 8, page 2

⁹ Exhibit 1, page 2

cigarette. The owner never verbally told her that she could not smoke in the unit, but she believes that the lease provides that there is no smoking in the unit.

The owner further testified that there were complaints about the tenant smoking from the other tenants in the building (Oswaldo and family). However, those tenants are no longer living in the building. The owner withdrew her request that the tenant stop smoking in her unit.

Noise in other apartments: The tenant testified that there were other tenants living in an illegal unit (that is supposed to be a storage unit) in the building that had been making a lot of noise and disturbing her. She received a rent decrease in the prior case because of parties thrown by these tenants in the parking lot. (See Hearing Decision in case T16-0622). Between the last hearing and this hearing, she was disturbed weekly by these tenants making a lot of noise. The tenants in question lived in the unit below her unit.

The owner testified that the tenants in Unit B are the same people who use the storage unit under Ms. Green's unit. They do not live in that unit, but use it to store their possessions. The tenants in Unit B are the people who had the parties in the parking lot. These people moved out of the unit (and the storage unit) in December.

The owner further testified that after the tenant informed her that the other tenants were making too much noise she asked them to be quieter.

Trash and recycle bins: The tenant testified that the recycle bin that she understands is delegated to her unit, is used by the other tenants and they don't leave her enough room for her items. She complained to the owner, who said she would order an additional bin.

The owner testified that the bins are not supposed to be designated for individual units but instead are supposed to be shared by all parties. Additionally, she has enough bins for all the units.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Was the tenant current on her rent at the time she filed her petition?

In order to file a petition, a tenant must be current on his or her rent or lawfully withholding rent.¹⁰ The owner has the burden of proof to establish that a tenant was not current on his or her rent.

The tenant's petition was filed on October 4, 2016. The evidence is clear that the tenant had mailed her rent check to the owner on October 1, 2016. While the owner did not receive the check until October 15, 2016, the owner testified that the tenant's rent is normally delivered on time. The tenant testified that she normally mails her check at the

¹⁰ O.M.C. & Regulations, § 8.22.090

same time every month. In fact, the tenant did not know her check had not been delivered until she got an email from the owner on October 13, 2016.

Since the tenant mailed her check in a timely manner, and in the way she normally mails her check, the tenant is considered current on her rent at the time she filed her petition.

When, if ever, did the tenant first receive the *RAP Notice*?

The Rent Adjustment Ordinance (Ordinance) requires an owner to serve the *RAP Notice* at the start of a tenancy¹¹ and together with any notice of rent increase or change in the terms of a tenancy.¹² An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.¹³

All parties are in agreement that the tenant was first served with the *RAP Notice* with the September 2016 rent increase notice. While the rent increase notice is dated on September 6, 2016, the tenant established that it was not actually mailed until September 24, 2016. The mailing date is the date of service. Therefore, it is found that the tenant was first served with the *RAP Notice* on September 24, 2016.

Is the rent increase notice valid?

The rent increase notice is invalid on several grounds. First, since the tenant first received the *RAP Notice* on September 24, 2016, the rent cannot be increased until six months after that date. The rent increase notice at issue purported to increase the rent effective January 1, 2017. This is less than six months after the *RAP Notice* was served.

Additionally, the owner purported to increase the rent based on banking. If an owner chooses to not increase the rent, or increase it less than the annual CPI adjustments permitted by the Ordinance, the owner is allowed to bank the unused increases, subject to certain limitations.¹⁴ However, the total rent increase imposed in any one rent increase may not exceed a total of three times the then allowable CPI increase and cannot be greater than 10%.¹⁵ In no event may any banked CPI Rent Adjustments be implemented more than ten years after it accrues.¹⁶ In this case, the owner sought to increase the rent for the unit from \$850 to \$1,094.39, an increase of \$244.39. This is more than 10% of the current rent and more than three times the current annual allowable CPI (the current annual CPI is 2%, so three times the CPI is 6%).

For both of these reasons, the rent increase is invalid.

¹¹ O.M.C. § 8.22.060(A)

¹² O.M.C. § 8.22.070(H)(1)(A)

¹³ O.M.C. § 8.22.060 (C)

¹⁴ O.M.C. § 8.22.070

¹⁵ Regulations Appendix, §10.5.1

¹⁶ Regulations Appendix, §10.5.3

Can the owner increase the rent by charging the tenant for garbage and water bills when the initial lease provided that the owner pay these charges?

In addition to raising the rent for the unit, the owner sought to charge the tenant for water and garbage. These charges were originally charges paid by the owner in the original lease. Therefore, to require the tenant to now pay for these costs amounts to a decrease in housing services. (See below.)

Additionally, these charges are bills the owner pays for the entire three unit building. There are not individual meters. It is illegal to split utilities under the Oakland Rent Adjustment Ordinance. The Regulations state that "When more than one rental unit shares any type of utility bill with another rental unit, it is illegal to divide up the bill between units." Rent Adjustment Regulations § 10.1.10. Therefore, when the owner added utility charges to the rent, this was an illegal rent increase.

For both of these reasons, the owner cannot charge the tenant for the water or the garbage bills.

Have the tenant's housing services been decreased? If yes, in what amount?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹⁷ and may be corrected by a rent adjustment.¹⁸ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

In a decreased housing services case tenants must establish that they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.

Further, in a decreased services case, where the *RAP Notice* has been given at the beginning of a tenancy, tenants are only allowed relief for 60 days prior to the filing of the petition¹⁹. However, where no *RAP Notice* was given before the tenant petition was filed (or within 60 days of when the tenant petition was filed), the tenant can seek restitution for up to three years. Here, since no *RAP Notice* was served until September 24, 2016, the tenant is entitled to restitution for conditions as far back as three years.

The tenant's claims of decreased services are discussed below:

Utility Bills: This issue is discussed above. In addition to not being able to charge the tenant for utility bills because it would be splitting utilities in violation of the Ordinance, the owner cannot charge the tenant for utility bills because to do so would

¹⁷ O.M.C. § 8.22.070(F)

¹⁸ O.M.C. § 8.22.110(E)

¹⁹ Board Decision in *Lindsey v. Grimsley, et al.*, HRRRB T09-0086

amount to a decrease in housing services. When the tenant moved into the unit, the owner was paying these charges. Switching the cost to the tenant decreases the services provided by the owner.²⁰ This is not permitted. The owner may not charge the tenant for the utility bills she has been paying.

Noise: The tenant claimed that the other tenants in the building are making too much noise. The owner testified that when the tenant complained to her, she asked the other tenants to be more quiet. These tenants have since moved out of the building.

The tenant's claim that the downstairs neighbors were making too much noise fails for several reasons. First, there is no evidence that the neighbors make so much noise as to amount to a habitability violation. Second, the tenant made a similar claim in the prior case between the parties, and was given a rent decrease for the parties held by these noisy neighbors, but not for the day to day noise of living with them. The tenant cannot keep bringing the same claim to the RAP and expect a different result.

Third, noisy neighbors are an unfortunate but common problem faced by urban apartment dwellers. While it may be true that the downstairs neighbors made more noise than the tenant would like, it seems clear that the tenant is particularly sensitive to noise. There is no proof that the downstairs neighbors make more noise than the average tenant.

Finally, these tenants have now moved out of the building and are not bothering the tenant any longer. For all these reasons, this claim is denied.

Smoking: At the Hearing, the owner withdrew her request that the tenant stop smoking in her unit. Therefore, there is no longer an issue regarding smoking on the premises.

Trash and Recycling: The tenant testified that there is sometimes not enough room in her garbage and recycling cans for her to throw out her trash and recycling. The owner testified that the garbage and recycling cans are for the entire building, and are not unit specific. The owner's testimony was convincing. The owner established that there is enough garbage and recycling for the three unit building. The tenant has the right to put her trash and recycling in any of the bins. This claim is denied.

Does the RAP have jurisdiction over the tenant's claims of retaliation?

On her list of decreased services, the tenant claimed retaliation for having brought the prior claim between the parties. The RAP does not have jurisdiction over claims of retaliation. The RAP is an administrative agency whose power is limited to enforce the provisions of the Rent Adjustment Ordinance. In the case of *Larson v. City and County of San Francisco*, (2011) 192 Cal. App. 4th 1263, the court examined the authority of San

²⁰ See Regulations, Appendix 10.1.9, which provides that "The transfer of utility costs to the tenant by the landlord is not considered as part of the rent increase unless the landlord is designated in the original rental agreement to be the party responsible for such costs."

the loss of quiet enjoyment is not such a claim. *Larson* at p. 1281. Neither is a claim of retaliation.

