

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING
September 22, 2022
5:00 P.M.
Meeting Will Be Conducted Via Zoom**

AGENDA

PUBLIC PARTICIPATION

The public may observe and/or participate in this meeting in many ways.

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10

- To observe the meeting by video conference, please click on the link below:

When: Sep 22, 2022 5:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING- September 22, 2022

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86002540285>

Or One tap mobile :

US: +16699009128,,86002540285# or +16694449171,,86002540285#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 669 444 9171 or +1 719 359 4580 or +1 253 215 8782 or +1 346 248 7799 or +1 386 347 5053 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 301 715 8592 or +1 309 205 3325 or +1 312 626 6799

Webinar ID: 860 0254 0285

International numbers available: <https://us02web.zoom.us/j/86002540285>

COMMENT:

There are two ways to submit public comments.

- To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Instructions on how to “Raise Your Hand” are available [here](#).

- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing “*9” to speak when Public Comment is taken. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing “*6”.

If you have any questions, please email hearingsunit@oaklandca.gov.

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT
 - a. Comments on all agenda items will be taken at this time. Comments for items not on the agenda will be taken during open forum.
4. CONSENT ITEMS
 - a. Approval of Board Minutes, 9/8/2022 (pp. 4-11)
5. APPEALS*
 - a. T18-0311, Cervantes v. Fong (pp. 17-161)
6. SCHEDULING AND REPORTS
 - a. Doodle Poll for Board Member's Availability: October-December 2022
7. INFORMATION AND ANNOUNCEMENTS
8. RESOLUTION RECOMMENDING AMENDMENT OF TENANT AND OWNER FILING REQUIREMENTS (TWO ALTERNATIVE RESOLUTIONS) (pp. 12-16)
9. OPEN FORUM
10. ADJOURNMENT

Note: Appeal parties do not need to comment on their case during public comment or open forum.

**Staff appeal summaries will be available on the Rent Adjustment Program's website and the City Clerk's office at least 48 hours prior to the meeting pursuant to O.M.C. 2.20.070.B and 2.20.090*

As a reminder, alternates in attendance (other than those replacing an absent board member) will not be able to take any action, such as with regard to the consent calendar.

Accessibility:

Contact us to request disability-related accommodations, American Sign Language (ASL), Spanish, Cantonese, Mandarin, or another language interpreter at least five (5) business days before the event. Rent Adjustment Program (RAP) staff can be contacted via email at RAP@oaklandca.gov or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations.

Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en Español, Cantonés, Mandarín o de lenguaje de señas (ASL) por

favor envíe un correo electrónico a RAP@oaklandca.gov o llame al (510) 238-3721 o 711 por lo menos cinco días hábiles antes de la reunión.

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 RAP@oaklandca.gov 或致電 (510) 238-3721 或711 California relay service.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING**

September 8, 2022

5:00 P.M.

VIA ZOOM CONFERENCE

OAKLAND, CA

MINUTES

1. CALL TO ORDER

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Ingram at 5:04 p.m.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
R. NICKENS, JR.	Tenant	X*		
P. VIRAMONTES	Tenant			X
J. DEBOER	Tenant Alt.	X		
M. REAGAN	Tenant Alt.			X
D. INGRAM	Undesignated	X		
C. OSHINUGA	Undesignated	X		
E. TORRES	Undesignated			X
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
T. WILLIAMS	Landlord	X		
N. HUDSON	Landlord			X
Vacant	Landlord Alt.			
K. SIMS	Landlord Alt.	X		

*Member Nickens joined the call at 5:09 pm.

Staff Present

Kent Qian	Deputy City Attorney
Harman Grewal	Business Analyst III (HCD)
Emily Weinstein	Deputy Director (HCD)/Acting Program Manager (RAP)
Linda Moroz	Acting Senior Hearing Officer (RAP)
Allison Pretto	Project Manager (RAP)
Briana Lawrence-McGowan	Administrative Analyst I (RAP)
Mike Munson	KTOP

3. AGENDA ITEM ORDER CHANGE

- a. Chair Ingram moved to place agenda item # 8 directly after agenda item # 5, followed by agenda items # 9, # 6, # 7, # 10, and # 11. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, J. deBoer, T. Williams, K. Sims
Nay: None
Abstain: None

The motion was approved.

4. PUBLIC COMMENT

- a. Emily Wheeler from the Oakland Tenants Union spoke and stated that she supports agenda item # 9 and that it is a common sense resolution. Ms. Wheeler stated that the Oakland Tenants Union administers three counseling sessions per month, including private 101 ad hoc counseling—and that they have been hearing from tenants who are unable to get their petitions heard by RAP because they are waiting on ERAP money. Ms. Wheeler mentioned that this is something that she believes goes against what the regulations are intended for, and that she strongly supports it being removed. Ms. Wheeler also stated that since not paying your rent is normally a just cause for eviction, she does not believe that removing this clause would harm landlords and that it would greatly benefit tenants. Ms. Wheeler encouraged the Board to vote yes on item # 9, and also stated that she’s excited to see the rent registry process moving forward.
- b. James Vann from the Oakland Tenants Union spoke and welcomed the Board back from their recess. Mr. Vann stated that the Board has a lot of interesting and challenging things coming up in the year ahead, and mentioned that it’s going to be a pleasure to see the Board work through them. Mr. Vann also stated that he’d like to echo the comments made by Ms. Wheeler.
- c. Joshua Polston, a small rental housing provider in Oakland spoke and stated that he’d like to address agenda items # 8 and # 9. Mr. Polston mentioned that in regards to the rent registry, his understanding is that the list of data being requested is very extensive, stating that he has seen the draft ordinance, and that based its language, staff has proposed that housing providers will not be in compliance unless they have actively taken actions to obtain all of the data being requested. Mr. Polston stated that he thinks it is incumbent on the City that if they have specific questions about tenancy or a tenant, the City should track down that data, and that it's not the job of the rental housing provider. In regards to agenda item # 9, Mr. Polston stated that it’s a terrible idea because it goes against the grain of

what the HRRRB is supposed to do, which is to be an impartial body that improves housing for tenants and rental housing providers. Mr. Polston stated that the Board is supposed to facilitate good public policy and good outcomes. Mr. Polston also mentioned that when a petition is filed, if the rental housing provider has not paid all of their fees to the City, their petition will not be considered and will be rejected.

- d. Samantha Beckett, the interim co-directing attorney of the tenants' rights practice at Centro Legal de la Raza spoke and stated that Centro Legal strongly supports agenda item # 9. Ms. Beckett stated that removing the requirement for tenants to be current on rent in order to file a RAP petition is extremely important to ensure that covered tenants have the right to enforce their critical rights underneath the Rent Adjustment Ordinance. Ms. Beckett mentioned that this is particularly important in light of the realities we are facing today, including an on-going pandemic, the financial impacts of the pandemic, rising inflation, and the on-going housing crisis. Ms. Beckett mentioned that this would also put RAP in line with other rent control jurisdictions, including Washington DC. Ms. Beckett stated that tenants' access to RAP's process and the relief it could afford should not be contingent upon them being current on rent, and for these reasons, Centro Legal strongly supports this resolution. Ms. Beckett mentioned that any decision made by a Hearing Officer would account for any unpaid rent in terms of the relief and the restitution owed to the tenant. Ms. Beckett also expressed gratitude that the rent registry process is progressing.

5. CONSENT ITEMS

- a. Renewal—Adoption of AB 361 Resolution & Approval of Board Minutes, 7/28/2022: Chair Ingram moved to renew the adoption of AB 361 resolution and to approve the Board Minutes from 7/28/2022. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, J. deBoer, R. Nickens, Jr.
Nay: T. Williams, K. Sims
Abstain: None

The motion and minutes were approved.

6. APPEALS*

- a. T22-0048, Prosterman v. Kinfu

Appearances: Aren Ash Tenant Representative
 Sam Kinfu Master Tenant

This case involved a subtenant petition alleging that the primary/master tenant charged a disproportionate amount of rent for the subtenant's room. The petition alleged that the subtenant was charged \$1100 per month for the room, while the total rent for the three bedroom apartment was \$1870 per month. On April 19, 2022, a notice of incomplete petition was issued, stating that the petition was missing a proof of service. On May 12, 2022, the parties were sent a notice of remote settlement conference and hearing scheduled for June 20, 2022 and the notice stated that all evidence must be submitted to RAP no less than seven days prior to the hearing. On June 17, 2022, the Hearing Officer issued an Administrative Decision, dismissing the petition on the basis that no tangible evidence was submitted at least seven days before the hearing.

The subtenant appealed the Administrative Decision, arguing that the ordinance regulations allows the subtenant to introduce evidence at the hearing, and that the dismissal of the petition without a hearing to allow submission of sufficient evidence is inconsistent with the ordinance and regulations. The subtenant argued that an Administrative Decision under the O.M.C. requires both a petition and a response—therefore, the Administrative Decision was not proper in this case because there was no response filed. The subtenant also argued that the Administrative Decision should be overturned because there was no response disputing the tenant's claim of legal overcharging; and dismissing a subtenant illegal overcharge petition against a private tenant on the basis of lack of tangible evidence raises a new policy issue because subtenants do not usually have the documentary evidence in their possession unless it is shared by the primary tenant.

The tenant representative contended that the tenant is requesting for the Board to reverse the Administrative Decision that dismissed his petition and for the case to be remanded back to the Hearing Officer for a hearing. The tenant representative argued that the master tenant did not dispute the overcharging allegations, did not file a response to the petition, and did not file a response to the appeal. The tenant representative contended that the ordinance regulations allows a party to introduce evidence for the first time at the hearing, even if the notice of hearing requires for parties to submit evidence seven days before the hearing. The tenant representative argued that regulations regarding the conduct of hearings before Hearing Officers states that each party shall have the right to call and examine witnesses and to introduce exhibits at the hearing, among other things, including cross examining witnesses. The tenant representative argued that the amended notice of remote settlement conference and hearing that was cited in the Administrative Decision only requested that Mr. Prosterman submit all tangible evidence within seven days before the hearing "*in order to minimize*

delays”, and did not say that he was required to submit all evidence before the hearing. The tenant representative contended that it also didn't state that he would not be given an opportunity to submit oral testimony or introduce other exhibits at the hearing.

The tenant representative contended that due to the informal nature of a master tenant and subtenant relationship, the subtenant doesn't have access to the master lease and may have to rely on the oral testimony at the hearing to prove an overcharging case; whereas if a normal tenant was challenging a landlord or owner's illegal rent increase, the tenant will have tangible evidence proving the illegality of the rent increase, such as the lease with the landlord. The tenant representative contended that a subtenant who challenges the master tenant for illegal overcharging of rent usually does not have the necessary evidence because it's never shared by the master tenant and it's not required by law to be shared. The tenant representative argued that without the opportunity to cross examine witnesses and introduce exhibits at the hearing, a subtenant may not be able to prove a case of overcharging by a master tenant and that without access to the hearing and the right to question the parties to the petition under oath, the subtenant may be denied their right to this process entirely.

The tenant representative argued that Mr. Kinfu initiated move out negotiations with Mr. Prosterman after it was discovered that he was overcharging rent; however, Mr. Kinfu didn't provide the required notices or anything else required by the tenant relocation ordinance. The tenant representative contended that he suggested for the tenant to accept \$10,000 or just a little under because the minimum required under the tenant relocation ordinance is around \$9970, and that the \$6000 that Mr. Kinfu originally offered would have been well below the minimum for any move out agreement.

The master tenant contended that he had no idea that he couldn't overcharge Mr. Prosterman because he is a novice and unfamiliar with this process, and that he reduced Mr. Prosterman's rent to correct the situation. The master tenant argued that for the past nine months, Mr. Prosterman has not paid for any utilities, which totals up to \$1300 per month and includes water, garbage, and internet. The master tenant argued that Mr. Prosterman has been late paying his rent for the past ten months, which causes an average of \$80 per month in late fees. The master tenant contended that Mr. Prosterman is very contentious, engages in name calling, constantly picks fights, and harasses him. The master tenant argued that he has had to call the police three separate times and that he has contacted the tenant's representative on the record to request for his client not to harass him and to stop sending harassing emails.

The master tenant contended that he did want to pay back Mr. Prosterman back for the overpayments and that he offered Mr. Prosterman \$10,000. The master

tenant argued that his first offer to Mr. Prosterman was for \$6000, but Mr. Prosterman declined, hired Mr. Ash, and then requested \$10,000. The master tenant argued that he told Mr. Prosterman that in order for him to give him the money, it had to go through an escrow; but Mr. Prosterman said no and that he wanted a cashier's check. The master tenant contended that he has done everything possible to remedy the situation, including reducing Mr. Prosterman's rent and not having him pay for utilities.

After parties' arguments, questions to the parties, and Board discussion, Vice Chair Oshinuga moved to remand the case back Hearing Officer for a hearing. Member K. Sims seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, R. Nickens, Jr., J. deBoer, T. Williams,
K. Sims
Nay: None
Abstain: None

The motion was approved.

