

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

**JULY 19, 2018
7:00 P.M.
CITY HALL, HEARING ROOM #2
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. T16-0570; Lang v. Wong
 - b. L16-0075; Stewart v. Tenant
5. SCHEDULING AND REPORTS
6. ADJOURNMENT

FILED
CLERK OF THE CITY CLERK
OAKLAND
2018 JUL 11 PM 3:15

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

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

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

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

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

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

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

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

CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0570

Case Name: Lang v. Wong

Property Address: 2405 14th Avenue, Oakland, CA

Parties: Ha Tat (Tenant)
Huy Tat (Tenant)
Bang Lang (Tenant)
Jing Wong (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	October 12, 2016
Owner Response filed	---
Hearing Decision issued	February 7, 2017
Owner Appeal filed	February 21, 2017

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T16-0570 RA/BKB

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM</p> <p>For date stamp 2016 OCT 12 PM 2:24</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Bang Lang	Rental Address (with zip code) 2405 14th Avenue Oakland, CA 94606	Telephone (510) 712-0797
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Wong, Sei Poi	Mailing Address (with zip code) 21074 Sherman Dr Castro Valley, CA 94552	Telephone (510) 586-0738

Number of units on the property: 4

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"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/>	(f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(g) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(h) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the enhanced notice was not filed with the RAP.
<input type="checkbox"/>	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/>	(j) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input type="checkbox"/>	(k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

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

Date you moved into the Unit: 12/01/04 Initial Rent: \$ 750 /month

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

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

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

ral notice →

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		
10/02/16	11/1/16	\$ 865	\$ 945	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/1/2014	10/1/2014	\$ 750	\$ 825	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/1/2015	10/1/2015	\$ 825	\$ 865	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

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IV. VERIFICATION: The tenant must sign:

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

Benny LCM J
Tenant's Signature

10/05/16
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.

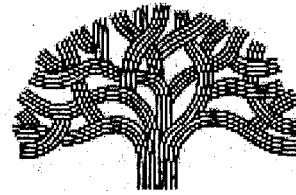
VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- _____ 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): _____

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CITY of OAKLAND

250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-2034
Department of Housing and Community Development
Rent Adjustment Program



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

NOTICE OF HEARING

File Name: Lang v. Wong
Property Address: 2405 14th Avenue Oakland, CA 94606
Case Number: T16-0570

The Hearing in your case will begin:

Date: Monday, February 06, 2017
Time: 10:00 a.m.
Place: 250 Frank H. Ogawa Plaza , Ste. #5313 , Oakland, CA 94612

The Hearing is public and will continue from day to day until completed.

Order to Produce Evidence

All proposed tangible evidence, including but not limited to documents and pictures, must be submitted to the Rent Adjustment Program not less than seven (7) days prior to the Hearing. Black out all sensitive information on the documents you submit, like bank or credit card account numbers and Social Security numbers. Proposed evidence presented later may be excluded from consideration. The Hearing Officer can also use the official records of the City of Oakland and Alameda County Tax Assessor as evidence if provided by the parties for consideration.

Request to Change Date

A request for a change in the date or time of Hearing ("continuance") must be made on a form provided by the Rent Adjustment Program. The party requesting the continuance must try to get an agreement for alternate dates with the opposing parties. If an agreement cannot be reached, check the appropriate box on the Request. A change will be granted only for good cause. A second request for a change of date will be granted only for exceptional circumstances.

Hearing Record

The Rent Adjustment Program makes an audio recording of the Hearing. Either party may bring a court reporter to record the proceedings at their own expense.

Inspections

During the Hearing, the Hearing Officer may decide to conduct an inspection of the subject unit(s). The inspection may be conducted on the same day as the Hearing or scheduled for a later date selected by the Hearing Officer and mutually agreed upon by the parties present at the Hearing. The inspection will be recorded but no testimony will be taken.

Representatives

Any party to a Hearing may designate a representative in writing or on the record at the Hearing.

Interpreter

The Hearing must be conducted in English. Any party may bring a person to the Hearing to interpret for them. The interpreter will be required to take an oath that they are fluent in both English and the relevant foreign language and they will fully and to the best of their ability translate the proceedings. The Rent Adjustment Program will provide interpreters on request providing the request is made at least 7 days in advance of the scheduled Hearing.