The Housing Residential Rent and Relocation Board has also stated that the RAP does not have jurisdiction over any such claims. See the *Housing, Residential Rent and Relocation Board Decision* (HRRRB) in *Petersen v. Stafford*, T04-0300, where the Board held that retaliation is not a grounds for a petition. The tenant's claims for decreased housing services as they relate to retaliation are not claims that can be made under the Ordinance. While these acts may well constitute civil wrongs, these claims must be made in a court of competent jurisdiction.

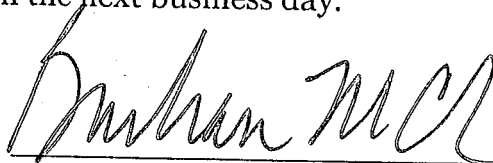
What, if any, restitution is owed to the tenant and how does it affect the rent?

The tenant has not paid the rent increase in question, therefore, there is no overpayment or underpayment and no restitution is owed between the parties. The tenant's rent remains \$850.00 a month. The owner cannot charge the tenant for garbage or water as to do so would amount to a decrease in housing services.

ORDER

1. Petition T16-0546 is granted in part.
2. The current base rent is \$850 a month.
3. The owner may not charge the tenant for garbage or water bills.
4. Nothing in this Order prevents the owner from increasing the rent as long as the rent increase notice is served in accordance with Civil Code § 827 and the Rent Adjustment Ordinance.
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: March 27, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0546

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

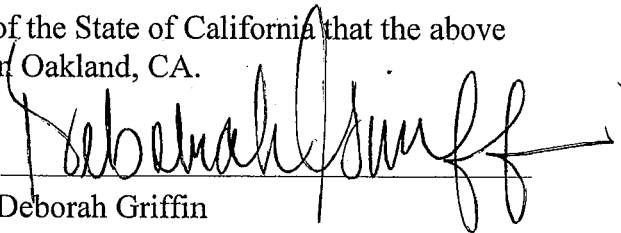
Patricia Green
1373 107th Ave #A
Oakland, CA 94603

Owner

Vanessa/ Melinda Tran
1924 Park Blvd.
Oakland, CA 94606

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 27, 2017 in Oakland, CA.


Deborah Griffin

000017

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 2016 NOV -9 PM 4:37
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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 - T16-0546

OWNER RESPONSE

Please print legibly.

Your Name MELINDA TRAN	Complete Address (with zip code) 1924 Park Blvd. Oakland CA. 94606	Phone: (510) 893-1818 Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) PATRICIA GREENS	Complete Address (with zip code) 137 3 107th Ave # A OAKLAND, CA 94603	(510) 612-0152

Have you paid for your Oakland Business License? Yes No Number 4
 (Provide proof of payment.)

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

There are 3 residential units in the subject building. I acquired the building on 1/2/2003

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 10/13/2005.

The tenant's initial rent including all services provided was \$ 850.⁰⁰ / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
 Yes No I don't know If yes, on what date was the Notice first given? 9/10/2016

Is the tenant current on the rent? Yes No

Email 10/15/2016

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

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

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

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

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
1/01/2017	<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.

HOUSING SERVICES

If your tenant claims **Decreased Housing Services**, state your position regarding the of decreased housing services on a separate sheet. Submit any documents, or other tangible evidence that supports your position.

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

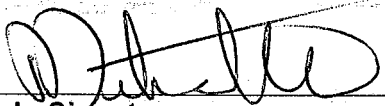
NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

11/07/2016

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

11/07/16

Date

From: Melinda Tran
1924 Park Blvd.
Oakland, CA. 94606

11/09/2016

To City of Oakland, Rent Adjustment Program.
Case Number T16-0546

There is a raise in rent for all apartment units based on each year's CPI increase in total. Due to the living standards being so high such as property tax; insurance; sewage; water; trash; and maintenance. I, Melinda Tran, will increase the rent starting January 1st, 2017. Please see attached letter (A1). There is a tenant smoking policy disclosure attached to the rent increase letter for each unit. It has been sent to Mrs. Green on September 09, 2016. There are children and pregnant women in the building. Other tenants have complained about Mrs. Green, of her smoking around the building. Also Mrs. Green has family members who smoke around the building too (A3).

There is no illegal apartment. The unit downstairs is a commercial space. The commercial space has its own water meter. The tenant rent and use the washer and dryer there at their own expense. I have proof that Mrs. Green had welcomed other individuals who are not tenants to wash their vehicles using the apartment complex's water source (A2).

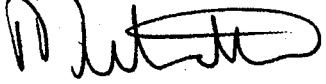
Mrs. Green called me to explain about the limited amount of space that is provided for recycle, so I ordered three more recycle bins for each unit. Rent is always due on the first of the month. I did not receive Mrs. Green payments until I E-Mailed a couple times to inform her that rent was not paid. September's rent was received on September 07, 2016 and on October's rent was received October 15, 2016.

The services and living standards has remained the same for all the years that Mrs. Green had occupied in Unit A, from the time she moved in until now. Everybody has been treated the same. Every complaint has been resolved immediately.

In conclusion, everyone has their own lives and everyone have families to feed. I am a mother of three children, a wife, and a business owner. I do not have time to "recruit" other tenants to do anything directed towards Mrs. Green. I am not reflecting the rent increase only to her. I sent out notices to ALL tenants that occupy the apartment complex. Before, I can afford to cover all expenses for the apartment complex but now that the living standards skyrocketed, I must raise the rent. All tenants except for Mrs. Green has signed the notice for rent increase. All tenants understand why I need to increase rent. I am a good landlord. I deliver good service to all tenants and treat them fairly. I strongly disagree to Mrs. Green's complaint. There is no retaliation, it is just the higher cost of living in California.

Rent \$1,094.39
Garbage/Recycle \$41.00
Water/Sewage \$29.00
TOTAL: \$1165.00

Respectfully,
Melinda Tran



000022

Tile 0546 KM/BC

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

For date stamp.
 RECEIVED
 CITY OF OAKLAND
 RENT ARBITRATION PROGRAM
 2016 OCT -4 AM 9:06

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 PATRICIA GREEN	Rental Address (with zip code) #1 1373-107th AVE OAKLAND CA 94623	Telephone (510) 612-0152
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) VANESSA TRAN	Mailing Address (with zip code) 1924 PARK BLVD OAKLAND CA 94606	Telephone (510) 893-1818

Number of units on the property: **three plus**

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

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

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

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

Date you moved into the Unit: 10/18/05 Initial Rent: \$ 850⁰⁰ /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: 9/25/16. If never provided, enter "Never."

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
9/25/16	1-1-17	\$ 850	\$ 6/165	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<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
<i>See attached letter dated 9/25/16</i>		\$	\$	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<i>rec'd</i>	\$	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input 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

* 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: T160222

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.

Patricia Green

Tenant's Signature

10/4/16

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

CHRONOLOGICAL CASE REPORT

Case Nos.: T17-0070

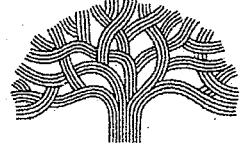
Case Name: Lee v. Dixon

Property Address: 848 Erie Street, #2, Oakland, CA

Parties: Mary Lee (Tenant)
Robert Dixon (Property Owner)
Bentley Peabody (Owner Representative)
Samantha Bettencourt (Owner Representative)
Anthony Rubio (Owner Representative)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	February 3, 2017
Owner Response filed	October 26, 2017
Hearing Decision issued	April 20, 2018
Owner Appeal filed	May 4, 2018
Tenant Response to Appeal filed	May 8, 2018

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp: 7-6 AM 11:47 <p style="text-align: right;"><u>APPEAL</u></p>
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Appellant's Name Mynd Property Management / Robert Dixon		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 848 Eric St. #2 Oakland, CA 94610			
Appellant's Mailing Address (For receipt of notices) PO Box 71006 Oakland, CA 94612		Case Number T17-0070	Date of Decision appealed 4/20/18
Name of Representative (if any) Mynd Property Management		Representative's Mailing Address (For notices) PO BOX 71006 Oakland 94612	

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

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

For more information phone (510) 238-3721.

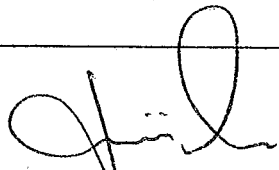
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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: 10

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 May 4, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Mary Lee
Address	848 ERIE St. Apt 2
City, State Zip	Oakland, CA 94610
Name	
Address	
City, State Zip	

	5/4/18
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.