6. RESOLUTION TO ADOPT REGULATIONS FOR THE RENT REGISTRY ORDINANCE AND FORWARD TO CITY COUNCIL FOR APPROVAL

- a. RAP's Rent Registry Project Manager, Allison Pretto, presented a proposed resolution to the Board to adopt regulations for the Rent Registry Ordinance and to forward them to City Council for approval. After questions and Board discussion, Vice Chair Oshinuga moved to approve the resolution. Member R. Nickens, Jr. seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, R. Nickens, Jr., J. deBoer
Nay: T. Williams, K. Sims
Abstain: None

The motion was approved.

7. POLICY POSITION RESOLUTION

- a. Board Member J. deBoer presented a proposed policy position resolution to the Board. After questions and Board discussion, Chair Ingram moved to postpone this agenda item discussion to the next full Board meeting. Member T. Williams seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, R. Nickens, Jr., J. deBoer, T. Williams,
K. Sims
Nay: None
Abstain: None

The motion was approved.

8. SCHEDULING AND REPORTS

- a. RAP's Acting Senior Hearing Officer, Linda Moroz, postponed her report on the Hearings Unit until the next full Board meeting.

9. INFORMATION AND ANNOUNCEMENTS

- a. Board Secretary, Briana Lawrence-McGowan, informed the Board that she will be absent from the 9/22 full Board meeting and that Acting Senior Hearing Officer, Linda Moroz, will attend and act as the Board Secretary on her behalf.
- b. Chair Ingram requested for the Board members to complete their doodle polls regarding their availability for the next quarter and briefly discussed guidance that was received by the City Attorneys regarding the Board having an in person meeting/gathering.

10. OPEN FORUM

- a. James Vann from the Oakland Tenants Union spoke and stated that the Board's discussion was interesting, but it's being made more complicated than it needs to be. Mr. Vann mentioned that the Acting Senior Hearing Officer made an excellent point in regards to RAP and the regulations, which permits a person who is not current on their rent to cite the reason why they're not current, and if there is a justifiable reason, then their hearing proceeds. Mr. Vann stated that the problem has been that RAP staff looks at the non-payment of rent as not applying to the present pandemic situation and that there are people who may not be current on rent because they're involved programs which have not yet produced funds to pay their rent. Mr. Vann stated that if this was accepted by the staff as one of the allowable reasons, the matter would be cleared up. Mr. Vann mentioned that it is important to clear this matter up because RAP gets no money from the City budget at all and that the program is structured so that it pays for itself. Mr. Vann stated that if people are not willing to pay the

RAP fee, then the program won't be able to function and that the Board needs to take this into consideration during their discussions when they come back to the subject.

- b. Emily Wheeler from the Oakland Tenants Union spoke and expressed her disappointment in Chair Ingram for postponing the policy position discussion and mentioned that she was deeply disturbed by the Chair's willingness to accept the policy argument made by landlords. Ms. Wheeler stated that landlords have said very clearly that removing the regulation that requires for tenants to be current on rent would harm them because tenants would file more petitions, causing landlords to pay higher attorney fees. Ms. Wheeler mentioned that to her knowledge, tenants also do not get an attorney for free through RAP, and that this is not at all equivalent to having to pay a RAP fee. Ms. Wheeler stated that landlords, under normal circumstances, would be able to evict a tenant who does not pay their rent and that there is no remedy for tenants in regards to landlords who do not pay their RAP fee, as tenants cannot evict their landlord for not doing so. Ms. Wheeler mentioned that she doesn't understand why the Chair would postpone the conversation under this pressure, and that she feels like there could have been a vote if the discussion was continued.
- c. Derek Barnes, CEO of East Bay Rental Housing Association (EBRHA), thanked and applauded the Board for delaying their decision regarding the policy position resolution. Mr. Barnes stated that housing in Oakland is extremely complicated, that there is no one-size-fits-all, and that there are mostly people who try to do the right thing. Mr. Barnes mentioned that he thinks we have to start from that place and then figure out policies and things that address the problems that a few people are making either on the housing provider side or the renter side. Mr. Barnes stated that Oakland's rental business is estimated to be a \$3 billion economy and that anything we do in establishing policies and ordinances should be thought through to make sure that we understand the impact and implications of those decisions. Mr. Barnes mentioned that there was good discussion from both sides during the meeting and the decision to postpone the discussion and to get some additional pieces of information was good sound judgment.

11. ADJOURMENT

- a. The meeting was adjourned at 7:41 p.m.



CITY ATTORNEY'S OFFICE

INTRODUCED BY ALTERNATE BOARD MEMBER JOHN deBOER
BOARD CHAIR DENARD INGRAM

**CITY OF OAKLAND HOUSING,
RESIDENTIAL RENT AND
RELOCATION BOARD (HRRRB)
RESOLUTION NO. _____**

**RESOLUTION TO RECOMMEND AMENDMENT OF THE TENANT
FILING REQUIREMENTS IN THE RENT ADJUSTMENT
ORDINANCE**

WHEREAS, the Housing, Residential Rent and Relocation Board may make recommendations to the City Council or appropriate City Council committee pertaining to Chapter 8.22 of the Oakland Municipal Code (O.M.C.) or City housing policy when requested to do so by the City Council or when the Board otherwise acts to do so, pursuant to O.M.C. 8.22.040 D.4; and

WHEREAS, in order for a tenant to file either a petition with the Rent Adjustment Program that alleges violation of the Rent Adjustment Ordinance or a response to a petition, O.M.C. Section 8.22.090 A.4, and the corresponding Rent Adjustment Program Regulation Section 8.22.090 B, require that the tenant must provide “Evidence that the tenant's rent is current or that the tenant is lawfully withholding rent;” and

WHEREAS, the Housing, Residential Rent and Relocation Board seeks to ensure that all covered Oakland tenants and property owners have equitable access to the protections and relief provided by the Rent Adjustment Ordinance; now, therefore, be it

RESOLVED: That the Housing, Residential Rent and Relocation Board recommends the City Council amend O.M.C. Section 8.22.090 by removing the subsection A.4.b filing requirement, which would allow any covered tenant to file a petition or respond to petitions with the Rent Adjustment Program regardless of their rent payment status, provided they meet all other filing requirements.

APPROVED BY THE FOLLOWING VOTE

AYES:

NOES:


ABSENT:

ABSTENTION:

Date:

ATTEST _____

BRIANA LAWRENCE-MCGOWAN
Rent Adjustment Program, Housing &
Community Development Department



CITY ATTORNEY'S OFFICE

INTRODUCED BY: BOARD CHAIR DENARD INGRAM

**CITY OF OAKLAND HOUSING,
RESIDENTIAL RENT AND
RELOCATION BOARD (HRRRB)**

RESOLUTION NO. _____

**RESOLUTION RECOMMENDING AMENDMENT OF TENANT AND
OWNER FILING REQUIREMENTS IN THE RESIDENTIAL RENT
ADJUSTMENT PROGRAM AND RENT PROGRAM SERVICE FEE
ORDINANCES**

WHEREAS, the Housing, Residential Rent and Relocation Board (“Rent Board”) may make recommendations to the City Council or appropriate City Council committee pertaining to Chapter 8.22 of the Oakland Municipal Code (“O.M.C.”) or City housing policy when requested to do so by the City Council or when the Board otherwise acts to do so, pursuant to O.M.C. 8.22.040 D.4; and

WHEREAS, in order for a tenant, including a subtenant contesting overcharges by a primary tenant, to file either a petition with the Rent Adjustment Program that alleges violation of the Rent Adjustment Ordinance or a response to a petition, O.M.C. Section 8.22.090 A.4, and the corresponding Rent Adjustment Program Regulation Section 8.22.090 B, require that the tenant must provide “Evidence that the tenant's rent is current or that the tenant is lawfully withholding rent;” and

WHEREAS, O.M.C. 8.22.010 C states that the purposes of the Rent Adjustment Ordinance include “providing relief to residential tenants in Oakland by limiting rent increases for existing tenants,” which is not furthered by barring residential tenants from both petitioning for relief from alleged violations or responding to owner petitions when the tenants are not current on rent; and

WHEREAS, O.M.C. 8.22.500 H provides that a rental property owner who has not paid the rent program fee and any charges related to a delinquency in payment of the fee cannot respond to a petition brought by a tenant; and

WHEREAS, in order for an owner to file a response to a tenant petition, O.M.C. 8.22.090 B.1 and the corresponding Rent Adjustment Program Regulations section 8.22.090 C require that the owner must provide evidence of payment of the Rent Adjustment Program service fee, among other requirements; and

WHEREAS, the Rent Adjustment Ordinance requires an owner to provide evidence of possession of a current city business license, payment of the Rent Adjustment Program service fee, and registration with the Rent Adjustment Program in order to petition the Rent Adjustment Program; and

WHEREAS, the Rent Adjustment Ordinance and corresponding Rent Adjustment Program Regulations do not currently require an owner to provide evidence of possession of a current city business license, payment of the Rent Adjustment Program service fee, and registration with the Rent Adjustment Program at the time of filing an appeal or response to a tenant appeal, creating a scenario where an owner who did not respond to a tenant petition can, after the Rent Adjustment Program decision is issued, effectively bypass the initial filing requirements when filing an appeal or responding to a tenant appeal; and

WHEREAS, the Housing, Residential Rent and Relocation Board seeks to ensure that covered Oakland tenants and property owners have access to the protections and relief provided by the Rent Adjustment Ordinance; now, therefore, be it

RESOLVED: That the Housing, Residential Rent and Relocation Board recommends the City Council amend O.M.C. Section 8.22.090 by removing the subsection A.4.b filing requirement, which would allow any covered tenant to file a petition or respond to petitions with the Rent Adjustment Program regardless of their rent payment status, provided they meet all other filing requirements; and be it

FURTHER RESOLVED: That the Rent Board recommends the City Council amend O.M.C. Section 8.22.090 B.1 to allow owners to file a response to a tenant petition without having to provide evidence of payment of the Rent Adjustment Program fee; and be it

FURTHER RESOLVED: That the Rent Board recommends the City Council amend O.M.C. 8.22.120 A to require that an owner provide evidence of possession of a current city business license, payment of the Rent Adjustment Program service fee, and registration with the Rent Adjustment Program at the time the owner files an appeal or a response to a tenant appeal, if such evidence was not already provided to the Rent Adjustment Program by the owner at the time of petitioning or responding to the petition; and be it

FURTHER RESOLVED: That the Rent Board recommends the City Council eliminate O.M.C. 8.22.500 H.1, so that an owner who has failed to pay the rent program service fee is not prohibited from responding to a petition brought by a tenant.

APPROVED BY THE FOLLOWING VOTE

AYES:

NOES:

ABSENT:

ABSTENTION:

Date:

ATTEST _____

BRIANA LAWRENCE-MCGOWAN
Rent Adjustment Program, Housing &
Community Development Department

000016

CHRONOLOGICAL CASE REPORT

Case No.: T18-0311

Case Name: Cervantes v. Fong

Property Address: 1791 28th Avenue, Oakland, CA 94601

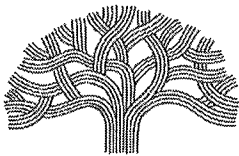
Parties: May & Grant Fong (Owners)
Maria & Luis Cervantes (Tenants)
Centro Legal de la Raza (Tenant Representative)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	June 12, 2018
Owner Response filed	November 13, 2018
Hearing Date	June 3, 2019
Hearing Decision mailed	October 3, 2019
Owner Appeal filed	October 9, 2019
Corrected Hearing Decision mailed	October 17, 2019
Appeal Hearing Date	January 16, 2020
Panel Appeal Decision mailed	March 10, 2020

000017

Remand Decision mailed	December 18, 2020
Owner Appeal filed	December 29, 2020
Appeal Hearing Date	September 23, 2021
Appeal Decision mailed	November 19, 2021
Second Remand Hearing Decision mailed	July 28, 2022
Owner Appeal filed	August 16, 2022



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

2011 JUN 12 PM 3:56

TENANT PETITION

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

Please print legibly

Your Name Maria Amezcuita and Luis Ayala Cervantes	Rental Address (with zip code) 1791 28th Ave Oakland, CA 94601	Telephone: 510-927-1332
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) May Lee Fong and Grant Wai Fong	Mailing Address (with zip code) 358 Cerro Ct. Daly City, CA 94015	Telephone: 650-757-2988
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 6

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

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

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

000019

<input checked="" type="checkbox"/> (a) The CPI and/or banked rent increase notice I was given was calculated incorrectly.
--

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

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

Date you moved into the Unit: August 2015 Initial Rent: \$ 945 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: 8/24/17. If never provided, enter "Never."