Failure to Appear for Hearing

If the petitioner fails to appear at the Hearing as scheduled, the Hearing Officer may either conduct the Hearing and render a decision without the petitioner's participation, or dismiss the petition. If the respondent fails to appear at the Hearing as scheduled, the Hearing Officer may either issue an administrative decision without a Hearing, or conduct the Hearing and render a decision without the respondent's participation.

Accommodations

Hearings are held in a wheelchair accessible facility. Contact the Office of the City Clerk, One Frank H. Ogawa Plaza, or call (510) 238-3611 (VOICE) or (510) 839-6451 (TTY) to arrange the following services: 1) Sign interpreter or Phonic Ear Hearing Device for the hearing impaired; 2) large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to the hearing. Please refrain from wearing strongly scented products to hearings.

Service Animals

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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.

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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.

PROOF OF SERVICE

Case Number T16-0570

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.

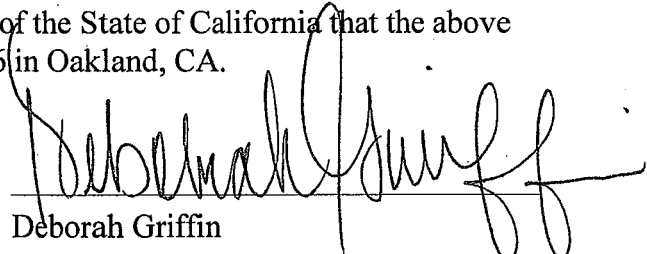
Today, I served the attached Notice of Hearing by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Tenant

Bang Lang
2405 14th Ave
Oakland, CA 94606

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 25, 2016 in Oakland, CA.



Deborah Griffin
Oakland Rent Adjustment Program

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PROOF OF SERVICE

Case Number T16-0570

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.

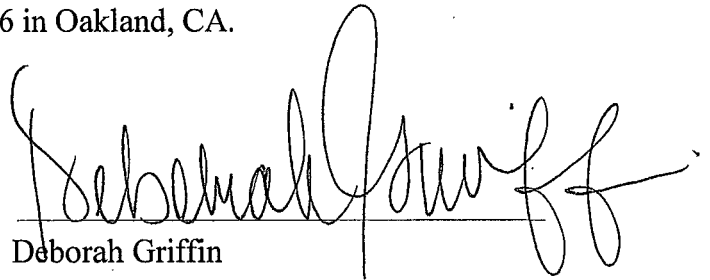
Today, I served the attached Notice of Hearing by placing a true copy of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Owner

Sei Poi Wong
21074 Sherman Dr
Castro Valley, CA 94552

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 25, 2016 in Oakland, CA.



Deborah Griffin

Oakland Rent Adjustment Program

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CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0570, Lang v. Wong

PROPERTY ADDRESS: 2405 14th Avenue
Oakland, CA

DATE OF HEARING: February 6, 2017

DATE OF DECISION: February 7, 2017

APPEARANCES: Bang Lang Tenant
Ha Tat Tenant
Huy Tat Tenant
Ming Choy Cantonese Interpreter
No appearance by owner

SUMMARY OF DECISION

The tenant petition is GRANTED.

INTRODUCTION

The tenant filed a petition on October 12, 2016, which contests three monthly rent increases stated below as follows:

1. From \$750.00 to \$825.00 effective October 1, 2014;
2. From \$825.00 to \$865.00 effective October 1, 2015.
3. From \$865.00 to \$945.00 effective November 1, 2016.

The basis for the tenant's petition includes the following:

- The rent increases are unjustified or are greater than 10%;
- No notice of the existence of the Rent Adjustment Program (RAP) has been provided with notice of the rent increases.

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The owner did not file a response to the tenant petition and did not appear at the Hearing. The Notice of Hearing was sent to the owner on October 26, 2016, to 21074 Sherman Drive, Castro Valley, CA, with a proof of service and has not been returned to the Rent Adjustment Program. The Hearing was properly noticed and proceeded without the owner's attendance.