Synergy Facilities
484 Lake Park Avenue Suite 449
CA 94610 US
deven@synergyfacilities.net
www.synergyfacilities.net



INVOICE

BILL TO

Marni Gatlin
Mynd Co.
1611 Telegraph Ave
Suite 1400
Oakland, CA 94612 USA

INVOICE # 1626
DATE 12/15/2017
DUE DATE 01/14/2018
TERMS Net 30

ACTIVITY	QTY	RATE	AMOUNT
Maintenance 848 Erie: Window replacement: Unit 2	1	750.00	750.00

BALANCE DUE **\$750.00**

TERMS: PAST DUE INVOICES ARE SUBJECT TO A SERVICE CHARGE OF 1.5% PER MONTH AND ANY APPLICABLE COLLECTION FEES.

000030





December 21, 2016

Mary Lee
848 Erie Street #2
Oakland, CA 94610

Dear Mary,

We hope you are enjoying your rental experience with Mynd. Annually, the City of Oakland permits property owners to raise rental rates for residents covered under the rent control ordinance. In reviewing your file, it appears that prior owner(s) did not elect to pass along that rent increase annually and were "banking" it for the past couple years.

Below is a list of City of Oakland's Rent Board fiscal years, percentages and rent increases that were not issued previously. Enclosed is change of terms form with additional details.

Year	Permitted Increase	Increase \$	New Rent \$
7/1/2015 – 6/30/2016	1.7%	\$9.27	\$554.27
7/1/2016 – 6/30/2017	2.0%	\$11.09	\$565.36

Sincerely,

Mynd Management, Inc.

30 Day Notice of Change of Monthly Rent

To Mary Lee _____ (Resident) for the
(And all other occupants in possession)

premises located at: 848 Erie St _____
(Address)

Unit 2, (if applicable) Oakland _____, California 94610 _____
(City) (Zip)

NOTICE IS HEREBY GIVEN, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or February 1, 2017 _____, whichever is later, your monthly rent is payable in advance on or before the
(Date)
1 day of each month, will be the sum of \$ 565.36 _____, instead of \$ 545.00 _____, the current monthly rent.

*Except as herein provided, all other terms of your tenancy shall remain in full force and effect.
A negative credit report reflecting on your credit history may be submitted
to a credit reporting agency if you breach the terms of your obligations*

12/21/2017
Date

[Signature]
Owner/Agent



Form provided by the East Bay Rental Housing Association®
www.ebrha.com
Form 30 Day Notice of Change of Monthly Rent® (02/12)



000032



P.O. BOX 70243, OAKLAND, CA 94612-2043
Department of Housing and Community Development
Rent Adjustment Program

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase ("CPI increase"). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases ("banking"). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- **Contesting a Rent Increase:** If the owner gave this Notice to Tenants at the beginning of your tenancy, you must file a petition: (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland and at: <http://www2.oaklandnet.com/Government/Health/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has not been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit 2, the unit you intend to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant's building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____.

I received a copy of this notice on _____ (Date) _____ (Tenant's signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510)238-3721索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
Baùn Thoâng Baùn queyàn lôil củà ngòðí theà trong Oakland nàý củng còu bàngg tieáng Vieät. Ñeà còu mòät baùn sao, xin goil (510) 238-3721.

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CITY OF OAKLAND



**Department of Housing and Community Development
Rent Adjustment Program**

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

<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	1-Jul-1982	MUST FILL IN D9, D10, D11 and D14	Case No.:		CHANGE YELLOW CELLS ONLY
Effective date of increase	1-Feb-2017		Unit:	Erie #42	
Current rent (before ior cap. imp. pass-through)	\$545				
Date calculation begins	1-Feb-2006				
ase rent when calc.begins	-				

If the planned increase includes other than banking put an X in the box →

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs Increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
				#N/A		
7/1/16				2.0%	\$ 11.09	\$ 565.36
7/1/15				1.7%	\$ 9.27	\$554.27
7/1/14				-	-	-

Calculation of Limit on Increase

Prior base rent	\$545.00
CPI and not more than 10%)	6.0%
Banking available this year	\$32.70
Banking this year + base rent	\$ 577.70
Prior capital improvements recovery	\$ -
Rent ceiling w/o other new increases	\$ 577.70

Notes:

1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.

000034



30 Day Notice of Change of Monthly Rent

To Mary Lee (Resident) for the
(And all other occupants in possession)

premises located at: 848 Erie St
(Address)

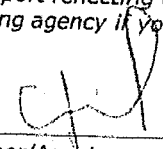
Unit 2, (if applicable) Oakland, California 94610
(City) *(Zip)*

NOTICE IS HEREBY GIVEN, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or February 1, 2018, whichever is later, your monthly rent is payable in advance on or before the 1st day of each month, will be the sum of \$ 578.35, instead of \$ 565.35, the current monthly rent.
(Date)

*Except as herein provided, all other terms of your tenancy shall remain in full force and effect.
A negative credit report reflecting on your credit history may be submitted to a credit reporting agency if you breach the terms of your obligations*

12.21.2017

Date


Owner/Agent



Form provided by the East Bay Rental Housing Association®
www.ebrha.com
Form 30 Day Notice of Change of Monthly Rent© (02/12)



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000035

CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CA 94612-2043
Department of Housing and Community Development
Rent Adjustment Program

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. For more information on which units are covered, contact the RAP office.
- Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase ("CPI increase") or allowed "banked" rent increases. These include capital improvements and operating expense increases. For these types of rent increases, the owner may raise your rent only after a hearing officer has approved the increase. No annual rent increase may exceed 10%. You have a right to contest the proposed rent increase by responding to the owner's petition. You do not have to file your own petition.
- **Contesting a Rent Increase:** You can file a petition with the RAP to contest unlawful rent increases or decreased housing services. To contest a rent increase, you must file a petition (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at: <http://www2.oaklandnet.com/Government/ohcd/o/RentAdjustment>.
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. If the increase is approved and you did not pay the increase, you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)
- The owner is is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act). If the owner is not permitted to set the initial rent without limitation, the rent in effect when the prior tenant vacated was na.

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or ~~IS NOT~~ permitted in Unit 2 the unit you intend to rent.
- Smoking (circle one) IS or ~~IS NOT~~ permitted in other units of your building. (If both smoking and non-smoking units exist in tenant's building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or ~~IS NOT~~ a designated outdoor smoking area. It is located at na.

I received a copy of this notice on _____

(Date)

(Tenant's signature)

此份屋籍(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Revised 2/10/17

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000036



P.O. BOX 70243, OAKLAND, CA 94612-2043
 Departamento de Desarrollo Comunitario y Vivienda
 Programa de Ajustes en el Alquiler

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

AVISO A LOS INQUILINOS DEL PROGRAMA DE AJUSTES EN EL ALQUILER RESIDENCIAL

- Oakland tiene un Programa de Ajustes en el Alquiler (Rent Adjustment Program, RAP) que limita los aumentos de renta (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en renta construidas antes de 1983. No aplica para unidades subsidiadas, la mayoría de las viviendas de una sola familia, condominios y algunos otros tipos de unidades. Para más información sobre las unidades cubiertas, contacte a la oficina de RAP.
- Usted tiene derecho a presentar una petición con RAP para impugnar un aumento de alquiler que sea mayor al ajuste anual del Índice de Precios al Consumidor (Consumer Price Index, CPI). Un propietario puede realizar un aumento en la renta mayor al índice CPI, pero con límites, para: mejoras de capital, aumentos en los gastos operativos y aumento anual diferido de renta ("bancario"). Ningún aumento anual a la renta podrá exceder el 10%. Si usted lo solicita, el propietario deberá proporcionarle un resumen por escrito de las razones para cualquier aumento que supere la tasa del CPI. Si el propietario disminuye sus servicios de vivienda, esto podrá ser un aumento en su renta. Las disminuciones en los servicios de vivienda incluyen problemas sustanciales con las condiciones de una unidad.
- **Cómo disputar un aumento de renta:** Si el propietario entregó este Aviso a los Inquilinos al inicio del periodo de arrendamiento, deberá presentar una solicitud: (1) en un plazo de (90) días a partir de la fecha del aviso de aumento de renta si el propietario también proporcionó este Aviso a los Inquilinos con la notificación del aumento de la renta; o (2) en un plazo de 120 días a partir de la fecha de recepción del aviso de aumento de renta si este Aviso a los Inquilinos no fue entregado con la notificación de aumento de la renta. Si el propietario no entregó este Aviso a los Inquilinos al inicio del periodo de arrendamiento, deberá presentar una solicitud en un plazo de (90) días a partir de la fecha en que recibió por primera vez este Aviso a los Inquilinos. Encontrará información y formularios disponibles en la oficina RAP en el Centro de Asistencia de Vivienda: 250 Frank H. Ogawa Plaza, 6th Fl, Oakland, también puede visitar: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- Si usted impugna un aumento de renta, debe pagar su renta con el aumento impugnado hasta que presente la petición. Una vez que haya presentado su petición, si el aumento de renta refleja el monto de la tasa CPI de manera separada, usted debe pagar su renta más el incremento CPI. Si la tasa CPI no ha sido reflejada por separado, usted podrá pagar la renta que pagaba antes del aviso de aumento de renta. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha efectiva del aumento.
- Oakland tiene controles de desalojo (Ordenanza de Desalojo por Causa Justa y Reglamentos, O.M.C. 8.22) que limitan los motivos de desalojo en las unidades cubiertas. Para más información contacte la oficina RAP.
- Oakland cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por unidad al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. Su pago por la tarifa anual no forma parte del alquiler. No se requiere que los inquilinos de unidades subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir comportamiento abusivo por parte de propietarios y para ofrecerles a los inquilinos recursos legales en instancias donde han sido víctimas de comportamiento abusivo por parte de propietarios (O.M.C. 8.22.600). (Ordenanza del Concejo Municipal No. 13265 C.M.S.)

INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES

- Fumar (encierre en un círculo) ESTÁ o NO ESTÁ permitido en la Unidad 2 unidad que usted pretende alquilar.
- Fumar (encierre en un círculo) ESTÁ o NO ESTÁ permitido en otras unidades de su edificio. (Si hay disponibilidad de ambas unidades, fumador y no fumador, en el edificio del inquilino, adjunte una lista de las unidades donde se permite fumar).
- (Encierre en un círculo), HAY o NO HAY un área designada al aire libre para fumar. Se encuentra en MA

Recibi una copia de este aviso el _____

(Fecha)

(Firma del inquilino)

此份屋舖 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。
 La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
 Bản Thông Báo quyền lợi của người thuê trong Oakland này cũng có bản tiếng Việt. Để có bản tiếng Việt, xin gọi (510) 238-3721.

Revisado el 23 de septiembre de 2016
 HCDrap201610a SP

000037

P.O. BOX 70243, OAKLAND, CA 94612-2043
房屋與社區發展部
(Department of Housing and Community Development)
租金調整計劃 (Rent Adjustment Program)

屋崙 (奧克蘭) 市政府



電話 (510) 238-3721
傳真 (510) 238-6181
TDD (510) 238-3254

住宅租金調整計劃的租客通知書

- 屋崙 (奧克蘭) 市的租金調整計劃 (RAP) 旨在限制租金調漲 (屋崙 (奧克蘭) 市政法規 8.22 章), 主要針對建於 1983 年以前大多數出租住宅單位。此計劃不適用於受補助單位、多數單家庭住宅、共管公寓和其他部份類型的住宅單位。若要了解哪些單位在本計劃限制範圍內, 請聯絡 RAP 辦公室。
- 您有權利向 RAP 提出請願, 對超過一般年租金漲幅 (CPI 調漲金額) 的租金調漲提出異議。業主可因以下理由將租金調漲超過 CPI 調整率, 但有限制: 固定資產改進、營運支出增加, 以及遞延年租金調漲 (「累積」調漲)。任何年租金調漲不得超過 10%。若漲幅超過 CPI 調整率, 您可要求業主提供租金上漲的書面證明。若業主減少您的住房服務, 可視為租金調漲。住房服務減少包括單位狀況出現顯著問題。
- 對租金上漲提出質疑: 如果業主在租期一開始就提供這份租客通知, 且: (1) 業主還一併提出租金調漲通知, 則您必須在收到租金調整通知後九十 (90) 天內提出請願; (2) 業主沒有一併提出租金調漲通知, 則您必須在收到租金調整通知後的 120 天內提出請願。如果業主在租期一開始時沒有提供這份租客通知, 您就必須在第一次收到這份租客通知後的九十 (90) 天內提出請願。如需相關資訊並索取請願書, 請前往房屋協助中心 (Housing Assistance Center) 的租金調整計劃 (RAP) 辦公室親自索取: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland; 還可上網站取得: <http://www2.oaklandnet.com/Government/ohcd/ra/RentAdjustment>
- 如果您對租金調漲有異議, 在您提出請願之前, 您仍必須支付質疑的調漲租金。在您正式提出請願後, 如果租金調漲通知單中另外陳述了以 CPI 調整率計算的金額, 則您必須支付原租金加上 CPI 調漲金額。若通知單中並未另外陳述 CPI 調整率, 您可支付在收到租金調漲通知單前所支付的租金。若調漲經核准但您並未支付, 您將積欠從調漲生效日期起的調漲金額。
- 屋崙 (奧克蘭) 市的驅逐管制規則 (屋崙 (奧克蘭) 市政法規 8.22 中的「驅逐正當理由」) 對所管制單位的驅逐理由設有限制。若要瞭解更多資訊, 請聯絡 RAP 辦公室。
- 屋崙 (奧克蘭) 市政府每年對每個出租單位向業主收取「租金計劃服務費」 (Rent Program Service Fee)。若此費用準時繳納, 則業主有權向您收取一半費用。您支付的年費不是租金的一部分。受補助單位的租客無需支付該費用的租客部分。
- 屋崙 (奧克蘭) 市的租客保護法令 (Tenant Protection Ordinance, TPO) 旨在遏阻房東的騷擾行為, 並且在租客受房東騷擾的情況下賦予租客法律追索權 (屋崙 (奧克蘭) 市政法規 8.22.600)。(市議會條例 13265 號 C.M.S.)

針對租客的吸煙政策聲明

- 單位 2 (您有意承租的單位) 「允許」或「不允許」吸煙 (圈選一項)。
- 您所住建築物中的其他單位「允許」或「不允許」吸煙 (圈選一項)。(若租客所住的建築物中同時包含可吸煙和不可吸煙的單位, 應附上一張可吸煙單位列表。)
- 本建築物「有」或「沒有」指定的戶外吸煙區 (圈選一項)。該吸煙區位於 n/a。

我於 _____ 收到本通知書 _____
(日期) (租客簽名)

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
Bản Thông Báo quyền lợi của người thuê trong Oakland này cũng có bản tiếng Việt. Để có bản tiếng Việt, xin gọi (510) 238-3721.

9/23/16 修訂
HCDrap201610a CH

000038



Proof of Service

I, the undersigned, being at least eighteen years of age, served this notice, of which this is a true copy, on
Mary Lee

_____, one of the Tenants listed above, as follows:

- On _____, 20____ I delivered the notice to the Tenant personally.
- On _____, 20____ I delivered the notice to a person of suitable age and discretion at the Premises after having attempted personal service at the Premises. On _____, 20____ I mailed a second copy to the Tenant at the Premises.
- On _____, 20____ I posted the notice in a conspicuous place at the Premises, after attempting personal service at Premises, and after having been unable to find there a person of suitable age and discretion. On 12/21, 2017 I mailed a second copy to the Tenant at the Premises.

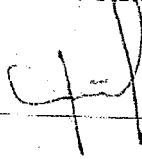
*Notice of Change in Monthly Rent was mailed 36 days or more prior to effective date.

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

12.21.17

Date

Signed



Form provided by the East Bay Rental Housing Association®
www.ebrha.com

Form Proof of Service® (11/11)



000039

10

May 8, 2018

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

2018 MAY -8 PM 12:21

City of Oakland
Rent Adjustment Program
P.O. Box 70243
Oakland, CA 94612-0243

Re: Case T17-00-Response to landlord/property management's appeal

To Whom This May Concern;

Below is a list;

- 1) I received a copy of this Appeal complaint yesterday after 6pm, via US Postal clerk who needed a signature for the certified mail, May 7, 2018.
- 2) Is this appeal, sent certified mail, requiring signature; a method of harassment from the owner/property management firm due to unhappy results of hearing?
- 3) Are appeals upon a decision made on an **appeal hearing** allowed?
- 4) New charge claimed on current appeal, are new charges allowed on an appeal? Now, they are claiming of a missing RAP notice.
- 5) I am confused as to who is handling this case? There were three representatives from Mynd management present, now we have a Janette Miles filing appeals.
- 6) The accurate date of repair of the window is December 29, 2107 as verified by Bentley & myself at the hearing. The date indicated by Janette Miles was a planned date; however Synergy's supervisor had measured the window wrong & consequently, had to be rescheduled; twice for the same kinds of problems.
- 7) Finally, and the most important is that there are supposed to be no more banking as the original landlord had charged way over the CPI for over thirty years. In a previous claim with Bruce Millar as the owner, this charge was filed. As a result, 2/1/15-2/1/16 the bank roll of 1.7% should not be.
- 8) As I am typing this, I am noticing that when this new owner took over they raised rent on Christmas Eve to be effective in February of the following year, 2016, 2017 & 2018. However, Bruce Millar had raised rent in July. Therefore, rent raised was done twice a year and with bank rolling on 2016; it was probably 3x a year.
- 9) The rent raise with the bank rolling was a month or two after the rent reduction for the demolition of the huge deck that ran the width of the building and was 10 feet wide.