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>4/26/18</u>	<u>4/26/18</u>	\$ 1200	\$ 1400	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<u>8/24/17</u>	<u>10/3/2017</u>	\$ 945	\$ 1200	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>8/24/17</u>	<u>9/5/2017</u>	\$ 945	\$ 1233	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
 No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Maria Amerquita
Tenant's Signature

6-7-18
Date

Luis AYA LA SERVANTES

6-7-18

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

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NOV 13 2018
RENT ADJUSTMENT PROGRAM
OAKLAND

City of Oakland Rent Adjustment Program

Owner Response

Case T18-0311
Property Address 1791 28th Avenue

Party	Name	Address	Mailing Address
Tenant	Maria & Luis Cervantes (510) 927-1332	1791 28th Avenue Oakland, CA 94601	
Owner	May & Grant Fong 650-757-2988	358 Cerro Court Daly City, CA 94015	

Business Information

Date of which you aquired the building	1-30-2015
Total Number of Units	6
Is there more than one street address on the parcel?	No
Type of Unit	Apartment, Room or Live-work
Is the contested increase a capital improvements increase?	No

Rent History

The tenant moved into the rental unit on	8-24-2017
Initial monthly rent	1233
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
On what date was the notice first given?	8-24-2017
Is the tenant current on the rent?	No

Exemption

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:	No
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RENT ADJUSTMENT PROGRAM
2018 NOV 13 AM 8:46

City of Oakland Rent Adjustment Program

Owner Response

Case **T18-0311**
Property Address **1791 28th Avenue**

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. No

The unit was newly constructed and a certificate of occupancy was issued for it on or after January 1, 1983. No

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. No

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. No

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. No

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. No

Received 600 8/21/17

OAKLAND RENTAL AGREEMENT AND/OR LEASE

Landlord/Lessor/Agent: May Fong Apartment Number 1791
Tenant(s)/Lessee: Maria Amezcua Arce
Tenant(s)/Lessee: Luis Cervantes, Jovani Ayala Amezcua
Apartment Number: 1791
Apartment Address: 1791-28th Avenue
City: Oakland, State Ca, Zip 94601
Monthly Rental Rate: \$1700 ^{\$1,233} _{Arif} This agreement shall commence on 9/1/17, and continue: (check one below)
Rental Due Date: 1st of month ^{3 months} Month to Month Agreement
Security Deposit: \$3500 ²⁰⁰ _{them} ¹⁴⁰⁰ _{M.A.} Until 8/30/18 at which time thereafter shall become a month to
Late Charge: \$75 if not paid by 3rd month tenancy. If Tenant should move from premises prior to the expiration date, he shall be
Parking Space: 1 liable for all the rent due until such time the apartment is occupied by Landlord-approved resident
Storage Space: 0 and/or expiration of said time period, whichever is shorter.

\$1400 from 12/1/17 M.A

- 1. This Rental Agreement and/or Lease shall evidence the complete terms and conditions under which the parties whose signatures appear below have agreed. Landlord/Lessor/Agent shall be referred to as "OWNER" and Tenant(s)/Lessee(s) shall be referred to as "RESIDENT." As consideration for this agreement, OWNER agrees to rent/lease to RESIDENT and RESIDENT agrees to rent/lease from OWNER for use SOLELY AS A PRIVATE RESIDENCE, the premises listed above. RESIDENT acknowledges that any false statements found in RESIDENT'S application shall constitute a non-curable breach of this agreement. RESIDENT hereby agrees to complete an updated application, including a census as to the occupants in the unit upon seven days request of OWNER.
- 2. PAYMENTS: Rent and/or other charges are to be paid at the office or apartment of the manager of the building or at such other place designated in writing by OWNER. For the safety of the manager, all payments are to be made by check or money order and no cash shall be acceptable. OWNER acknowledges receipt of the First month's rent of: \$ 1233, and a Security Deposit of \$ 2000, for a total payment of \$ 3433 ^{for} _{must pay by 9/1/17}. All payments are to be made payable to: May Fong and delivered to, 358 Cerro Court, Daly City California, Telephone Number 415-812-9908 who is usually available on the following days: Every day during the following hours: 9am-5pm.
- 3. LATE CHARGE/FEE: The late charge amount noted above, not to exceed 6% of the monthly rent, shall be added to any payment of rent not made on the rental due date or for which a deficient (bounced) check shall have been given. Tenant shall be liable for \$25 each time a check is returned to OWNER because the check was dishonored. A fee of \$50.00 will be incurred each time the OWNER is required to serve a 3-Day Notice to Pay the Rent due to the Tenant's failure to pay rent on the day rent is due.
- 4. SECURITY DEPOSITS: The Security Deposit shall not exceed two times the monthly rent for unfurnished apartments or three times the monthly rent for furnished apartments. The total of the above deposits shall secure compliance with the terms and conditions of this agreement and shall be refunded to RESIDENT within 21 days after the premises have been completely vacated less any amount necessary to pay OWNER: a) any unpaid rent, b) cleaning costs, c) key replacement costs, d) costs for repair of damages to apartment and/or common areas above ordinary wear and tear, and e) any other amount legally allowable under the terms of this agreement. A written accounting of said charges shall be presented to RESIDENT within 21 days of move-out. If deposits do not cover such costs and damages, the RESIDENT shall immediately pay said additional costs for damages to OWNER. During the term of tenancy, RESIDENT agrees to increase the deposit upon 30 days written notice by an amount equal to any future increases in rent and/or an amount necessary to cover the cost of rectifying any damage or expense for which RESIDENT is responsible. Security deposit is not to be used as last month's rent.
- 5. UTILITIES: RESIDENT agrees to pay for all utilities and/or services based upon occupancy of the premises except garbage.
- 6. OCCUPANTS: Guest(s) staying over 14 days cumulative or longer during any 12-month period, without the OWNER'S written consent, shall be considered a breach of this agreement. ONLY the following listed individuals and/or animals, AND NO OTHERS shall occupy the subject apartment for more than 14 days unless the expressed written consent of OWNER is obtained in advance, (the 14 day period maybe extended by local Rent Control Laws): Oakland. RESIDENT shall pay additional rent at the rate of \$100.00 per month or 25% (or the amount allowed under rent control) of the current monthly rent, whichever amount is greater, for the period of time that each additional guest in excess of the above named shall occupy the premises. RESIDENT shall pay the same additional monthly rent for each additional animal in excess of the above named animal(s), which shall occupy the premises. Acceptance of additional rent or approval of a guest shall not waive any requirement of this agreement or convert the status of any "guest" into a RESIDENT.
- 7. PETS AND FURNISHINGS: Furnishings - No liquid-filled furniture of any kind may be kept on the premises. If the structure was built in 1973 or later RESIDENT may possess a waterbed if he maintains waterbed insurance valued at \$100,000.00 or more. RESIDENT must furnish OWNER with proof of said insurance. RESIDENT must also comply with Civil Code Section 1940.5. Resident shall not keep on premises a receptacle containing more than ten gallons of liquid, highly combustible materials or other items which may cause a hazard or affect insurance rates such as, musical instrument, item(s) of unusual weight or dimension, RESIDENT also agrees to carry insurance deemed appropriate by OWNER to cover possible losses caused by using said items. Pets - No animal, fowl, fish, reptile, and/or pet of any kind shall be kept on or about the premises, for any amount of time, without obtaining the prior written consent and meeting the requirements of the OWNER. Said consent, if granted, shall be revocable at OWNER'S option upon giving a 30-day written notice. In the event laws are passed or permission is granted to have any item prohibited by this agreement or if for any reason such item exists on the premises, there shall be minimum additional rent of \$25.00 a month for each such item if another amount is not stated in this agreement. In the event laws are passed or permission is granted to have a pet and/or animal of any kind, an additional deposit in the amount of \$ 3,000 shall be required along with the signing of OWNER'S "PET AGREEMENT."
- 8. PARKING/STORAGE: When and if RESIDENT is assigned a parking space on OWNER'S property, the parking space shall be used exclusively for parking of passenger automobiles and/or those approved vehicles listed on RESIDENT'S "Application to Rent/Lease" or attached hereto. RESIDENT may not wash, repair, or paint in this parking space or at any other common areas on the premises. (RESIDENT may not assign, sublet, or allow RESIDENT'S guest(s) to use this or any other parking space.) RESIDENT is responsible for oil leaks and other vehicle discharges for which RESIDENT shall be charged for cleaning if deemed necessary by OWNER. Only vehicles that are operational may park in their assigned space.
- 9. NOISE: RESIDENT agrees not to cause or allow any noise or activity on the premises that might disturb the peace and quiet of another RESIDENT. Said noise and/or activity shall be a breach of this Agreement.
- 10. LOITERING AND PLAY: Lounging, playing, or unnecessary loitering in the halls, on the front steps, or in the common areas in such a way as to interfere with the free use and enjoyment, passage or convenience of another RESIDENT is prohibited.
- 11. DESTRUCTION OF PREMISES: If the premises become totally or partially destroyed during the term of this Agreement so that RESIDENT'S use is seriously impaired, RESIDENT or OWNER may terminate this Agreement immediately upon three-day written notice to the other.
- 12. CONDITION OF PREMISES: RESIDENT acknowledges that he has examined the premises and that said premises, all furnishings, fixtures, furniture, plumbing, heating, electrical facilities, all items listed on the attached inventory sheet, if any, and/or all other items provided by OWNER are all clean, and in good satisfactory condition except as may be indicated elsewhere in this Agreement. RESIDENT agrees to keep the premises and all items in good order and condition and to immediately pay for costs to repair and/or replace any portion of the above damaged by RESIDENT, his guests and/or invitees, except as provided by law. At the termination of this Agreement, all of the above-enumerated items in this provision shall

Can Also Deposit to Bank of America Acct

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be returned to OWNER in clean and good condition except for reasonable wear and tear; the premises shall be free of all personal property and trash not belonging to OWNER. It is agreed that all dirt, holes, tears, burns, or stains of any size or amount in the carpets, drapes, walls, fixtures, and/or any other part of the premises, do not constitute reasonable wear and tear.

13. MAINTENANCE AND ALTERATIONS: RESIDENT shall not paint, wallpaper, alter or redecorate, change or install locks, install antenna or other equipment, screws, fastening devices, excessively large nails, or adhesive materials, place signs, displays, or other exhibits, on or in any portion of the premises without the written consent of the OWNER except as may be provided by law. RESIDENT shall deposit all garbage and waste in a clean and sanitary manner into the proper receptacles as provided and shall cooperate in keeping the garbage area neat and clean. RESIDENT shall be responsible for disposing of items of such size or nature as is not normally acceptable by the garbage hauler for the building. RESIDENT shall be responsible for keeping the garbage disposal clean of chicken bones, toothpicks, match sticks, celery, pills, grease, metal vegetable ties, and all other items that may tend to cause stoppage of the mechanism. RESIDENT shall pay for the cleaning out of any plumbing fixture that may need to be cleared of stoppage and for the expense or damage caused by the stopping of waste pipes or overflow from bathtubs, washbasins, toilets, or sinks, if caused by negligence or misuse by RESIDENT or their guests. Tenant must notify landlord with a written notice stating what item(s) need service or repair and give landlord a reasonable opportunity to service or repair that item(s). Should any charges be incurred by the City as a result of not notifying the Landlord in writing of such needed service or repairs, tenant shall be responsible for a minimum of \$201.50 for each occurrence plus any additional fines or inspection fees imposed by a government office as a result of RESIDENT not notifying OWNER in writing of any deficiencies with the residence.

14. SMOKE/CARBON MONOXIDE DETECTORS: The rental unit is equipped with properly functioning smoke and carbon monoxide detectors. Resident agrees to test the smoke and carbon monoxide detectors in the rental unit monthly for proper function. Resident agrees not to interfere with their normal function or disable any detectors in any manner.

15. HOUSE, POOL, AND LAUNDRY RULES: RESIDENT shall comply with all house, pool, pet, and laundry rules attached to this agreement which may be changed from time to time. These rules shall apply to, but are not limited to, noise, odors, disposal of trash, pets, parking, use of common areas, and storage of toys, bicycles, tools, and other personal items (including signs and laundry), which must be kept inside and out of view. OWNER shall not be liable to RESIDENT for any violation of such rules by any other RESIDENTS or persons. Rights of usage and maintenance of the laundry room and/or pool and pool area are gratuitous and subject to revocation by OWNER at any time.

16. CHANGE OF TERMS: The terms and conditions of this agreement are subject to future change by OWNER after the expiration of the agreed lease period upon 30 days written notice setting forth such change and delivered to RESIDENT. Any changes are subject to laws in existence at the time of the Notice Of Change Of Terms.

17. TERMINATION: After expiration of the leasing period, this agreement is automatically renewed from month-to-month, but may be terminated by either party. The owner giving a 60-day notice and the resident giving a 30-day written notice of intention to terminate. Where laws require "just cause," such just cause shall be so stated on said notice. The premises shall be considered vacated only after all areas including storage areas are clear of all RESIDENT'S belongings, and keys and other property furnished for RESIDENT'S use are returned to OWNER. Should the RESIDENT hold over beyond the termination date or fail to vacate all possessions on or before the termination date, RESIDENT shall be liable for additional rent and damages, which may include damages due to OWNER'S loss of prospective new RENTERS.

18. POSSESSION: If OWNER is unable to deliver possession of the Apartment to RESIDENT on the agreed date, because of the loss or destruction of the Apartment or because of the failure of the prior RESIDENT to vacate or for any other reason, the RESIDENT and/or OWNER may immediately cancel and terminate this agreement upon written notice to the other party at their last known address, whereupon neither party shall have liability to the other, and any sums paid under this Agreement shall be refunded in full. If neither party cancels, this Agreement shall be pro-rated and begin on the date of actual possession.