ISSUES

1. Has the tenant received Notice of the Rent Adjustment Program?

EVIDENCE

Rent History/Notice of the Rent Adjustment Program

The tenant testified that she moved into her unit in December 2004 at a monthly rent of \$750.00. She began paying \$825.00 monthly from October 1, 2014, to September 30, 2015, and \$865.00 monthly from October 2015 to the present. She further testified that she has never received the form notice of the existence of the Rent Adjustment Program (RAP).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice and Rent Increases

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy¹ and together with any notice of rent increase.²

The tenant's testimony that she did not first receive the RAP notice until November 1, 2016, was undisputed. The owner has not met his burden of proof regarding notice of the RAP to the tenant. The tenant has not received the notice of the Rent Adjustment Program. Section 8.22.060 (C) of the Rent Ordinance states the following:

"An owner who fails to give notice of the existence and scope of the Rent Adjustment Program at the commencement of a tenancy, but otherwise qualifies to petition or respond to a petition filed with the Rent Adjustment Program, will forfeit six months of the rent increase sought unless the owner cured the failure to give the notice. An owner may cure the failure to give the notice at the commencement of a tenancy required by this section and not be subject to the forfeiture of a rent increase if the owner gives the notice at least six months prior to serving the rent increase notice on the tenant or, in the case of an owner petition, at least six months prior to filing the petition.

¹ O.M.C. Section 8.22.060(A)

² O.M.C. Section 8.22.070(H)(1)(A)

The following rent increases are invalid:

- October 2014 from \$750.00 to \$825.00;
- October 2015 from \$825.00 to \$865.00;
- November 1, 2016 from \$865.00 to \$945.00.

The tenant is entitled to restitution for overpayment of rent. Since the owner has not provided the tenant with the City of Oakland's form notice of the existence of the Rent Adjustment Program, the tenant is allowed restitution for all rent increases and restitution is for three years prior to the date of the hearing.³

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
10/1/14	9/30/15	\$825.00	\$750.00	\$75.00	12	\$900.00
	1/31/17				16	\$1,615.00
10/1/15		\$865.00	\$750.00	\$115.00		
TOTAL OVERPAID RENT						\$ 2,515.00

RESTITUTION

MONTHLY RENT	\$750.00
TOTAL TO BE REPAID TO TENANT	\$2,515.00
TOTAL AS PERCENT OF MONTHLY RENT	335%
AMORTIZED OVER 12 MO. BY REG. IS	\$209.58

ORDER

1. Petition T16-0570 is granted.. The rent increases effective October 1, 2014, and October 1, 2015, and from \$865.00 to \$945.00 effective November 1, 2016, are invalid. The tenant's base rent is \$750.00 monthly.
2. The tenant has overpaid rent totaling \$2,515.00.
3. The rent over payment is amortized as follows:

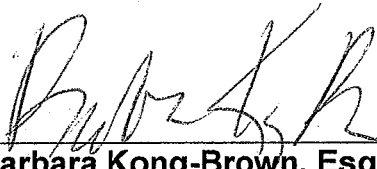
Base Rent	\$750.00
-rent overpayments(\$2,515.00/12=\$209.58)	- 209.58

³ T6-0051, Barajas/Avalos v. Chu

Rent payment commencing March 1, 2017, and ending February 1, 2018	\$540.42
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4. The owner may increase the tenants' rent six months after service of the Notice of the existence of the Rent Adjustment Program and Section 827 of the California Civil Code. The City of Oakland's Form Notice of the Rent Adjustment Program must be served concurrently with a Notice of Change in Tenancy.
5. **Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Date: February 7, 2017



Barbara Kong-Brown, Esq.
Senior Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0570

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

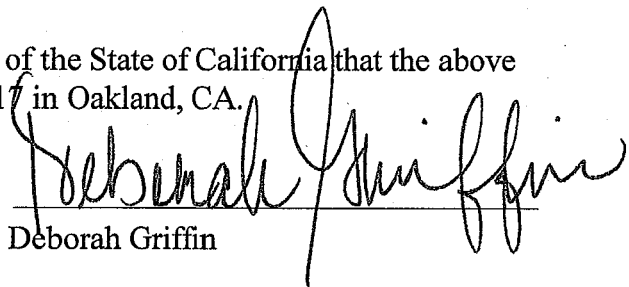
Bang Lang
2405 14th Ave
Oakland, CA 94606

Owner

Sei Poi Wong
21074 Sherman Dr
Castro Valley, CA 94552

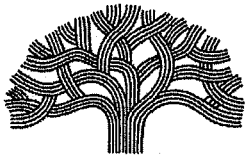
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first 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 February 10, 2017 in Oakland, CA.