000040

Sincerely,

Mary E. Lee

Mary E. Lee

Case Number: **T17-0070, Lee v. Dixon**
848 Erie St., #2 Oakland, CA
Hearing Date: July 25, 2017
Hearing Date: (Appeal by landlord) March 14, 2018
Date of Decision: April 20, 2018
Date of Inspection: September 5, 2017
Date of Decision: September 25, 2017

RECEIVED
JULY 25 2017
RENT ADJUSTMENT PROGRAM
2017 MAY -2 PM 3:29

Notice to Hearing Officer, Mr. Stephen Kasdin
c/o Keith Mason/Analyst, Rent Adjustment Program

This is written in regard to your decision dated April 20, 2018.

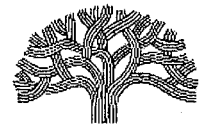
- 1) I took another rent raise by the landlord, (not realizing that I should not have taken this). I was told that since there was an appeal, your decision is on hold currently and that it reverts to what it was. Besides, the property management company who currently accepts the rent, would not accept the new rent reduction, despite the hearing officer's decision faxed to them.

The rent that I have been paying is in fact \$578.35, rather \$565.35. Therefore, Mr. Kasdin's calculations shorted me of this amount, or should I just deduct \$10.00 further for 3 months?

Also, the date have passed, since you first issued this decision, therefore, can I just count months rather than go by passed dates?

- 2) The petition **was filed** within 90 days of the RAP notice included with the rent raise issued Dec 23, 2016. Otherwise, never was I ever made aware of filing a petition within 90 days of the 1st RAP notice given by a new landlord.
- 3) My petition was really about the landlord's banking. There should be no banking at all since the original landlord had raised rent all over the CPI, which was filed with Barbara Kong as the hearing officer. This was over a period of more than 30 years of overage of rent raises.
- 4) All the other windows are not fixed, but there temporary measures in place. The wood is warped and the locks on the window have been partially removed so they can close, as a temporary measure.

000042



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: T17-0070, Lee v. Dixon
PROPERTY ADDRESS: 848 Erie St., #2, Oakland, CA
DATE OF HEARING: March 14, 2018
DATE OF DECISION: April 20, 2018
APPEARANCES: Mary Lee (Tenant)
Bentley Peabody (Agent for Owner)
Samantha Bettencourt (Agent for Owner)
Anthony Rubio (Agent for Owner)

INTRODUCTION

A Hearing in this case was held on September 5, 2017. The tenant appeared at the Hearing; the owner did not. Following the Hearing, a Hearing Decision was issued on September 25, 2017. The Decision partly granted the tenant's petition. The owner then filed an Appeal, which states that the owner never received any correspondence from the Rent Adjustment Program because the tenant's petition states an incorrect address for the owner.

Therefore, the Hearing Decision was set aside, the Rent Adjustment Program mailed a copy of the tenant's petition and other documents to the owner at the address stated on the Appeal, and a date was set for a Hearing as to whether the owner was properly notified of the tenant's petition and the original Hearing date and, if the owner was not properly notified, to hold a Hearing on the merits of the tenant's petition.

SUMMARY OF DECISION

The tenant's petition is partly granted.

000043

CONTENTIONS OF THE PARTIES

The tenant filed a petition on February 3, 2017, which alleges that a proposed rent increase from \$545 to \$565.36 per month, effective February 1, 2017, exceeds the CPI Adjustment and is unjustified or is greater than 10%; that at present, there exists a health, safety, fire, or building code violation in her unit; and that her housing services have been decreased due to a problem with windows in her rental unit.

The owner filed a response to the petition, which did not allege a justification for the challenged rent increase, and denied that the tenant's housing services have been decreased.

THE ISSUES

- (1) Was the owner properly notified of the tenant's petition filing and the Hearing before the original Hearing date?
- (2) If the owner was not properly notified, is there a legal justification for the challenged rent increase?
- (3) If the owner was not properly notified, when, if ever, did the tenant receive the form Notice to Tenants (RAP Notice)?
- (4) If the owner was not properly notified, 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

The tenant's petition states that the owner's mailing address is "The UPS Store, 6114 LaSalle Avenue #494, Oakland, CA 94611." The file contains a Proof of Service signed by an employee of the Rent Adjustment Program which states that on February 16, 2017, she mailed a copy of the tenant's petition, an Owner Response Form, Notice of Hearing, and a cover letter to the owner at the above address. At the Hearing, the tenant testified that this was the address to which she had always mailed her rent payments, and that the mail box is still in the name of the owners.

Neither of the owners appeared at the Hearing. The owner's representatives testified that the property management company for which they work has been the property manager for the tenant's building since August 2016, and the post office box is not in their records. Otherwise, they had no knowledge about the LaSalle Avenue mailing address.

Official Notice is taken of the contents of the file in this case, which includes the following:

- (1) Two manila envelopes from the Rent Adjustment Program addressed to Kristen & Robert Dixon, in which the address has been covered by a black marker, and the letters "RTS" written in black marker. These envelopes have Postal Service stickers dated February 18, 2017, which say "Return to Sender; Not Deliverable as Addressed; Unable to Forward."

- (2) An envelope from the Rent Adjustment Program addressed to Kristen & Robert Dixon, in which the address has been covered by a black marker, and the letters "RTS" written in black marker. This envelope has a Postal Service sticker dated February 15, 2017, which says "Return to Sender; Refused; Unable to Forward."
- (3) An envelope from the Rent Adjustment Program addressed to Kristen & Robert Dixon, in which the address has been covered by a black marker, and the letters "RTS" written in black marker. This envelope has a Postal Service sticker dated February 29, 2017, which says "Return to Sender; Refused; Unable to Forward."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

It is apparent that someone other than Postal Service personnel blacked out the mailing address on the above-mentioned envelopes, wrote the letters "RTS" on the envelopes, and that it is more likely than not that these acts were done by Kristin and/or Robert Dixon. The California Civil Code states: "No one can take advantage of his own wrong."¹ The owners can hardly complain that they never received notice of the petition filing, and the original Hearing Decision stands.

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

The Rent: Each party has a Due Process right to know what claims the other party is making. The Rent Adjustment Program mails a copy of the tenant petition to the owner and a copy of the owner's response (if there is one) to the tenant. In this way, each party is afforded Due Process of law. Since the owner did not file a response to the tenant's petition, nor did the owner appear at the Hearing, no rent increase is allowed at this time. Therefore, before considering the tenant's claim of decreased housing services, the rent remains \$545 per month.

Decreased Housing Services: Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent² and may be corrected by a rent adjustment.³ However, in order to justify a decrease in rent, a decrease in housing services must be 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.⁴ Further, in order for a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

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 her petition on February 3, 2017. Therefore, in

¹ Civil Code Section 3517

² O.M.C. Section 8.22.070(F)

³ O.M.C. Section 8.22.110(E)

⁴ O.M.C. Section 8.22.090(A)(2)

accordance with the Regulations and Board decision,⁵ the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which she filed her petition. Allowable claims of decreased housing services therefore begin on November 3, 2016.

Windows: It is found that the tenant notified the owner and prior owners regarding problems with the windows for more than one year. It is further found that the owner repaired the dining room window, and this claim is denied.

Based upon the report of Ms. Moroz, it is found that there are no significant problems with the windows in the living room and dining room, and claims regarding these windows are denied. With regard to kitchen window, Ms. Moroz was unable to test the window due to obstructions on the floor and counter that were created by the tenant. Therefore, claims regarding the kitchen window are also denied. However, one of the windows in the bedroom is obviously in a state of disrepair. Since the window cannot be closed, the 5-inch gap would allow for cold air and rain to enter during winter months.

This condition has reduced the package of housing services by an average of 3% per month since November 3, 2016. Because of the current decrease in housing services, the rent is reduced by 3%, being \$16.35 per month, to \$528.65 per month. This rent decrease will remain in effect until the defective bedroom window is repaired or replaced, as specified in the Order below.