19. INSURANCE: RESIDENT acknowledges that OWNER'S insurance does not cover personal property damage caused by fire, theft, rain, war, acts of God, acts of others, and/or any other causes, nor shall OWNER be held liable for such losses. RESIDENT HEREBY AGREES TO OBTAIN HIS OWN INSURANCE POLICY TO COVER ANY PERSONAL LOSSES. This does not waive OWNER'S duty to prevent personal injury or property damage where that duty is imposed by law, however, RESIDENT'S failure to maintain said policy shall be a complete waiver of RESIDENT'S rights to seek damages against OWNER for above stated losses.

20. RIGHT OF ENTRY AND INSPECTION: OWNER or OWNER'S Agent by themselves or with others, may enter, inspect and/or repair the premises at any time in case of emergency or suspected abandonment. OWNER shall give 24 hours advance notice and may enter for the purpose of showing the premises during normal business hours to prospective renters, buyers, lenders, for smoke alarm inspections, and/or for normal inspection and repairs. OWNER is permitted to make all alterations, repairs and maintenance that in OWNER'S judgment is necessary to perform. In addition, OWNER has the right to enter pursuant to Civil Code Section 1954. If the work performed requires that RESIDENT temporarily vacate the unit, then RESIDENT shall vacate for this temporary period upon being served a 7-day notice by OWNER. RESIDENT agrees that in such event RESIDENT will be solely compensated by a corresponding reduction in the rent for those many days that RESIDENT was temporarily displaced. No other compensation shall be due to the RESIDENT. If the work to be performed requires the cooperation of the RESIDENT to perform certain tasks, then RESIDENT shall perform those tasks upon receiving a 24-hour written notice. (EXAMPLE: removing food items from cabinets so that the unit may be sprayed for pests.) Upon 24 hours notice, RESIDENT hereby agrees to lend OWNER the keys to the premises for the purpose of having a duplicate made for OWNER'S use.

21. ASSIGNMENT: RESIDENT agrees not to transfer, assign or sublet the premises or any part thereof and hereby appoints and authorizes the OWNER as his agent and/or by OWNER'S own authority to evict any person claiming possession by way of any alleged assignment or subletting.

22. PARTIAL INVALIDITY: Nothing contained in this Agreement shall be construed as waiving any of RESIDENT'S or OWNER'S rights under the law. If any part of this Agreement shall be in conflict with the law, that part shall be void to the extent that it is in conflict, but shall not invalidate this Agreement nor shall it affect the validity or enforceability of any other provision of this Agreement.

23. NO WAIVER: OWNER'S acceptance of rent with knowledge of any default by RESIDENT or waiver by OWNER of any breach of any term or condition of this Agreement shall not constitute a waiver of subsequent breaches. Failure to require compliance or to exercise any right shall not be construed as a waiver by OWNER of said term, condition, and/or right, and shall not affect the validity or enforceability of any other provision of this Agreement.

24. ATTORNEY'S FEES: If any legal action or proceeding be brought by either party to this agreement, the prevailing party shall be reimbursed for all reasonable attorneys' fees up to but not more than \$500 in addition to other damages awarded.

25. ABANDONMENT: California Civil Code Section 1951.2 shall govern Abandonment. If any rent has remained unpaid for 14 or more consecutive days and the OWNER has a reasonable belief of abandonment of the premises, OWNER shall give 18 days written notice to RESIDENT at any place (including the rented premises) that OWNER has reason to believe RESIDENT may receive said notice of OWNER'S intention to declare the premises abandoned. RESIDENT'S failure to respond to said notice as required by law shall allow OWNER to reclaim the premises.

26. The undersigned RESIDENTS are jointly and severally responsible and liable for all obligations under this agreement and shall indemnify OWNER for liability caused by the actions (omission or commission) of RESIDENTS, their guests and invitees.

27. Pursuant to Section 1785.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit history may be submitted to a credit reporting agency, if you fail to fulfill the terms of your credit obligation. RESIDENT expressly authorizes OWNER/AGENT (including a collection agency) to obtain Resident's consumer credit report, which OWNER/AGENT may use if attempting to collect past due rent payments, late fees, or other charges from Resident, both during the term of the Agreement and thereafter.

28. **Lead Warning Statement:** Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, OWNERS must disclose the presence of known lead-based paint hazards in the dwelling. RESIDENTS must also receive a federally approved pamphlet on lead poisoning prevention.

OWNER/AGENT DISCLOSURE (Initial)

AK OWNER'S initials (on left) mean OWNER has no knowledge of lead-based paint and/or lead-based hazards in or on the Premises and OWNER has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in or on the Premises, and OK RENTER'S initial (on left) indicate that RENTER has received a copy of a "Protect Your Family from Lead in Your Home", and that RENTER shall notify OWNER promptly in writing of any deteriorating and/or peeling paint.

29. **MOLD:** The OWNER/AGENT has inspected the unit prior to lease and knows of no damp or wet building materials and knows of no mold contamination. Resident agrees to accept full responsibility and maintain the premises in a manner that prevents the occurrence of an infestation of mold in the premises. Resident also agrees to immediately report to the OWNER/AGENT any evidence of water leaks, excessive moisture or lack of proper ventilation and evidence of mold that cannot be removed by cleaning.



30. ADDITIONS AND EXCEPTIONS: TENANT is responsible for all repairs and replacements of all appliances including refrigerator, stove, and microwave.

31. NOTICES: All notices to RESIDENT shall be served at RESIDENT'S apartment / house whether or not RESIDENT is present at the time of delivery and all notices to OWNER / AUTHORIZED PERSON shall be served by first class mailing to:

Person Authorized To Manage Property:

Name _____ Address _____

Phone Number _____

Owner of property or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

Name _____ Address _____

Phone Number _____

Person or Entity Authorized to Receive Payment of Rent:

Name _____ Address _____

Phone Number _____

32. INVENTORY: The Apartment contains the following items for use by RESIDENT: stove, refrigerator

RESIDENT further acknowledges that the subject premises are furnished with the additional furnishings listed on the attached inventory and that said attached inventory is hereby made part of this agreement.

33. Proposition 65 Notice: Warning: Some areas may contain chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

34. Notice is hereby given of the existence of the Residential Rent Arbitration Board (RRAB) and the Rent Arbitration Program of the City of Oakland, the office of which is located at 250 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA, 94612, phone number (510) 238-3721. The Rent Arbitration Program (Oakland Municipal Code, Chapter 8.22) lease addendum is attached to this lease and acknowledged in number 35 below as a lease addendum notifying tenants of the Notice to Tenants regarding Oakland's Rent Adjustment Program). In the event that Owner/Agent elects not to implement an annual rent adjustment, the Owner/agent hereby advises Tenant that Owner/agent elects to bank any such rent adjustment to future year(s) pursuant to the provisions of the Oakland Rent Arbitration Ordinance.

Note: Tenant and Landlord has adopted, and agree to comply with Measure EE "Just Cause Eviction" Ordinance for the City of Oakland, CA, which requires landlords of specified residential properties, the right to evict a tenant only for reasons specified in the measure, such as non-payment of rent, breach of lease, damaging premises, drug or other illegal activity, disorderly conduct, rehabilitation of unit, landlord or relative occupancy, except in certain circumstances where the tenant is disabled, elderly or catastrophically ill. Further, the ordinance provides for damages, penalties and attorneys' fees against landlords who violate this law. Should Tenant violate any portion of the ordinance, Landlord may exercise his/her right to evict tenant for damages, penalties and attorneys' fees.

35. RESIDENT acknowledges receipt of the following, which shall be deemed a part of this Agreement: (Please check)

- House Rules
- Laundry Rules
- Mailbox Keys
- Pet Agreement
- Pool Rules
- Apartment Keys
- Garage Door Opener _____
- Notice to Tenants: Oakland's Rent Adjustment Program
- Information About Bed Bugs Sheet

36. ENTIRE AGREEMENT: This Agreement constitutes the entire Agreement between OWNER and RESIDENT. No oral agreements have been entered into, and all modifications or notices shall be in writing to be valid. The undersigned Residents are jointly and severally responsible for all obligations under this agreement and shall indemnify Owner for liability caused by the actions (omission or commission) of residents, their guests and invitees. Renter has relied on his own judgment in entering into this agreement.

37. NOTICE: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganstlaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

38. RECEIPT OF AGREEMENT: The undersigned RESIDENT hereby certifies that he/she is fluent in the English language and has read and completely understands this Agreement and hereby acknowledges receipt of a copy of this "Rental Agreement and/or Lease." (_____) RESIDENT'S initials:

OR Pursuant to California Civil Code 1632, which requires translation of specified contracts or agreements that are negotiated in Spanish, Chinese, Vietnamese, Tagalog or Korean:

(Maria A.) Resident's initials on left hereby acknowledge that this agreement was translated and interpreted in their foreign language of: Spanish

Jovani Ayala _____ Jovani Ayala _____ 08/24/17
Printed Name of Interpreter Signature of Interpreter Date

Mav Fong _____ 8/24/17
Owner/Agent Date

Owner/Agent Date

Owner/Agent Date

Maria Amezcua 8-24-17
Resident Date

Luis Cruz-Vazquez
Resident Date

Jovani Ayala 8-24-17
Resident Date

NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR THE ADEQUACY OF ANY PROVISION IN THIS AGREEMENT. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.



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/o/hcd/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 [X] 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 1791.

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit 1791, 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 8-24-17 (Date)

Maria Amezcua (Tenant's signature)

此份屋崙(奧克蘭)市租容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.



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 en el alquiler (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en alquiler construidas antes de 1983. Para más información sobre las viviendas cubiertas, contacte a la oficina del RAP.
- A partir del 1º de febrero de 2017, un propietario debe presentar una petición ante el RAP para todo aumento en el alquiler que sea mayor que el aumento general anual en el alquiler ("aumento CPI") o permitido que los aumentos en el alquiler sean "invertidos". Estos incluyen mejoras de capital y aumentos en los gastos operativos. En lo que respecta a este tipo de aumentos, el propietario puede aumentar su alquiler sólo después de que un funcionario de audiencia haya autorizado el incremento. Ningún aumento anual en el alquiler podrá exceder el 10%. Usted tiene derecho a disputar el aumento en el alquiler propuesto respondiendo a la petición del propietario. No es indispensable que usted presente su propia petición.
- **Cómo disputar un aumento en el alquiler:** Puede presentar una petición ante el RAP para disputar aumentos ilícitos en el alquiler o la disminución de servicios en la vivienda. Para disputar el aumento en el alquiler, debe presentar una petición (1) en un plazo de (90) días a partir de la fecha del aviso de aumento en el alquiler si el propietario también proporcionó este Aviso a los Inquilinos con la notificación del aumento en el alquiler; o (2) en un plazo de 120 días a partir de la fecha de recepción del aviso de aumento en el alquiler si este Aviso a los Inquilinos no fue entregado con la notificación de aumento en el alquiler. 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 del RAP en el Centro de Asistencia de Vivienda: 250 Frank H. Ogawa Plaza, 6º Piso, Oakland; también puede visitar: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>.
- Si usted disputa un aumento en el alquiler, debe pagar su alquiler con el aumento disputado hasta que presente la petición. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha de inicio de vigencia 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 viviendas cubiertas. Para más información contacte la oficina RAP.
- Oakland les cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por vivienda al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. No se requiere que los inquilinos de viviendas subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir el 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.)
- El propietario tiene no tiene permitido establecer el alquiler inicial de esta vivienda sin limitaciones (por ejemplo, de conformidad con la Ley Costa-Hawkins). Si el propietario no tiene permitido establecer el alquiler inicial sin limitaciones, el alquiler vigente cuando el inquilino anterior desalojó la vivienda era de 2016.

INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES

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

Recibí una copia de este aviso el

8-24-17

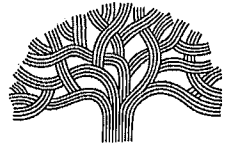
(Fecha)

Maria Amezcua

(Firma del inquilino)

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND.

Housing and Community Development
Department Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

HEARING DECISION

CASE NUMBER: T18-0311 Cervantes v. Fong
PROPERTY ADDRESS: 1791 28th Avenue, Oakland, CA
DATE OF HEARING: June 3, 2019
DATE OF DECISION: October 3, 2019
APPEARANCES: Xavier Johnson, Attorney for Tenant
Luis Ayala Cervantes, Tenant
Maria Amezquita, Tenant
Abigail Romero, Interpreter
May Fong, Owner

SUMMARY OF DECISION

The tenant's petition is partly granted.

CONTENTIONS OF THE PARTIES

On June 12, 2019, the tenant filed a petition contesting two (2) rent increases, and alleging that her housing services have decreased. The basis for the tenant's petition includes the following:

- The CPI and/or banked rent increase notice I was given was calculated incorrectly;
- The increases exceed the CPI Adjustment and are unjustified or are greater than 10%;
- I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such as increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase;
- No written notice of Rent Program was given to me together with the notice of increases I am contesting;
- The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increases;

- The increase I am contesting is the second increase in my rent in a 12-month period;
- There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance;
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner; and
- The proposed rent increase would exceed an overall increase of 30% in 5 years.

The owner filed a timely response denying the allegations.