Deborah Griffin

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RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp
2017 FEB 21 PM 2:14

APPEAL

Appellant's Name Jing Wong		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 2405 14th Avenue Oakland, CA 94606			
Appellant's Mailing Address (For receipt of notices) 21074 Sherman Drive Castro Valley, CA 94552		Case Number T16-0570	Date of Decision appealed 02-21-2017
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.

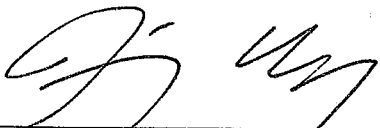
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue 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: 1.

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 February 21, 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	Ha Tat
Address	2405 14th Avenue
City, State Zip	Oakland, CA 94606
Name	
Address	
City, State Zip	

	02-21-17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

Case Number: T16-0570

2) Appealing the decision based on item f: I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.

I did not receive notification of the hearing date.

000018

CHRONOLOGICAL CASE REPORT

Case Nos.: L16-0075
Case Name: Stewart v. Tenant
Property Address: 3025 Chapman Street (Upper), Oakland, CA
Parties: Jonathan Dunn (Tenant)
Michael Stewart (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Owner Petition filed	October 12, 2016
Tenant Response filed	---
Notice of Dismissal issued	February 2, 2017
Owner Appeal filed	February 21, 2017
Tenant Response to Appeal	March 14, 2017

L16-0075 KM/BC

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CITY OF OAKLAND

RECEIVED
CITY OF OAKLAND

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

For date stamp

2016 OCT 12 PM 1:51

**OWNER PETITION FOR
APPROVAL OF RENT INCREASE**

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your case. Before completing this petition, please read the Rent Adjustment Ordinance, sections 8.22.050 through 8.22.140 and Rent Adjustment Regulations, Appendix A.

Your Name MICHAEL STEWART	Complete Address (with zip code) 3035 CHAPMAN ST. SUITE 6 OAKLAND, CA. 94601	Telephone Day: 510 910 2448
Your Representative's Name —	Complete Address (with zip code) —	Telephone Day: —
Property Address (If the property has more than one address, list all addresses) 3025 CHAPMAN ST. (UPPER), OAKLAND, CA. 94601		Total number of units on property 2

For each unit affected by this petition, you must attach a list of the mailing addresses of all of the units on the property showing the tenants in each unit on this property. Increases based on debt service, increased housing service costs and constitutional fair return affect all of the units on the property.

Type of units (circle one)	<input checked="" type="radio"/> House DUPLEX	<input type="radio"/> Condominium	<input type="radio"/> Apartment or Room
I have given a copy of the NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM to the tenants in each unit effected by this petition:		YES	NO
Oakland Business License number: (Attach proof of payment of your business tax.) ✓		2795396	
Attach proof of payment of your Rental Property service fee (Account must be current.) ✓			

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2016 OCT 14 2:19

REASON(S) FOR PETITION: Check all that apply. I (We) petition for approval of one or more rent increases on the grounds that the increase(es) is/are justified by:

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

(Note that Debt Service has been eliminated as a reason for a rent increase for property purchased after April 1, 2014.)

History: Attach a rent history for the current tenant(s) in each affected unit.

Banking: You must complete this section if you are claiming banking as a justification.

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

An Excel spreadsheet for calculating available banking increases is available online at

<http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/index.htm> For each unit you may either complete and attach the spreadsheet or attach a separate page the date the current tenant moved into the unit, the initial rent, and if the tenant has lived in the unit for more than 10 years, the rent in effect 10 years ago.

Capital Improvements and Uninsured Repairs: You must attach an itemized schedule of claimed capital improvements, showing the affected units, the cost and completion date for each item. You can only pass-through 70% of the capital improvement costs you have incurred. **You must submit organized documentation supporting your claims, including proof of expenditures and proof of payment.** An Excel spreadsheet for calculating entitlement to a capital improvement pass-through is available online at <http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/index.htm>. You may print out and attach a copy of the spreadsheet, or complete a capital improvements schedule manually. Uninsured repair costs use the same calculations as capital improvements but are not limited to 70%.