Rent Overpayments: The Base Rent is \$545 per month. Because of ongoing decreased housing services, the current rent is \$528.65 per month. It is found that the tenant has paid rent of \$565.36 per month since February 2017. This is an overpayment. Further, the tenant has also overpaid rent because of the condition of the bedroom window. As set forth on the following Table, the tenant has overpaid rent in the total amount of \$342.73. The overpayment is ordered repaid over a period of 9 months.⁶ The rent is temporarily reduced by \$38.08 per month, to \$490.57 per month, beginning with the rent payment in October 2017 and ending with the rent payment in June 2018.

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Bedroom Window	3-Nov-16	20-Sep-17	\$545	3%	\$16.35	11	\$179.85
TOTAL LOST SERVICES							\$179.85

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Feb-17	30-Sep-17	\$565	\$545	\$20.36	8	\$162.88
TOTAL OVERPAID RENT						\$162.88

⁵Appeal Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

⁶Regulations, Section 8.22.110(F)


RESTITUTION

MONTHLY RENT	\$545
TOTAL TO BE REPAID TO TENANT	\$342.73
TOTAL AS PERCENT OF MONTHLY RENT	63%
AMORTIZED OVER 9 MO. BY REG. IS	\$38.08

ORDER

1. Petition T17-0070 is partly granted.
2. The Base Rent is \$545 per month.
3. Because of an ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$528.65 per month.
4. Because of past decreased housing services, the tenant has overpaid rent in the amount of \$342.73. This overpayment is adjusted by a rent reduction for 9 months.
5. The rent is temporarily reduced by \$38.08 per month, to \$490.57 per month, beginning with the rent payment in October 2017 and ending with the rent payment in June 2018.
6. In July 2018, the rent will increase to \$528.65 per month.
7. When the defective bedroom window is repaired or replaced, the owner may increase the rent by \$16.35 per month, after giving proper notice in accordance with Civil Code Section 827 and the Rent Adjustment Ordinance.
8. The owner may otherwise be eligible for a rent increase.
9. **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: April 20, 2018



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number: T17-0070

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

Today, I served the attached **Hearing Decision** by placing a true copy of it in a sealed envelope in 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:

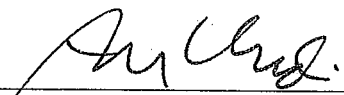
Mary Lee
848 Erie St., #2
Oakland, CA 94610

Kristen & Robert Dixon
The UPS Store
6114 La Salle Ave., #494
Oakland, CA 94611

Mynd Management, Inc.
P. O. Box 71006
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 20, 2018, in Oakland, California.



Stephen Kasdin
Oakland Rent Adjustment Program

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RENT ADJUSTMENT PROGRAM
OAKLAND

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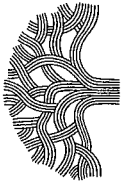


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CITY OF OAKLAND



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

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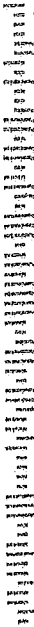
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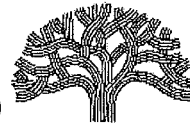
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CITY OF OAKLAND



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Development

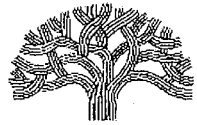
(510) 238-3721
FAX (510) 238-6181
TDD (510) 238-3254

INSPECTION

#2, Oakland, CA

ber 5, 2017, at 3:30 P.M., a Hearing
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Stephen Kasdin
Stephen Kasdin
Hearing Officer
Rent Adjustment Program



CITY OF OAKLAND

13, OAKLAND, CALIFORNIA 94612-2034

Development

(510) 238-3721

FAX (510) 238-3691

TDD (510) 238-3254

ORDER

Oakland, California

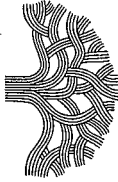
On September 25 at 10:00 A. M. The owner did not appear. A Hearing Decision was issued on September 25, 2017. On October 10, 2017, the owner filed an appeal. The owner did not receive Notice of Petition Filing or a Hearing Decision and states an incorrect address for the owner.

The Hearing Decision to allow the owner to file a Petition for a Hearing on the merits of the petition.

The Hearing on October 25, 2017, is set aside. The parties will be

STEPHEN KASDIN
Hearing Officer
Rent Adjustment Program

CITY OF OAKLAND



HOUSING AND COMMUNITY DEVELOPMENT

DEPARTMENT

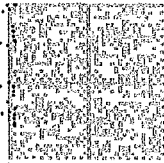
RENT ADJUSTMENT PROGRAM

P.O. BOX 70243

OAKLAND, CA 94612-0243

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CITY OF OAKLAND

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KRISTEN & ROBERT DIXON



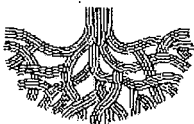
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CITY OF OAKLAND

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

/ Development

INSPECTION

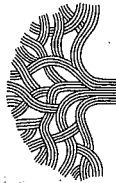
#2, Oakland, CA

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Stephen Kasdin
Hearing Officer
Rent Adjustment Program

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CITY OF OAKLAND



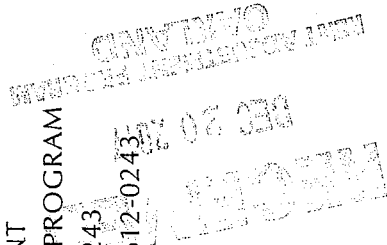
HOUSING AND COMMUNITY DEVELOPMENT

DEPARTMENT

RENT ADJUSTMENT PROGRAM

P.O. BOX 70243

OAKLAND, CA 94612-0243



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PRESORTED
FIRST CLASS



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KRISTEN & ROBERT DIXON

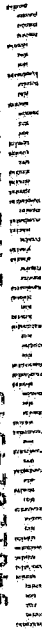


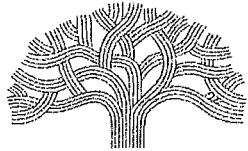
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REFUSED
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CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp:
RECEIVED
OCT 23 2017
**RENT ADJUSTMENT PROGRAM
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 T 17- 0070

Your Name Mynd Management, Inc. on behalf of Dixon Family Trust	Complete Address (with zip code) Po Box 71006 Oakland, CA 94612	Telephone: (510) 306-4440
		Email: residents@mynd.co
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) Mary Lee	Complete Address (with zip code) 848 Erie St #2 Oakland, CA 94610	
Property Address (If the property has more than one address, list all addresses) 848 Erie St. Oakland, CA 94610		Total number of units on property 4

Have you paid for your Oakland Business License? Yes No Lic. Number: 00194514
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: _____
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 8/11/16

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.

<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>
2/1/17	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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 1982

The tenant's initial rent including all services provided was: \$ 215 / month.

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

Yes No I don't know

If yes, on what date was the Notice first given? 2/1/17

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>	
12/23/16	2/1/17	\$ 545	\$ 565.36	<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

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.

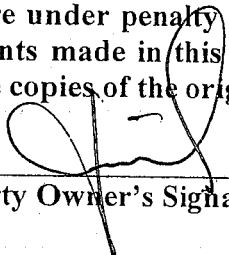
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

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

10/26/17

Date

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

T17-0070 KM/SK

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2017 FEB -3 PM 2:51
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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 Mary Lee	Rental Address (with zip code) 848 Erie St, Apt 2 Oakland, CA 94610	Telephone (415) 894-7262
Your Representative's Name NA	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Kristen & Robert Dixon	Mailing Address (with zip code) 848 Erie St, Oakland CA 94610 (on file with Assessor's Office) <i>The UPS Store</i> P.O. Box <i>(n) 6114 La Salle Avenue #494</i>	Telephone

Number of units on the property: 4 *Oakland, Ca 94611 incorrect address for owner.*

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

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

<input checked="" type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input 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 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: 1982 Initial Rent: \$ 215 /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: 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		
12/23/16	2/1/17	\$ 545	\$ 565.36	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Tenant is not challenging previous rent increases		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

List case number(s) of all Petition(s) you have ever filed for this rental unit: T14-0369

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.

Mary E Lee

Tenant's Signature

Feb. 3, 2017

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Addendum A – Decreased Services

- All windows are old and don't shut well. There is a broken window in the bedroom that won't open – this has been a problem for decades. The previous owner was on constructive notice in 1994, as he taped it up, however the wood is still warped and the frame is damaged which prevents the window from opening and closing properly.
- The window in the dining room doesn't lock and opened on its own during a storm in January 2017 and I couldn't shut it. I notified the management company the same month and they did a temporary fix to the dining room window but did not address the warped wood which is likely the root of the problem.