THE ISSUES

- (1) When, if ever, did the tenant receive the form Notice to Tenants (RAP Notice)?
- (2) Are the contested rent increases valid?
- (3) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

Rent History and RAP Notice

On her petition, the tenant stated that she moved into the subject unit in August of 2015, at an initial monthly rent of \$945.00. She did not sign a lease at that time but paid rent directly to the owner. On August 24, 2017, the tenant signed a written lease for the subject property effective September 1, 2017.¹ The lease states that the tenant's rent shall be \$1,233.00 for the first three (3) months and will increase to \$1,400.00 in December of 2017. The tenant testified that she paid \$1,233.00 in rent monthly for September, October, and November of 2017. In December of 2017, the tenant began paying \$1,200.00 in rent monthly instead of the increased amount of \$1,400.00. The tenant testified that she began paying \$1,200.00 because she found out that she was paying more than other tenants in the building. The tenant is still paying \$1,200.00 in rent monthly.

The tenant further testified that the 2017 lease was negotiated in Spanish, with the tenant's minor son serving as an interpreter, but the tenant was only provided the written lease in English. The tenant also testified that she first received the RAP Notice on August 24, 2017, at the time she signed the lease.² The RAP Notice was provided to her in English and in Spanish. Finally, the tenant testified that she signed the 2017 lease under duress, because the owner told her that if she did not sign it, the owner would evict them because there were too many people living in the unit. The tenant testified that there are two (2) adults, and five (5) minor children living in the unit.

¹ Exhibit 1

² Exhibit 1

The owner testified that she received a text from the tenant's son in August of 2017, requesting a lease under the tenant's name. It was only at that time that she realized that the tenants did not have a lease for the property. She also found out that there were seven (7) people living in the unit. That is a fire hazard, so the owner told the tenant that she could only have three (3) people living in the unit. The owner also told the tenant her rent would be increased because there were so many people living in the unit. Finally, she testified that both parties came to an agreement that the rent would be \$1,233.00 for the first three months after the lease was signed and would increase to \$1,400.00 in December of 2017. The owner testified that the tenant has paid \$1,200.00 in rent monthly instead of the increased amount of \$1,400.00.

Decreased Housing Services

With the petition, the tenant submitted a list of decreased housing services. The parties testified as follows regarding the tenant's list of decreased housing services.

Electrical Wiring: The tenant testified that some of the electrical outlets were broken. Sparks came out if anything was plugged into the outlets. She first noticed this issue shortly after moving into the unit, in August of 2015. She complained about the electrical outlets to the maintenance worker, Mateo, on three or four occasions over the years but nothing was done. The City of Oakland Code Enforcement Services did an inspection of the unit on April 23, 2018, and issued a Notice of Violation on April 25, 2018.³ The Notice of Violation cited a code violation for the electrical outlets in the living room and bathroom. In response, the owner completed repairs and Code Enforcement records show that the violation was abated on July 6, 2018.⁴ The tenant testified that she has not had any issues with the outlets since July of 2018.

The owner testified that she did not receive notice of this issue until she received the Notice of Violation dated April 25, 2018. She never received a verbal or written complaint from the tenant. In response to the Notice of Violation, she completed the necessary repairs and the violation was abated as of July 2018.

Windows: The tenant testified that the windows in the bedroom do not open completely and the window in the living room is not installed properly. She noticed this issue when she first moved into the unit. She complained to Mateo, the maintenance worker, about this issue multiple times. The Notice of Violation dated April 25, 2018, cited a code violation for the windows, stating that the "windows in the bedroom do not open/close properly". In response, the owner completed repairs and Code Enforcement records show that the violation was abated on July 6, 2018.⁵ The tenant testified that she has not had any issues with the windows since July of 2018.

Mold in Bathroom: The tenant testified that there is mold in the bathroom, specifically around the sink and bathtub. She uses Clorox to clean the mold but it keeps

³ Exhibit 3

⁴ Exhibit 3

⁵ Exhibit 3

returning. She complained to Mateo about the mold when she first moved into the unit but nothing has been done. The tenant submitted photographs of the mold.⁶

The owner testified that she never received notice of the mold prior to the filing of the petition. Further, mold was not cited in the Notice of Violation dated April 25, 2018.⁷

Kitchen Drawers: The tenant testified that the kitchen drawers and cabinets do not open and close properly. The drawers get stuck because they do not fit properly into the cabinets. She complained to Mateo, the maintenance worker, about this issue approximately a year after moving into the unit. Mateo sanded the drawers but they still got stuck. The Notice of Violation dated April 25, 2018, cited a code violation for the kitchen drawers. Code Enforcement records show that the violation was abated on July 6, 2018.⁸

Splitting of Utilities: The parties did not provide any testimony on this issue, therefore, this claim is dismissed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increases

The Rent Adjustment Ordinance states that an owner seeking a rent increase in excess of the CPI Rent Adjustment or available banking must first petition the Rent Program and receive approval for the rent increase before the rent increase can be imposed⁹. Any rent increase not based on the CPI Rent Adjustment or Banking that is not first approved by the Rent Adjustment Program is void and unenforceable.¹⁰

In this case, the contested rent increases exceed the CPI Rent Adjustment and available banking. The owner failed to petition the Rent Program to receive approval for the rent increases built into the 2017 lease before imposing the increases on the tenants. Therefore, the contested rent increases are void and unenforceable as a matter of law. The monthly rent remains \$945.00, the rent amount prior to the rent increases imposed in the 2017 lease. Since the tenants have paid a portion of the rent increases, they are owed restitution for rent overpayments as outlined in the Table below.

Although the tenant acknowledged receiving the RAP Notice in August of 2017, the timeliness requirements outlined in the RAP Notice only apply to rent increases based on the CPI, banking, or other claims such as decreased housing services, code violations etc. The timeliness requirements do not apply to rent increases that are void and unenforceable as a matter of law.

⁶ Exhibit 4

⁷ Exhibit 3

⁸ Exhibit 3

⁹ O.M.C. §8.22.065(A)

¹⁰ O.M.C. §8.22.065(A)

Timeliness of Decreased Housing Service Claims

The Oakland Rent Ordinance provides that for a petition claiming decreased housing services:

- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within ninety days of whichever of the following is later:
 - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or
 - ii. The date the tenant first receives the RAP Notice.
- b. If the decreased housing is ongoing, the tenant may file a petition at any point but is limited in restitution for ninety (90) days before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.¹¹

Therefore, the tenant's restitution for any decreased housing services shall be limited to March of 2018, ninety (90) days before the petition filing date of June 12, 2018.

Decreased Housing Services

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹² and may be corrected by a rent adjustment.¹³ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy, or one that is required to be provided in a contract between the parties, or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted.

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

Electrical Wiring: The tenant testified credibly that some of the electrical outlets were broken and she notified Mateo, the maintenance worker, about this issue multiple times. Mateo is an agent of the owner, and therefore, notice of this issue is imputed onto the owner. Further, the Notice of Violation dated April 25, 2018, cited a code violation for the electrical outlets in the living room and bathroom. Code Enforcement records show that the violation was abated on July 6, 2018.

This claim affects the habitability of the unit and the tenant is entitled to compensation for past decreased housing services from March 2018, through July 2018, as stated in the Table below.

¹¹ O.M.C. Section 8.22.090(A)(3)

¹² O.M.C. Section 8.22.070(F)

¹³ O.M.C. Section 8.22.110(E)

Windows: The tenant testified credibly that the windows in the bedroom do not open completely and she notified Mateo about this issue multiple times. Further, the Notice of Violation dated April 25, 2018, cited a code violation for the windows, stating that the "windows in the bedroom do not open/close properly". Code Enforcement Records show that the violation was abated on July 6, 2018.¹⁴

This claim affects the habitability of the unit and the tenant is entitled to compensation for past decreased housing services from March 2018, through July 2018, as stated in the Table below.

Mold in Bathroom: The tenant testified that she complained about mold in the bathroom to Mateo when she first moved into the unit. However, mold was not cited in the Notice of Violation dated April 25, 2018. The tenant has failed to sustain her burden of proof regarding the mold and compensation for this claim is denied.

Kitchen Drawers: The tenant testified that the kitchen drawers and cabinets do not open and close properly. Further, the Notice of Violation dated April 25, 2018, cited a code violation for the kitchen drawers. Code Enforcement Records show that the violation was abated on July 6, 2018.

This claim affects the habitability of the unit and the tenant is entitled to compensation for past decreased housing services from March 2018, through July 2018, as stated in the Table below.

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Electrical Outlets	1-Mar-18	1-Jul-18	\$945	2%	\$ 18.90	5	\$ 94.50
Windows	1-Mar-18	1-Jul-18	\$945	2%	\$ 18.90	5	\$ 94.50
Drawers	1-Mar-18	1-Jul-18	\$945	1%	\$ 9.45	5	\$ 47.25
TOTAL LOST SERVICES							\$ 236.25

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Sep-17	1-Nov-17	\$1,233	\$945	\$ 288.00	3	\$ 864.00
1-Dec-17	1-Oct-19	\$1,200	\$945	\$ 255.00	23	\$ 5,865.00
TOTAL OVERPAID RENT						\$ 6,729.00

¹⁴ Exhibit 3

RESTITUTION

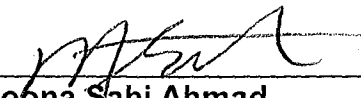
		MONTHLY RENT	\$945
		TOTAL TO BE REPAYED TO TENANT	\$ 6,965.25
		TOTAL AS PERCENT OF MONTHLY RENT	737%
AMORTIZED OVER		MO. BY REG. IS	
OR			
OVER	24	MONTHS BY HRG. OFFICER IS	\$ 290.22

ORDER

1. Petition T18-0311 is partly granted.
2. The 2017 rent increases are invalid. The tenant's base rent remains \$945.00.
3. The tenant is entitled to restitution for rent overpayments and past decreased housing services in the amount of \$6,965.25. The restitution shall be amortized over twenty-four (24) months. The tenant's rent from November 2019 to October 2021 is \$654.78. In November of 2021, the tenant's rent will revert to the base rent of \$945.00.
4. The remaining claims of decreased housing services are denied.

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

Dated: October 3, 2019



Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T18-0311

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 documents listed below by placing a true copy 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:

Documents Included

Hearing Decision

Owner

May & Grant Fong
358 Cerro Court
Daly City, CA 94015

Tenant

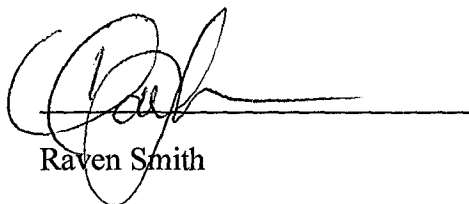
Maria & Luis Cervantes
1791 28th Avenue
Oakland, CA 94601

Tenant Representative

Xavier Johnson, Centro Legal de la Raza
3022 International Blvd Ste. 410
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.

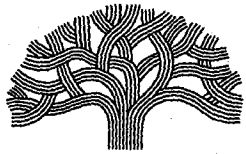
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **October 03, 2019** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

000040



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

2019 OCT -9 AM 11:45

APPEAL

Appellant's Name May Fong		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1791-28th Avenue, Oakland, Ca 94601			
Appellant's Mailing Address (For receipt of notices) 358 Cerro Court, Daly City, Ca 94015		Case Number T18-0311	
		Date of Decision appealed October 3, 2019	
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.)*

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 must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 32.

*Please listen to only the section of testimony on the audio day of hearing.

- You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •
- I declare under penalty of perjury under the laws of the State of California that on October 8, 2019, 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	Luis Cervantes AND Maria Amezquita
Address	1791-28th Avenue
City, State Zip	Oakland, Ca 94601
Name	
Address	
City, State Zip	

	10/8/19
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

T18-0311 APPEAL EXPLANATION

1) The hearing officer calculated the rent incorrectly. The rent for tenants Cervantes and Amerzquita was \$1400 as per signed lease in **Exhibit A**. The application for habitability issues is also incorrect. The electrical issues was due to the tenants' overloading the circuits with expansive outlets with overloading appliances. Please see attached **Exhibit B**. This caused shortages and dangerous circumstances and is due to the overcrowding of the unit 1 bedroom unit. The hearing officer calculated the decreased housing from March 2018 to July 2018. She has to put into account that the Owner was not made aware of any problems until receiving notice regarding the issues from code enforcement in or about May 2, 2018. Owners are allotted a reasonable time period to make repairs. Electrical and cabinets were repaired on May 8 2018. Window Repairs were completed June 1, 2018 due to ordering of windows. Please see attached receipts and email with the Code Enforcement Inspector. Please see attached **Exhibit C**. **The hearing officer did not adhere to the decrease housing clause.** [an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted] These were all repaired within a reasonable time period which is exactly a day after receiving notice repairs had been made with exception of the windows that needed special ordering; therefore, there should be no compensation for decreased housing. The issues were abated in July only because the inspection for the unit was scheduled for July.

2) d) The decision violates Ca state law 2007 California Civil Code Article 2. Rental Agreement CA Codes (civ:798.15-798.23.5) CIVIL CODE SECTION 798.15-798.23.5. Tenant Luis Cervantes AND Maria Amezquita attempts to claim they should takeover the rent amount set at the original tenant lease. Nazana Nevarez was the original tenant that signed a valid lease with previous landlord on May 30, 2012. Please see attached **Exhibit D**. Owner May Fong purchased property January 30, 2015 and sent notices to existing tenants of new ownership information along with RAP information to the original authorized tenant. Please see attached **Exhibit E**.