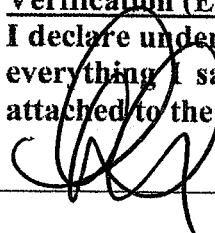
Debt Service: Debt service has been eliminated as a justification for a rent increase for all property purchased after April 1, 2014, unless a bona fide offer to purchase the property was made before April 1, 2014. To claim debt service you must submit organized documentation proving your commercially reasonable financing costs. This documentation must include at a minimum, a copy of the promissory note, a copy of the deed of trust, proof of the monthly mortgage payment and proof of your operating expenses. You may print out and attach a copy of the spreadsheet for calculation debt service costs found at:

<http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/DOWD008774>

Increased Housing Service Costs: You must present organized documentation of your housing service costs for two successive year periods. They may be calendar or fiscal years. You may print out and attach a copy of the spreadsheet for calculating increased housing service costs found at: <http://www2.oaklandnet.com/Government/o/hcd/s/LandlordResources/DOWD008774>

Verification (Each petitioner must sign this section):

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



Owner's Signature

10. 11. 16

Date

Owner's Signature

Date

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 OF DISMISSAL

CASE NUMBER: L16-0075, Stewart v. Tenant
PROPERTY ADDRESS: 3025 Chapman Street (Upper), Oakland, CA
PARTIES: Michael Stewart, Owner
Jon Dann, Tenant
DATE OF HEARING: February 2, 2017
APPEARANCES: No appearance by owner or tenants

SUMMARY OF DECISION

The owner's petition is dismissed.

INTRODUCTION

The owner filed a petition on October 12, 2016, seeking approval for a rent increase. On October 25, 2016, a *Notice of Hearing* was sent to the owner and the named resident of the subject unit with a proof of service at the addresses of record. The Hearing was set for February 2, 2017, at 10:00 a.m.

On the day of the Hearing no one appeared at the Hearing. There was no returned mail in the Rent Adjustment Program file.

The Rent Adjustment Regulations provide that where a petitioner fails to appear at a properly noticed hearing, the Hearing Officer may dismiss the case¹. The case is dismissed.

///

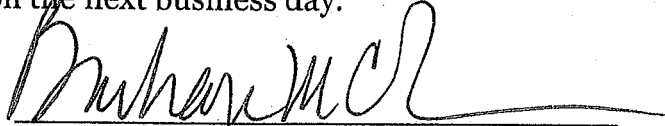
¹ Rent Adjustment Regulations § 8.22.110 (B)(1)

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ORDER

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

Dated: February 2, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number L16-0075

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 Notice of Dismissal 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

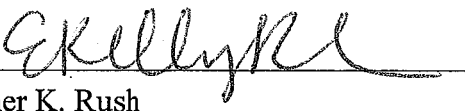
Jon Dann
3025 Chapman St Upper Unit
Oakland, CA 94601

Owner

Michael Stewart
3035 Chapman St Suite 6
Oakland, CA 94601

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

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



Esther K. Rush

000024

2017 FEB 21 AM 11:41

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

APPEAL

Appellant's Name
MICHAEL STEWART

Landlord Tenant

Property Address (Include Unit Number)
**3025 CHAPMAN ST. (UPPER)
OAKLAND, CA. 94601**

Appellant's Mailing Address (For receipt of notices)
**3025 CHAPMAN ST. #6
OAKLAND, CA. 94601**

Case Number
116-075
Date of Decision appealed
2-21-17

Name of Representative (if any)
—

Representative's Mailing Address (For notices)
—

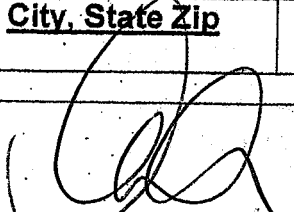
Appeal the decision issued in the case and on the date written above on the following grounds:
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

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

7. Other: You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on 2.21, 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	JONATHAN DANN
Address	3025 CHAPMAN ST. (UPPER)
City, State Zip	OAKLAND CA. 94601
Name	
Address	
City, State Zip	

	2.21.17
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

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

Michael Stewart

3035 Chapman Street
Suite 6
Oakland, CA 94601

T 510.910.2448
F 510.536.9866

F29.michael@gmail.com

February 18, 2017

RRAP
250 Front Ogawa Plaza, Suite 5313
Oakland CA 94612

Dear RRAP,

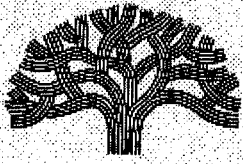
I will be gone the entire month of March 2017... so please do not schedule a hearing for that time.