Addendum B – Explanation of Ground I(A) for Filing Petition

When I first moved into the property, my rent was \$215. See attached banking spreadsheet indicating that no banking is allowed.

My base rent in my previous Hearing Decision T14-0369 was set at \$654.¹ I had received unlawful rent increases over the years, and filed a petition on August 29, 2014 to challenge them. Because I had received RAP notice on April 3, 2014, the hearing officer determined that my challenge to several previous increases was untimely.

Banking is only permissible when “a landlord chooses to increase rents less than the annual CPI adjustment permitted by the Ordinance, [in which case] any remaining CPI Rent Adjustment may be carried over to succeeding twelve (12) month periods (‘Banked’).” See Appendix A § 10.5.1. Here, the owner had served invalid rent increases that far exceeded the CPI over the years. Therefore, the owner has not “banked” CPI increases and allowing the owner to reap the benefits of banking now would be in violation of the Ordinance and public policy.

The Appeals Board has held that the base rent to which an increase based on banking should be applied is the rent after the last valid increase.² The Decision in T14-0369 did not state that the previous increases I received were valid, it stated that the “rent increases from 1999-2008 are *dismissed* because they were not contested on a timely basis.”³

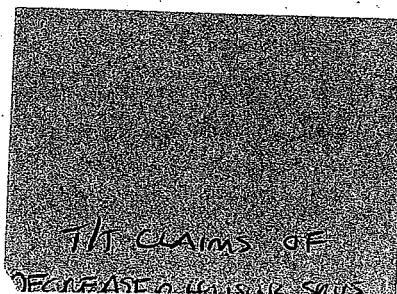
The T14-0369 Decision found that I received RAP Notice in 2014. As the Ordinance is clear that RAP notice must be served with each notice of rent increase,⁴ the hearing officer must find that previous rent increases I received, although dismissed, were not valid. Consequently, any entitlement to a banking increase must be calculated from my last valid rent, which was \$215.

¹ However for all practical purposes my rent has been \$545 because the owner has not rebuilt a deck that was there when my tenancy began.

² See, e.g., T04-0061 & -0065 *Pun v. Santino DeRose*.

³ T14-0369, page 4 (emphasis added).

⁴ See O.M.C. § 8.22.070(H).



CITY OF OAKLAND



**Department of Housing and Community Development
Rent Adjustment Program**

<http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment/>

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

CALCULATION OF DEFERRED CPI INCREASES (BANKING)

Initial move-in date	1-Jul-1982	MUST FILL IN D9, D10, D11 and D14	Case No.:	
Effective date of increase	1-Feb-2017		Unit:	
Current rent (before increase and without prior cap. improve pass-through)	\$545		CHANGE YELLOW CELLS ONLY	
Prior cap. imp. pass-through	\$ -			
Date calculation begins	1-Feb-2006			
Base rent when calc. begins	\$215			

If the planned increase includes other than banking put an X in the box →

ANNUAL INCREASES TABLE

Year Ending	Debt Serv. or Fair Return increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
2/1/2017						
2/1/2016				0.0%	\$ -	\$ 272.19
2/1/2015				1.7%	\$ 4.55	\$ 272.19
2/1/2014				1.9%	\$ 4.99	\$ 267.64
2/1/2013				2.1%	\$ 5.40	\$ 262.65
2/1/2012				3.0%	\$ 7.49	\$ 257.25
2/1/2011				2.0%	\$ 4.90	\$ 249.76
2/1/2010				2.7%	\$ 6.44	\$ 244.86
2/1/2009				0.7%	\$ 1.66	\$ 238.42
2/1/2008				3.2%	\$ 7.34	\$ 236.77
2/1/2007				3.3%	\$ 7.33	\$ 229.42
2/1/2006				3.3%	\$ 7.10	\$ 222.10
				-	-	\$215

Calculation of Limit on Increase

	NO BANKING
Prior base rent	0.0%
Banking limit this year (3 x current CPI and not more than 10%)	0.0%
Banking available this year	\$ -
Banking this year + base rent	\$ 272.19
Prior capital improvements recovery	\$ -
Rent ceiling w/o other new increases	\$ 272.19

Notes:

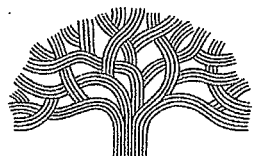
1. You cannot use banked rent increases after 10 years.
2. CPI increases are calculated on the base rent only, excluding capital improvement pass-throughs.
3. The banking limit is calculated on the last rent paid, excluding capital improvement pass-throughs.
4. Debt Service and Fair Return increases include all past annual CPI adjustments.
5. An Increased Housing Service Cost increase takes the place of the current year's CPI adjustment.
6. Past increases for unspecified reasons are presumed to be for banking.
7. Banked annual increases are compounded.
8. The current CPI is not included in "Banking", but it is added to this spreadsheet for your convenience.

CHRONOLOGICAL CASE REPORT

Case Nos.: L17-0061
Case Name: Feiner et al. v. Tenants
Property Address: 1153 63rd Street, Oakland, CA
Parties: Daniel Abud (Tenant)
Michael Feiner (Property Owner)
Jennifer Shy (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Owner Petition filed	March 27, 2017
Tenant Response filed	---
Hearing Decision issued	August 28, 2017
Owner Appeal filed	September 27, 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.

2017 SEP 27 PM 4:07

APPEAL

Appellant's Name Michael Feiner & Jennifer Shy		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1153 63rd Street, Apartment A, Oakland, CA 94608			
Appellant's Mailing Address (For receipt of notices) POBox 86 Berkeley, CA 94701		Case Number L17-0061	Date of Decision appealed September 27, 2017
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

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

- a) The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. *(In your explanation, you must identify the Ordinance section, regulation or prior Board decision(s) and describe how the description is inconsistent.)*
- b) The decision is inconsistent with decisions issued by other Hearing Officers. *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
- c) The decision raises a new policy issue that has not been decided by the Board. *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
- d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
- e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 2

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

I declare under penalty of perjury under the laws of the State of California that on September 27, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Daniel Abud
Address	1153 63rd Street, Unit A
City, State Zip	Oakland, CA 94608
Name	
Address	
City, State Zip	

<i>Michael Z...</i> <i>[Signature]</i>	9/27/2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

September 27, 2017

City of Oakland
Rent Adjustment Program
250 Frank Ogawa Plaza, Suite 5313
Oakland, CA 94612

Case Number: L17-0061
Property Address: 1153 63rd Street, Unit A, Oakland, CA 94608
Date of Hearing: August 8, 2017
Date of Decision: August 28, 2017
Date of Service: September 8, 2017
Deadline Date for Appeal: September 28, 2017

Explanation of grounds for Appeal:

Prior to submitting the original Landlord Petition for Certificate of Exemption we consulted with City of Oakland staff as to what documentation to submit in support of our Petition. The Exemption we filed was for both New Construction of two units and Substantial Rehabilitation of the remaining building. We were granted exemption for newly constructed Units B and C but were denied exemption for Unit A. We were given and relied on ambiguous and contradictory information, so did not understand the process and what was required, and consequently were denied a sufficient and informed opportunity to present the full existing documentation to support our Petition. Today we spoke with Keith Mason who provided clear information. We ask for the opportunity to present this existing documentation in support of our Petition via this Appeal.

The Scope of Work for this project was extensive. The existing single story building was raised to create a new two story building. Both the newly created units and the substantial rehabilitation were in the same building and was achieved through expansion of the existing building. Prior to construction this was a Single-Family house which is exempt under the Costa-Hawkins Rental Housing Act. However, post construction, this Single-Family house was then one of three apartment units. We were told that this might be considered three newly created units – not two newly created units plus substantial rehabilitation of a Single-Family house because the floor plan of the existing house changed significantly. For instance, the existing house was 2 bedrooms plus 1 bathroom, a minimal kitchen and no laundry (washer and dryer). The new unit is 3 bedrooms plus 1 bathroom, a full kitchen and laundry.

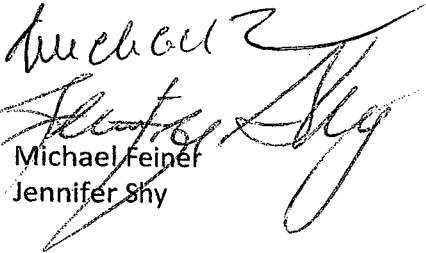
Because the Scope of Work was so extensive, the construction receipts, bank statements, plans and other documentation fill multiple large binders. We asked City of Oakland staff if we were to photocopy every document within these multiple large binders.