Nazana Nevarez subletted the unit to Luis Cervantes and Maria Amezquita without my approval or consent which is a breach of lease terms. Please see highlighted section regarding Subletting. It states the following:

[Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owners rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of

this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.

In the event that Owner consents to any sub-tenancy, is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner.

No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.]

Owner May Fong was totally unaware that Luis Cervantes and Maria Amezcuita were illegal subtenants that moved into premises without authorization until the text sent by Luis Cervantes 8/18/17 as stated at the hearing. Please see attached **Exhibit F**. Original tenants were given proper notices with RAP notices. Please see attached **Exhibit E**.

When Owner was made aware of the Cervantes and Amezcuita were illegal subtenants, Owner was to evict them based on violation of lease and unauthorized subtenants. Tenants begged owner to stay. With heart, On August 24, 2017, Owner decided to allow tenant to stay and have tenants fill out an application and sign new lease as per original lease **ONLY** based on 3 persons residing in Premises and abide by stipulation in the original lease that the **rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises**. Tenants Cervantes and Amezcuita professed on multiple occasions they only had 3 in their family. Owner would never have signed a new lease with 7 living in a 1 bedroom unit because it is an unsafe and unhealthy environment.

Per original lease, Original Tenant(s) moved out of Premises and Cervantes and Amezcuita had become the new tenant, the lease sign and agreed by both parties raised to market rate at \$1400 per month is valid according to the California state law. Please see attached **Exhibit D**.

2.e. The decision is not supported by substantial evidence. The **Preponderance** of evidence is upon the Petitioner to not give testimony but present factual supported documented evidence. All of the tenants' claim has not been supported with any documents and the evidence the hearing officer claims is not accurate. The hearing officer claimed the tenant did not receive the RAP until we signed a new lease which is correct. However, she neglected to acknowledge all the RAP notices Owner sent was to the original tenant Nanzania. Tenants Cervantes and Amezcuita would not be sent these notices. Please see attached **Exhibit F**.

The hearing officer did not take into account that tenants Cervantes and Amezcuita were unauthorized subtenants until the new lease was signed. I emphasize they were not the authorized master tenants. Any rent payments the Petitioner claims was directly deposited in Owners account without disclosing to the Owner the rent payments were from anyone but the master tenants owners. Rent payments were also deposited in owners account with either cash or bank transfer masking who is depositing the rent. Please see **Exhibit G**. As evidenced in the application and lease signed and dated August 24, 2017. Please see attached **Exhibit A**. This is the Petitioner's

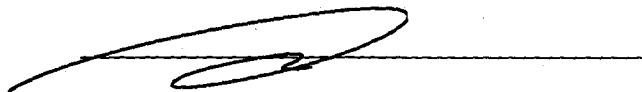
only and original lease as new tenants at the new marker rate of \$1400 (market value is \$1800). The attached stated the terms of lease as per California law and was based on the tenant's misrepresentation of facts regarding their claim was only 3 persons in the unit.

The hearing officer incorrectly claims that Owner testified "told the tenant her rent would be increased because there were so many people living in the unit." This is TOTALLY UNTRUE. Please listen to audio. Owner never made any claims of raising the rent due to the amount of people in unit. The rent was raised to market value as allowed by law when the original tenant vacates premises which happened. It is a fact I stated only 3 tenants can reside in the Premises and the tenant misrepresented themselves. Owner did indicate and firmly believe 7 in a 300 sleeping space is unsafe and hazardous but never claimed the rent is raised due to the amount of people that would be living there.

Tenants Cervantes and Amezquita were unauthorized subtenants and as per original lease in **Exhibit D**, the rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises as well as State and local laws.

h) The hearing officer did not adhere to the State or local laws. There was no 2017 rent increase as the hearing officer claims. This was a new lease to the new tenants of the unit. Prior to that they were unauthorized subtenants that never made me aware of their unauthorized residency until August 2017. Contracts matter and it is unjust to reward tenants who move into units without written authorization. Owners have the right to choose their tenants and charge market rent to new tenants once authorized. Tenants Cervantes and Amezquita deceived the Owner by moving into Premises without authorization and then misrepresenting themselves in order to avoid eviction and to obtain a new lease. This is not legally adhering to the laws.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 08, 2019 in Oakland, CA.



May Fong, Owner

000045

APPLICATION TO RENT OR LEASE

APPLICANT Each Applicant over the age of 18 must complete their own application form

PLEASE PRINT

First, Middle, Last Name Maria Amezquita Arceo	Date of Birth 7-5-81	Social Security # 617-392871	Driver's License #
Other Names Used In the Last 10 Years	Home Phone	Cell Phone	Email Address

ADDITIONAL OCCUPANTS List everyone who will live with you:

First, Middle, Last Name Luis Ayala Cervantes	Date of Birth 6-19-68	Relationship To Applicant Esposo
Janni Ayala	2-16-02	hijo
Maria Amezquita	7-5-81	mamá

EMPLOYMENT

	Current Employment	Prior Employment
Employer	Limpinando casas.	
Address		
Employer Phone	Negocio propia cuenta	
Job Title		
Name of Supervisor		
Dates of Employment	From: To:	From: To:
Income Per Month	\$	\$

RESIDENCE

	Current Residence	Previous Residence	Previous Residence
Street Address	1791 28th Ave		
City	Oakland cal		
State & Zip	94601		
Dates of Stay			
Owner/Manager And Phone number			
Reason For Leaving			
Last Rent Paid	\$	\$	\$

VEHICLES

Automobiles	Make	Model	Color	Year	License No.
Motorcycles					

PERSONAL REFERENCES

In Case Of Emergency, Notify	Address/City	Phone	Relationship
Nancy Nevares Close Friend		(610)213-9707	prima y amiga
Nearest Relative Living Elsewhere			



CREDIT INFORMATION Please list all your financial obligations

Name of Bank or Savings & Loan		Branch or Address		Account No.		Balance
				Checking		\$
				Savings		\$
Credit Accounts	Account No.	Address/City	Phone	Balance	Due Monthly	

GENERAL INFORMATION Check answer that applies

- Do you smoke? YES NO
- Do you have any pets/animals? YES NO
- Have you ever filed for bankruptcy? YES NO
- Do you have any musical instruments? YES NO
- Do you have any water-filled furniture or do you intend to use water filled furniture in the apartment? YES NO
- Have you ever been convicted for selling, possessing, distributing or manufacturing illegal drugs or convicted of any other crime? YES NO
- Have you ever been evicted or named as a defendant in an eviction for non-payment of rent or any other reason? YES NO

Please explain any "yes" answers to the above questions:

Why are you leaving your current residence? _____

The applicant hereby applies to rent/lease Apartment # _____ at _____ for \$ _____ per month, and upon owner's approval agrees to enter into a Rental Agreement and/or Lease and pay all rent and security deposits required before occupancy.

An application fee of \$ _____ is hereby submitted for the cost of processing this application, to obtain credit history and other background information.

Applicant represents that all information given on this application is true and correct. Applicant hereby authorizes verification of all references and facts, including but not limited to current and previous landlords and employers, and personal references. Applicant hereby authorizes owner/agent to obtain Unlawful Detainer, Credit Reports, Telechecks, and/or criminal background reports. Applicant agrees to furnish additional credit and/or personal references upon request. Applicant understands that incomplete or incorrect information provided in the application may cause a delay in processing which may result in denial of tenancy. In the event that a material misstatement or misrepresentation is discovered after Applicant is accepted as a Resident, and whether or not a Lease or Month to Month Rental Agreement is executed, Owner may, at Owner's sole discretion, deem such misstatement or misrepresentation to be a material and non-curable breach of any subsequent Lease or Month to Month Rental Agreement and grounds for rescission of the contract and immediate eviction. Applicant hereby waives any claim and releases from liability any person providing or obtaining said verification or additional information.

Applicant: Maria Amezcua Date: 8-24-17
 (Signature required)



Received \$600 8/21/17

OAKLAND RENTAL AGREEMENT AND/OR LEASE

Landlord/Lessor/Agent: Mav Fong Apartment Number 1791
Tenant(s)/Lessee: Maria Amezquita Arceo
Tenant(s)/Lessee: Luis Cervantes, Jovani Ayala Amezquita
Apartment Number: 1791
Apartment Address: 1791-28th Avenue
City: Oakland, State Ca, Zip 94601
Monthly Rental Rate: \$1700
Rental Due Date: 1st of month
Security Deposit: \$3500
Late Charge: \$75 if not paid by 3rd
Parking Space: 1
Storage Space: 0

\$1400 from M.A 12/1/17

1. This Rental Agreement and/or Lease shall evidence the complete terms and conditions under which the parties whose signatures appear below have agreed. Landlord/Lessor/Agent shall be referred to as "OWNER" and Tenant(s)/Lessee(s) shall be referred to as "RESIDENT."

2. PAYMENTS: Rent and/or other charges are to be paid at the office or apartment of the manager of the building or at such other place designated in writing by OWNER. For the safety of the manager, all payments are to be made by check or money order and no cash shall be acceptable.

All payments are to be made payable to: Mav Fong and delivered to 358 Cerro Court, Daly City, California, Telephone Number 415-812-9908

3. LATE CHARGE/FEE: The late charge amount noted above, not to exceed 6% of the monthly rent, shall be added to any payment of rent not made on the rental due date or for which a deficient (bounced) check shall have been given.

4. SECURITY DEPOSITS: The Security Deposit shall not exceed two times the monthly rent for unfurnished apartments or three times the monthly rent for furnished apartments. The total of the above deposits shall secure compliance with the terms and conditions of this agreement and shall be refunded to RESIDENT within 21 days after the premises have been completely vacated less any amount necessary to pay OWNER: a) any unpaid rent, b) cleaning costs, c) key replacement costs, d) costs for repair of damages to apartment and/or common areas above ordinary wear and tear, and e) any other amount legally allowable under the terms of this agreement.

5. UTILITIES: RESIDENT agrees to pay for all utilities and/or services based upon occupancy of the premises except garbage

6. OCCUPANTS: Guest(s) staying over 14 days cumulative or longer during any 12-month period, without the OWNER'S written consent, shall be considered a breach of this agreement. ONLY the following listed individuals and/or animals, AND NO OTHERS shall occupy the subject apartment for more than 14 days unless the expressed written consent of RESIDENT is obtained in advance.

7. PETS AND FURNISHINGS: Furnishings - No liquid-filled furniture of any kind may be kept on the premises. If the structure was built in 1973 or later RESIDENT may possess a waterbed if he maintains waterbed insurance valued at \$100,000.00 or more. RESIDENT must furnish OWNER with proof of said insurance.

8. PARKING/STORAGE: When and if RESIDENT is assigned a parking space on OWNER'S property, the parking space shall be used exclusively for parking of passenger automobiles and/or those approved vehicles listed on RESIDENT'S "Application to Rent/Lease" or attached hereto.

9. NOISE: RESIDENT agrees not to cause or allow any noise or activity on the premises that might disturb the peace and quiet of another RESIDENT. Said noise and/or activity shall be a breach of this Agreement.

10. LOITERING AND PLAY: Lounging, playing, or unnecessary loitering in the halls, on the front steps, or in the common areas in such a way as to interfere with the free use and enjoyment, passage or convenience of another RESIDENT is prohibited.

11. DESTRUCTION OF PREMISES: If the premises become totally or partially destroyed during the term of this Agreement so that RESIDENT'S use is seriously impaired, RESIDENT or OWNER may terminate this Agreement immediately upon three-day written notice to the other.

12. CONDITION OF PREMISES: RESIDENT acknowledges that he has examined the premises and that said premises, all furnishings, fixtures, furniture, plumbing, heating, electrical facilities, all items listed on the attached inventory sheet, if any, and/or all other items provided by OWNER are all clean, and in good satisfactory condition except as may be indicated elsewhere in this Agreement.



Can A.M. (Deposit to Bank of America Acct)

000048

be returned to OWNER in clean and good condition except for reasonable wear and tear; the premises shall be free of all personal property and trash not belonging to OWNER. It is agreed that all dirt, holes, tears, burns, or stains of any size or amount in the carpets, drapes, walls, fixtures, and/or any other part of the premises, do not constitute reasonable wear and tear.

13. MAINTENANCE AND ALTERATIONS: RESIDENT shall not paint, wallpaper, alter or redecorate, change or install locks, install antenna or other equipment, screws, fastening devices, excessively large nails, or adhesive materials, place signs, displays, or other exhibits, on or in any portion of the premises without the written consent of the OWNER except as may be provided by law. RESIDENT shall deposit all garbage and waste in a clean and sanitary manner into the proper receptacles as provided and shall cooperate in keeping the garbage area neat and clean. RESIDENT shall be responsible for disposing of items of such size or nature as is not normally acceptable by the garbage hauler for the building. RESIDENT shall be responsible for keeping the garbage disposal clean of chicken bones, toothpicks, match sticks, celery, pits, grease, metal vegetable ties, and all other items that may tend to cause stoppage of the mechanism. RESIDENT shall pay for the cleaning out of any plumbing fixture that may need to be cleared of stoppage and for the expense or damage caused by the stopping of waste pipes or overflow from bathtubs, washbasins, toilets, or sinks, if caused by negligence or misuse by RESIDENT or their guests. Tenant must notify landlord with a written notice stating what item(s) need service or repair and give landlord a reasonable opportunity to service or repair that item(s). Should any charges be incurred by the City as a result of not notifying the Landlord in writing of such needed service or repairs, tenant shall be responsible for a minimum of \$201.50 for each occurrence plus any additional fines or inspection fees imposed by a government office as a result of RESIDENT not notifying OWNER in writing of any deficiencies with the residence.