I was under the mistaken notion that I shouldn't come to the the hearing because it was not contested... so I am asking that you reinstate my petition (L16-075) to increase the rent I charge my tenant. His rent has not been increased since August of 2011 in spite of increases I have fielded to my operating costs.

Sincerely yours,

Michael Stewart

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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

For date stamp only.
RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAR 14 PM 2:49

0075

CASE NUMBER L16-075

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

TENANT RESPONSE

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

Your Name <i>Jonathan Dunn</i>	Complete Address (with zip code) <i>3025 Chayman St Upper Unit Oakland, CA 94601</i>	Telephone Day: <i>510-409-2378</i> Evening: <i>SAME</i>
Your Representative's Name	Complete Address (with zip code)	Telephone Day: _____ Evening: _____

Are you current on your rent?

Yes No

Number of Units in this Building: 2

Rental History:

Date you entered into the Rental Agreement for this unit: approx May 2001

Date you moved into this unit: approx May 2001

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

Initial Rent: \$ 1100.00 Initial rent included (please check all that apply) () Gas
() Electricity () Water (x) Garbage () Parking () Storage () Cable TV () Other (please specify)

Did you receive the City of Oakland's NOTICE TO TENANTS at any time during your tenancy in this unit?

Yes No unknown

Please list the date you first received the Notice to Tenants _____

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

Date Notice Given (mo./day/year)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice for rent increase?
		From	To	
Don't remember		\$ 1100.00	\$ 1250.00	<input type="checkbox"/> Yes <input type="checkbox"/> No <i>Don't know</i>
		\$	\$	<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

Contested Justification(s) for Rent Increase:

Please attach a brief statement explaining why the landlord is not entitled to the proposed increase. The legal justifications are Banking, Capital Improvements, Increased Housing Service Costs, Debt Service, Uninsured Repair Costs, and Necessary to Meet Constitutional Fair Return requirements.

Banking	<input checked="" type="checkbox"/>	Debt Service	<input type="checkbox"/>
Capital Improvements	<input checked="" type="checkbox"/>	Uninsured Repair Costs	<input type="checkbox"/>
Increased Housing Service Costs	<input type="checkbox"/>	Constitutional Fair Return	<input type="checkbox"/>

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22¹ and the Rent Board Regulations² on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

The property owner has the burden of proving the contested rent increase is justified. If the landlord is claiming the unit is exempt from the Rent Adjustment Ordinance, do you contest the claim of exemption?

Yes No

Verification

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

[Signature]
Tenant's Signature

3/14/17
Date

Tenant's Signature

Date

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

² <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

Important Information: This form must be received at the following address within the time limits prescribed by Oakland Municipal Code, Chapter 8.22. City of Oakland, Housing Residential Rent & Relocation Board, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. For more information, please call: 510-238-3721. **You cannot get an extension of time to file your Response by telephone.**

File Review

You should have received with this letter a copy of the landlord petition. Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment. For an appointment to review a file call (510) 238-3721.

MEDIATION PROGRAM

If you are interested in submitting your dispute to mediation, please read the following information carefully. Voluntary mediation of rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both parties agree and after your response has been filed with the Rent Adjustment Program.

You may elect to use a Rent Adjustment Program staff Hearing Officer acting as mediator or an outside mediator. Staff Hearing Officers are available to conduct mediation free of charge. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services. If you are unable to resolve your dispute after a good faith attempt at mediation, you will be given a priority hearing presided over by a Hearing Officer who was not your mediator.

If you want to submit your case to mediation, please check the appropriate box and sign.

- I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).
- I agree to have my case mediated by an Outside Mediator (fees to be paid by the parties).

Tenant's Signature (for mediation request)

Date

Tenant's Signature (for mediation request)

Date

Case Number: L16-075

Tenant Response Statement

March 13, 2017

I, Jonathan Dann, have not received a 30-day notice of a rent increase from Michael Stewart.

Michael Stewart has made no capital improvements on the rental unit I live in. He has replaced the water heater and added smoke and CO detectors in my unit within the past two years. These are the only non-repair type changes he has made to the unit.

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