In response we were referred to the paragraph entitled "Substantial Rehabilitation" on the Landlord Petition for Certificate of Exemption. Although this paragraph states "This applies only to entire buildings" we were told that our

Scope of Work fell within this definition. This paragraph goes on to state "An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using the tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed". We were told that in lieu of submitting binders of receipts, bank statements, etc., these Construction Valuation tables would take precedence. We submitted the Construction Valuation tables for the period when the substantial rehabilitation took place, together with an explanation of the Alameda County Assessor's valuation prior to construction, square footage calculations (using the Construction Valuation tables) and the property's City-issued Building Permit with Final Building Inspection approval. For the first time, at our Hearing, we were told that this was not sufficient documentation to support our Petition.

Because we didn't understand the process or the extent of documentation required and were given and relied on ambiguous and contradictory information we were denied a sufficient opportunity to present the full underlying documentation to support our Petition. We respectfully ask for the opportunity to present this existing documentation in support of our Petition via this Appeal.

Thank you,



Michael Feiner
Jennifer Shy



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: L17-0061, Feiner, et al. v. Tenants

PROPERTY ADDRESS: 1153 - 63rd St., Oakland, CA

DATE OF HEARING: August 8, 2017

DATE OF DECISION: August 28, 2017

APPEARANCES: Michael Feiner (Owner)
(No Appearance by any Tenant)

SUMMARY OF DECISION

The owners' petition is partly granted.

CONTENTIONS OF THE PARTIES

The owners filed a petition which seeks a Certificate of Exemption for the subject building on the ground that it has been "newly constructed" and also on the ground of "substantial rehabilitation." No tenant filed a response to the owners' petition.

THE ISSUES

- (1) Is the subject building "newly constructed," and are the rental units in the building exempt from the Rent Adjustment Ordinance on that basis?
- (2) Has the subject building been 'substantially rehabilitated?'

EVIDENCE

New Construction: At the Hearing, owner Michael Feiner testified that, prior to construction, there was an existing single-family house. This is known as Unit "A." The owner testified that

000063

he “gutted” the existing single family house, and increased it in size. He also raised the house, and constructed 2 new units beneath it. These new units are known as Units “B” and “C.” The owner submitted a Building Permit for the house, which was issued on February 23, 2012.¹ The permit describes the work as “Raise Dwelling and Add Two Units Beneath.” The permit was “finalized” on June 27, 2013.

Substantial Rehabilitation: The owners attached to their petition a statement that certain work was done on the subject building and that the building contains a certain number of square feet. The owners submitted no documentation in support of this claim.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

New Construction: The Oakland Rent Adjustment Ordinance² states that dwelling units are not “covered units” under the Ordinance if such units “were newly constructed and received a certificate of occupancy on or after January 1, 1983.” The Board has repeatedly held that a “finalized” building permit is the practical equivalent of a Certificate of Occupancy.³ The dwelling units must be entirely newly constructed or created from space that was formerly entirely non-residential.

The 2 units new units in the subject building meet this requirement. The former single family house – whether it has been enlarged or not – was neither entirely newly constructed nor was it created from space that was formerly entirely non-residential. Therefore, it is found that only the two new units in the subject building – Units “B” and “C” – are exempt from the Rent Adjustment Ordinance on the ground that the units have been “newly constructed.”

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

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.⁴

An owner has the burden of proving that a building has been substantially rehabilitated by presenting convincing evidence of construction costs (i.e., invoices and proof of payment) as

¹ Exhibit No. 1, which was admitted into evidence

² O.M.C. Section 8.22.030(A)(5)

³ Peacock, et al. v. Vulcan, T05-0110 & Williams v. Taplin, T12-0112

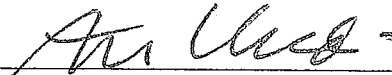
⁴ O.M.C. Section 8.22.030(B)(2)

well as competent evidence of the square footage of the building.⁵ The owners submitted no such documentation. Therefore, this part of the owners' petition is denied.

ORDER

1. Petition L17-0061 is partly granted.
2. The subject building is not exempt from the Rent Adjustment Ordinance on the ground of substantial rehabilitation.
3. Unit "A" is not exempt from the Rent Adjustment Ordinance.
4. The lower Units, "B" and "C," are exempt from the Rent Adjustment Ordinance on the ground of new construction.
5. A Certificate of Exemption for the subject units will be issued upon this Decision becoming final.
6. **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 28, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

⁵ Appeal Decisions in Ullman v. Breen, T04-0158 & Rose v. Polanski, T05-0233

PROOF OF SERVICE

Case Number L17-0061

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

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

Tenants

Resident
1153 63rd St #C
Oakland, CA 94609

Resident
1153 63rd St #B
Oakland, CA 94609

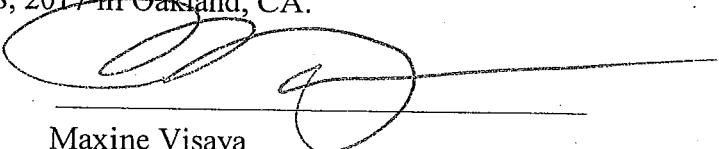
Resident
1153 63rd St #A
Oakland, CA 94609

Owner

Michael Feiner & Jennifer Shy
P.O. Box 86
Berkeley, CA 94701

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

000071

W7-0061 Ka JK

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

For date stamp.

RECEIVED
 CITY OF OAKLAND
 RENT ADJUSTMENT PROGRAM

2017 MAR 27 AM 10:07

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

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

Section 1. Basic Information

Your Name MICHAEL FEINER JENNIFER SMY		Complete Address (with zip code) PO BOX 86 BERK CA 94701	Telephone Day: 510 525 6261
Your Representative's Name		Complete Address (with zip code)	Telephone Day:
Property Address 1153 63 rd Street, Units A, B, C			Total number of units in bldg or parcel. 3
Type of units (circle one)	Single Family Residence (SFR)	Condominium	Apartment or Room
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No

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

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

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

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

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT AND
CONTROL DIVISION
MAY 27 10:07

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

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

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

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

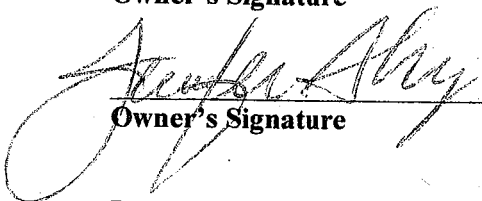
Section 4. Verification Each petitioner must sign this section.

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



Owner's Signature

3/20/2017
Date



Owner's Signature

3/20/2017
Date

Important Information

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

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

Michael Feiner
Jennifer Shy
P.O. Box 86
Berkeley, CA 94701
510-525-6261

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAR 27 AM 10:07

March 27, 2017

City of Oakland
Rent Adjustment Program
250 Frank H. Ogawa Plaza, Suite ~~5313~~ 6301
Oakland, CA 64612

Re: Landlord Petition for Certificate of Exemption
1153 63rd Street
Oakland, CA 94608

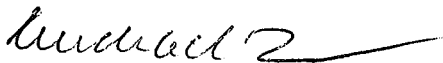
To Whom It May Concern:

Attached is our Landlord Petition for Certificate of Exemption. We are filing this Exemption per the following provisions of the Rent Adjustment Law and Just Cause for Evictions Law:

- **Newly Constructed Dwelling Units.** We lifted this single family home to create a new ground floor with two new apartment dwelling units with 655 square feet each (1,310 square feet total). This work was done under Building Permit #RB1200420 (with RE1200575, RP1200440, RM1200333) issued 2-23-2012 and final approval 6-20-2013. The Assessed Value (per County Assessor) in this time period was \$170,000. Per the attached City of Oakland Building Services Construction Valuation for Building Permits/Cost Index Tables the cost of new construction was \$189,243 (1,310 square feet x \$144.46 per square foot).
- **Buildings That Were Substantially Rehabilitated.** Under the same Building Permit we substantially rehabilitated the existing house. This included: Gutting the interior of the house to install all new electrical, plumbing, heating and finishes; Restoring interior and exterior trim and finish details consistent with those original to this house built in 1896 for both the original house and the two new apartment dwelling units. The existing house is 1,310 square feet total. Per the attached Cost Index Tables the cost of remodel construction was \$98,407 (1,310 square feet x \$75.12 per square foot).

Please do not hesitate to let us know if any further information is required.

Yours,


Michael Feiner

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