14. SMOKE/CARBON MONOXIDE DETECTORS: The rental unit is equipped with properly functioning smoke and carbon monoxide detectors. Resident agrees to test the smoke and carbon monoxide detectors in the rental unit monthly for proper function. Resident agrees not to interfere with their normal function or disable any detectors in any manner.

15. HOUSE, POOL, AND LAUNDRY RULES: RESIDENT shall comply with all house, pool, pet, and laundry rules attached to this agreement which may be changed from time to time. These rules shall apply to, but are not limited to, noise, odors, disposal of trash, pets, parking, use of common areas, and storage of toys, bicycles, tools, and other personal items (including signs and laundry), which must be kept inside and out of view. OWNER shall not be liable to RESIDENT for any violation of such rules by any other RESIDENTS or persons. Rights of usage and maintenance of the laundry room and/or pool and pool area are gratuitous and subject to revocation by OWNER at any time.

16. CHANGE OF TERMS: The terms and conditions of this agreement are subject to future change by OWNER after the expiration of the agreed lease period upon 30 days written notice setting forth such change and delivered to RESIDENT. Any changes are subject to laws in existence at the time of the Notice Of Change Of Terms.

17. TERMINATION: After expiration of the leasing period, this agreement is automatically renewed from month-to-month, but may be terminated by either party. The owner giving a 60-day notice and the resident giving a 30-day written notice of intention to terminate. Where laws require "just cause," such just cause shall be so stated on said notice. The premises shall be considered vacated only after all areas including storage areas are clear of all RESIDENT'S belongings, and keys and other property furnished for RESIDENT'S use are returned to OWNER. Should the RESIDENT hold over beyond the termination date or fail to vacate all possessions on or before the termination date, RESIDENT shall be liable for additional rent and damages, which may include damages due to OWNER'S loss of prospective new RENTERS.

18. POSSESSION: If OWNER is unable to deliver possession of the Apartment to RESIDENT on the agreed date, because of the loss or destruction of the Apartment or because of the failure of the prior RESIDENT to vacate or for any other reason, the RESIDENT and/or OWNER may immediately cancel and terminate this agreement upon written notice to the other party at their last known address, whereupon neither party shall have liability to the other, and any sums paid under this Agreement shall be refunded in full. If neither party cancels, this Agreement shall be pro-rated and begin on the date of actual possession.

19. INSURANCE: RESIDENT acknowledges that OWNER'S insurance does not cover personal property damage caused by fire, theft, rain, war, acts of God, acts of others, and/or any other causes, nor shall OWNER be held liable for such losses. RESIDENT HEREBY AGREES TO OBTAIN HIS OWN INSURANCE POLICY TO COVER ANY PERSONAL LOSSES. This does not waive OWNER'S duty to prevent personal injury or property damage where that duty is imposed by law, however, RESIDENT'S failure to maintain said policy shall be a complete waiver of RESIDENT'S rights to seek damages against OWNER for above stated losses.

20. RIGHT OF ENTRY AND INSPECTION: OWNER or OWNER'S Agent by themselves or with others, may enter, inspect and/or repair the premises at any time in case of emergency or suspected abandonment. OWNER shall give 24 hours advance notice and may enter for the purpose of showing the premises during normal business hours to prospective renters, buyers, lenders, for smoke alarm inspections, and/or for normal inspection and repairs. OWNER is permitted to make all alterations, repairs and maintenance that in OWNER'S judgment is necessary to perform. In addition, OWNER has the right to enter pursuant to Civil Code Section 1954. If the work performed requires that RESIDENT temporarily vacate the unit, then RESIDENT shall vacate for this temporary period upon being served a 7-day notice by OWNER. RESIDENT agrees that in such event RESIDENT will be solely compensated by a corresponding reduction in the rent for those many days that RESIDENT was temporarily displaced. No other compensation shall be due to the RESIDENT. If the work to be performed requires the cooperation of the RESIDENT to perform certain tasks, then RESIDENT shall perform those tasks upon receiving a 24-hour written notice. (EXAMPLE: removing food items from cabinets so that the unit may be sprayed for pests.) Upon 24 hours notice, RESIDENT hereby agrees to lend OWNER the keys to the premises for the purpose of having a duplicate made for OWNER'S use.

21. ASSIGNMENT: RESIDENT agrees not to transfer, assign or sublet the premises or any part thereof and hereby appoints and authorizes the OWNER as his agent and/or by OWNER'S own authority to evict any person claiming possession by way of any alleged assignment or subletting.

22. PARTIAL INVALIDITY: Nothing contained in this Agreement shall be construed as waiving any of RESIDENT'S or OWNER'S rights under the law. If any part of this Agreement shall be in conflict with the law, that part shall be void to the extent that it is in conflict, but shall not invalidate this Agreement nor shall it affect the validity or enforceability of any other provision of this Agreement.

23. NO WAIVER: OWNER'S acceptance of rent with knowledge of any default by RESIDENT or waiver by OWNER of any breach of any term or condition of this Agreement shall not constitute a waiver of subsequent breaches. Failure to require compliance or to exercise any right shall not be construed as a waiver by OWNER of said term, condition, and/or right, and shall not affect the validity or enforceability of any other provision of this Agreement.

24. ATTORNEY'S FEES: If any legal action or proceeding be brought by either party to this agreement, the prevailing party shall be reimbursed for all reasonable attorneys' fees up to but not more than \$500 in addition to other damages awarded.

25. ABANDONMENT: California Civil Code Section 1951.2 shall govern Abandonment. If any rent has remained unpaid for 14 or more consecutive days and the OWNER has a reasonable belief of abandonment of the premises, OWNER shall give 18 days written notice to RESIDENT at any place (including the rented premises) that OWNER has reason to believe RESIDENT may receive said notice of OWNER'S intention to declare the premises abandoned. RESIDENT'S failure to respond to said notice as required by law shall allow OWNER to reclaim the premises.

26. The undersigned RESIDENTS are jointly and severally responsible and liable for all obligations under this agreement and shall indemnify OWNER for liability caused by the actions (omission or commission) of RESIDENTS, their guests and invitees.

27. Pursuant to Section 1785.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit history may be submitted to a credit reporting agency, if you fail to fulfill the terms of your credit obligation. RESIDENT expressly authorizes OWNER/AGENT (including a collection agency) to obtain Resident's consumer credit report, which OWNER/AGENT may use if attempting to collect past due rent payments, late fees, or other charges from Resident, both during the term of the Agreement and thereafter.

28. Lead Warning Statement: Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, OWNERS must disclose the presence of known lead-based paint hazards in the dwelling. RESIDENTS must also receive a federally approved pamphlet on lead poisoning prevention.

OWNER/AGENT DISCLOSURE (Initial)

AE OWNER'S initials (on left) mean OWNER has no knowledge of lead-based paint and/or lead-based hazards in or on the Premises and OWNER has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in or on the Premises, and OK RENTER'S initial (on left) indicate that RENTER has received a copy of a "Protect Your Family from Lead in Your Home", and that RENTER shall notify OWNER promptly in writing of any deteriorating and/or peeling paint.

29. MOLD: The OWNER/AGENT has inspected the unit prior to lease and knows of no damp or wet building materials and knows of no mold contamination. Resident agrees to accept full responsibility and maintain the premises in a manner that prevents the occurrence of an infestation of mold in the premises. Resident also agrees to immediately report to the OWNER/AGENT any evidence of water leaks, excessive moisture or lack of proper ventilation and evidence of mold that cannot be removed by cleaning.



30. ADDITIONS AND EXCEPTIONS: TENANT is responsible for all repairs and replacements of all appliances including refrigerator, stove and microwave.

31. NOTICES: All notices to RESIDENT shall be served at RESIDENT'S apartment / house whether or not RESIDENT is present at the time of delivery and all notices to OWNER / AUTHORIZED PERSON shall be served by first class mailing to:

Person Authorized To Manage Property:

Name _____ Address _____
Phone Number _____

Owner of property or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

Name _____ Address _____
Phone Number _____

Person or Entity Authorized to Receive Payment of Rent:

Name _____ Address _____
Phone Number _____

32. INVENTORY: The Apartment contains the following items for use by RESIDENT: stove, refrigerator

RESIDENT further acknowledges that the subject premises are furnished with the additional furnishings listed on the attached inventory and that said attached inventory is hereby made part of this agreement.

33. Proposition 65 Notice: Warning: Some areas may contain chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

34. Notice is hereby given of the existence of the Residential Rent Arbitration Board (RRAB) and the Rent Arbitration Program of the City of Oakland, the office of which is located at 250 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA, 94612, phone number (510) 238-3721. The Rent Arbitration Program (Oakland Municipal Code, Chapter 8.22) lease addendum is attached to this lease and acknowledged in number 35 below as a lease addendum notifying tenants of the Notice to Tenants regarding Oakland's Rent Adjustment Program). In the event that Owner/Agent elects not to implement an annual rent adjustment, the Owner/agent hereby advises Tenant that Owner/agent elects to bank any such rent adjustment to future year(s) pursuant to the provisions of the Oakland Rent Arbitration Ordinance.

Note: Tenant and Landlord has adopted, and agree to comply with Measure EE "Just Cause Eviction" Ordinance for the City of Oakland, CA., which requires landlords of specified residential properties, the right to evict a tenant only for reasons specified in the measure, such as non-payment of rent, breach of lease, damaging premises, drug or other illegal activity, disorderly conduct, rehabilitation of unit, landlord or relative occupancy, except in certain circumstances where the tenant is disabled, elderly or catastrophically ill. Further, the ordinance provides for damages, penalties and attorneys' fees against landlords who violate this law. Should Tenant violate any portion of the ordinance, Landlord may exercise his/her right to evict tenant for damages, penalties and attorneys' fees.

35. RESIDENT acknowledges receipt of the following, which shall be deemed a part of this Agreement: (Please check)

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> House Rules | <input type="checkbox"/> Pet Agreement | <input type="checkbox"/> Garage Door Opener _____ |
| <input checked="" type="checkbox"/> Laundry Rules | <input type="checkbox"/> Pool Rules | <input checked="" type="checkbox"/> Notice to Tenants: Oakland's Rent Adjustment Program |
| <input checked="" type="checkbox"/> Mailbox Keys | <input checked="" type="checkbox"/> Apartment Keys | <input checked="" type="checkbox"/> Information About Bed Bugs Sheet |

36. ENTIRE AGREEMENT: This Agreement constitutes the entire Agreement between OWNER and RESIDENT. No oral agreements have been entered into, and all modifications or notices shall be in writing to be valid. The undersigned Residents are jointly and severally responsible for all obligations under this agreement and shall indemnify Owner for liability caused by the actions (omission or commission) of residents, their guests and invitees. Renier has relied on his own judgment in entering into this agreement.

37. NOTICE: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

38. RECEIPT OF AGREEMENT: The undersigned RESIDENT hereby certifies that he/she is fluent in the English language and has read and completely understands this Agreement and hereby acknowledges receipt of a copy of this "Rental Agreement and/or Lease." (_____) RESIDENT'S initials:

OR Pursuant to California Civil Code 1632, which requires translation of specified contracts or agreements that are negotiated in Spanish, Chinese, Vietnamese, Tagalog or Korean:

(Maria A.) Resident's initials on left hereby acknowledge that this agreement was translated and interpreted in their foreign language of: Spanish

Jovani Ayala Printed Name of Interpreter, Jovani Ayala Signature of Interpreter, 08/24/17 Date

Mav Fong Owner/Agent, 8/24/17 Date

Owner/Agent _____ Date _____

Owner/Agent _____ Date _____

Maria Amezcua Resident, 8-24-17 Date

Luis Amezcua Resident, _____ Date _____

Jovani Ayala Resident, 8-24-17 Date

NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR THE ADEQUACY OF ANY PROVISION IN THIS AGREEMENT. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.



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...
Starting on February 1, 2017, an owner must petition the RAP for any rent increase...
Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases...
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition...
Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22)...
Oakland charges owners a Rent Program Service Fee per unit per year...
Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords...
The owner [] is [X] is not permitted to set the initial rent on this unit without limitations...

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit 1791, the unit you intend to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building.
There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at

I received a copy of this notice on

8-24-17 (Date)

Maria Amezcua (Tenant's signature)

此份屋崙(奧克蘭)市租容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.



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 en el alquiler (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en alquiler construidas antes de 1983. Para más información sobre las viviendas cubiertas, contacte a la oficina del RAP.
- A partir del 1º de febrero de 2017, un propietario debe presentar una petición ante el RAP para todo aumento en el alquiler que sea mayor que el aumento general anual en el alquiler ("aumento CPI") o permitido que los aumentos en el alquiler sean "invertidos". Estos incluyen mejoras de capital y aumentos en los gastos operativos. En lo que respecta a este tipo de aumentos, el propietario puede aumentar su alquiler sólo después de que un funcionario de audiencia haya autorizado el incremento. Ningún aumento anual en el alquiler podrá exceder el 10%. Usted tiene derecho a disputar el aumento en el alquiler propuesto respondiendo a la petición del propietario. No es indispensable que usted presente su propia petición.
- **Cómo disputar un aumento en el alquiler:** Puede presentar una petición ante el RAP para disputar aumentos ilícitos en el alquiler o la disminución de servicios en la vivienda. Para disputar el aumento en el alquiler, debe presentar una petición (1) en un plazo de (90) días a partir de la fecha del aviso de aumento en el alquiler si el propietario también proporcionó este Aviso a los Inquilinos con la notificación del aumento en el alquiler; o (2) en un plazo de 120 días a partir de la fecha de recepción del aviso de aumento en el alquiler si este Aviso a los Inquilinos no fue entregado con la notificación de aumento en el alquiler. 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 del RAP en el Centro de Asistencia de Vivienda: 250 Frank H. Ogawa Plaza, 6º Piso, Oakland; también puede visitar: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>.
- Si usted disputa un aumento en el alquiler, debe pagar su alquiler con el aumento disputado hasta que presente la petición. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha de inicio de vigencia 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 viviendas cubiertas. Para más información contacte la oficina RAP.
- Oakland les cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por vivienda al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. No se requiere que los inquilinos de viviendas subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir el 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.)
- El propietario tiene no tiene permitido establecer el alquiler inicial de esta vivienda sin limitaciones (por ejemplo, de conformidad con la Ley Costa-Hawkins). Si el propietario no tiene permitido establecer el alquiler inicial sin limitaciones, el alquiler vigente cuando el inquilino anterior desalojó la vivienda era de 2016.

INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES

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

Recibí una copia de este aviso el 8-24-17 Maria Amezcua
(Fecha) (Firma del inquilino)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

**MICHAEL MEHRETEAB
ELECTRIC**

RECEIVED 05/10/18

RECEIPIENT:

May Fong

LOCATION:

**1791 28th Ave
Oakland**

SENDER:

Michael Mehreteab Electric

6119 Market St, Oakland, Ca 94608

Phone: (510) 978- 2489

Replace burnt outlet in living room due to overloaded circuit. Checked circuit breaker for damages. \$200

Received payment 5/9/18

Job #29

000054

**SPECIAL SERVICES CUSTOMER INVOICE EXHIBIT C**

Notice of Cancellation (see Exhibit A) may be sent to this address:

HOME DEPOT U.S.A., INC.

Store 0639 COLMA II

2 COLMA BLVD

COLMA, CA 94014

Phone: (850) 755-9600

Salesperson: kxh6ggf

Reviewer: sv995

Page 1 of 2

No. H0639-111901**REPRINT**

2018-05-09 14:00

SOLD TO	Name		Phone 1	
	MAY FONG MAY FONG		(415) 812-9908	
	Address		Phone 2	
	358 CERRO CT			
	Company Name			
City				
DALY CITY		Job Description 1791		
State CA		Zip 94015		
		County SAN MATEO		

CUSTOMER PICKUP #1**MERCHANDISE AND SERVICE SUMMARY**

We reserve the right to limit the quantities of merchandise sold to customers

REF # W02		SKU # 0000-515-664		Customer Pickup / Will Call			
S.O. MERCHANDISE TO BE PICKED UP:		S/O MILGARD MFG INC		REF # S01			
				ESTIMATED ARRIVAL DATE: 05/30/2018			
				P.O. #39505099			
REF #	SKU	QTY	UM	DESCRIPTION	PI TAX	PRICE EACH	EXTENSION
S0101	0000-301-390	0.00	EA	NA / SINGLE SLIDER 29.5 X 47.5 VINYL XO / SINGLE SLIDER 29.5 X 47.5 VINYL XO (#1)	A	\$269.07	\$0.00*
SCHEDULED PICKUP DATE: Will be scheduled upon arrival of all S/O Merchandise						MERCHANDISE TOTAL: \$0.00	
END OF CUSTOMER PICKUP - REF #W02							

CUSTOMER PICKUP #2

REF # W04		SKU # 0000-515-664		Customer Pickup / Will Call			
S.O. MERCHANDISE TO BE PICKED UP:		S/O MILGARD MFG INC		REF # S03			
				ESTIMATED ARRIVAL DATE: 05/31/2018			
				P.O. #39505130			
REF #	SKU	QTY	UM	DESCRIPTION	PI TAX	PRICE EACH	EXTENSION
S0303	0000-301-390	1.00	EA	NA / SINGLE SLIDER 29.5 X 47.5 VINYL XO / SINGLE SLIDER 29.5 X 47.5 VINYL XO (#1)	A	\$220.57	\$220.57*
SCHEDULED PICKUP DATE: Will be scheduled upon arrival of all S/O Merchandise						MERCHANDISE TOTAL: \$220.57	
END OF CUSTOMER PICKUP - REF #W04							

WILL-CALL MERCHANDISE PICK-UP
 Will-Call items will be held in the store for 7 days only.
 Check your current order status online at
www.homedepot.com/orderstatus

**FOR WILL CALL
 MERCHANDISE PICK-UP
 PROCEED TO WILL CALL OR
 SERVICE DESK AREA**
 (Pro Customers, Proceed To The Pro Desk)

* Indicates item markdown
 Customer Copy

TOTAL CHARGES OF ALL MERCHANDISE & SERVICES	
Policy Id (PI): A: 90 DAYS DEFAULT POLICY; <i>'The Home Depot reserves the right to limit / deny returns. Please see the return policy sign in stores for details.'</i>	ORDER TOTAL \$220.57
	SALES TAX \$19.30
	TOTAL \$239.87
	BALANCE DUE \$0.00
END OF ORDER No. H0639-111901	

EXHIBIT C

Re: Case 1801330 1783-28th Avenue

From: May Fong (mayfong@pacbell.net)

To: HBarron@oaklandnet.com

Date: Friday, June 15, 2018, 9:55 AM PDT

Hi Hugo!

The inspection passed on Wednesday.

Please confirm the case has been abated.

Thx

May
Sent from my iPhone

On Jun 6, 2018, at 8:33 AM, Barron, Hugo <HBarron@oaklandnet.com> wrote:

Not, you need to call 238-3444 and schedule a final inspection once the permit is final please call me and let me know. Hugo.

From: May Fong [<mailto:mayfong@pacbell.net>]
Sent: Tuesday, June 05, 2018 12:47 PM
To: Barron, Hugo <HBarron@oaklandnet.com>
Subject: Re: Case 1801330 1783-28th Avenue

Hi Hugo!

I wanted to find if you are able to pass my inspection for my windows since you were at the unit yesterday?

Thanks.

May

From: May Fong <mayfong@pacbell.net>

To: "hbarron@oaklandnet.com" <hbarron@oaklandnet.com>

Sent: Wednesday, May 2, 2018 2:49 PM

Subject: Case 1801330 1783-28th Avenue

<image001.jpg>

To Inspector Barron,

I received the above reference complaint. Please find attached the notice I sent to the tenants regarding a violation you have included. I was made aware of the dumping on April 18th by a tenant, not by Luis Ayala. I verified the issues and contacted Luis regarding the violations he has caused and sent over the notices. Mr. Ayala has never complained to me regarding electrical or cabinet issues. I was made aware of the window and my handyman will repair the drawers in the kitchen and window well as today. My electrician will take care of the electrical on Friday and I already had made arrangements for bulky item pickup next Wednesday. I warned the tenant with the red van not to park at the lawn and I installed yellow parking bumpers to prevent cars from entering the lawn as per picture. I also installed security cameras in hopes to prevent the dumping and illegal car parking.

I will send you the confirmation that everything is taken care of and you can reinspect by May 14th.

Thanks.

May

Rental Agreement (Month-to-Month)

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

Terms of Tenancy

DS
2 GNF 12/29/2014

Owner Joseph S. Martinez

Agent for Same as above (Name)
Rent & Notices

1814 28th Ave Oakland Ca. 94601 (Address)
570-326-1943 JSMDGoldenHours@gmail.com (Phone & Email)

Tenants Nazania V. Nevarez (Name) 11-25-77 (DOB)

Teresa Vazquez (Name) 5-17-95 (DOB)

Fernando Nevarez (Name) 10-15-97 (DOB)

Cesar Nevarez (Name) 6-29-04 (DOB)

____ (Name) _____ (DOB)

Premises X 1791 28th Avenue, Oakland Ca 94601 (Address)

Rent \$ 895.00 per month payable in advance on the 1st day of each month.

Parking Parking space assigned yes Monthly charge \$ NA payable with monthly rent.

Storage Storage space assigned yes Monthly charge \$ NA payable with monthly rent.

- Rent Payments
- Electronic Funds Transfer (EFT)
 - Personal check
 - Cashier's check or money order
 - Cash

Security Deposit \$ 800.00

Late Charge \$ 53.70 if Owner does not receive rent in full within 5th days after the due date.

Returned Payment \$ 25.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

Term of Tenancy The Tenancy begins on Dec 1 2012 and ends on May 30, 2012 and thereafter continues on a month-to-month basis until terminated.

Pets Approved pets NO Pets

Owner's Utilities Owner pays for Water & garbage

Tenant's Utilities Tenant pays for Gas & Electric

Appliances & Fixtures Owner provides stove & Refrigerator

General Terms and Conditions of Tenancy

Use and Occupancy The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page N.N (Tenant initials)

Rental Agreement (Month-to-Month)

Rent Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.

Late Payments Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.

Returned Payments Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.

Individual Liability Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.

Failure to Pay As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.

Security Deposit Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within two weeks after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check for any deposit balance. Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.

Subletting

~~Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.~~

In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner.

No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.

Parking

~~The assigned parking space is for the exclusive use of the Tenants and may be used for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.~~

Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

Storage

Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.

I have reviewed this page NN (Tenant initials)

Rental Agreement (Month-to-Month)

- Condition of Premises** Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.

- Appliances and Fixtures** Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.

- Pets** Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.

Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manor. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleaing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.

- Trash** Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.

- Owner's Access** California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).

- Extended Absences** Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.

- Quiet Enjoyment** Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.

- Repairs and Alterations** Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.

Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.

- Financial Responsibility** Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.

- Water-filled Furniture** No waterbed or other item of water-filled furniture will be kept on the Premises.

- Smoke Detectors** The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

- Termination** The tenancy may be terminated by Tenant by serving a 30-day written notice of termination upon Owner, and by Owner by serving a 30-day written notice of termination upon Tenant if Tenant has been in possession of the Premises for less than one year, or by serving a 60-day written notice of termination upon Tenant if Tenant has been in possession of the Premises for one year or longer. Any termination notice is subject to applicable local rent control ordinances and regulations. If the Premises are damaged by fire, flood, earthquake or any other cause so as to render them uninhabitable and therefore destroyed, the tenancy is terminated.

I have reviewed this page N.N. (Tenant initials)

Rental Agreement (Month-to-Month)

Attorney Fees In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to subject to local rent control ordinances and regulations that may apply.

Megan's Law Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

Notices Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

Validity of Each Part If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

Captions and Headings The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.

Application Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

Attachments The following attachments are incorporated as part of this Agreement:
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards
 Move-In-Move-Out Checklist
 Oakland Notice to Tenants
 EPA booklet entitled "Protect Your Family from Lead in Your Home"

Entire Agreement This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By: Joseph Martinez 11-26-12
 Owner or Agent Date

Tenant _____ Date _____
Nazario Navarez 11-28-12
 Tenant Date

Tenant _____ Date _____ Tenant _____ Date _____
 Tenant _____ Date _____ Tenant _____ Date _____

Receipt	
By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:	
Security Deposit:	\$ _____
Rent:	\$ _____ for the period _____ to _____
Other:	\$ _____ for _____
Total received:	\$ _____ payment method _____



Form provided by the East Bay Rental Housing Association®
www.ebrha.com
 Form Rental Agreement (Month-to-Month) © (06/11)



EXHIBIT E

NOTICE TO TENANTS AT 28TH AVENUE

Dear Tenants,

I am writing in regards to the rules and maintenance of the building for 1783-28th Avenue. Thank you for those who have been doing their share in maintaining the cleanliness of the building and property including the carport, yard and garbage areas. Unfortunately, there seems to be some big problems we have been having with the garbage and some tenants have been throwing diapers down their windows to the back and sides of the building. I hope all tenants are aware that garbage that is thrown on the property and not put in the proper containers will cause huge rodent problems. According to the lease, each tenant has a responsibility to maintain the property. As a courtesy to all the other tenants, please do your share in keeping the property in good condition.

I want to clarify the rule that there is only 1 carport space per unit. If you have more than 1 car, you must not park it in any of the carport space or yard. Your car must be parked outside the gated area.

Since there seems to be some problems with the moving of the garbage container, I will be looking into having individual garbage cans where each tenant would be responsible for moving out their garbage container outside on garbage day. We have recycle bins. Please be sure to use these for recycling plastic, glass and paper. This will help the environment.

I will be slowly making repairs and improvement to the building to make the property more beautiful. Please do your part in helping to improve our building.

I will be meeting with each tenant to sign leases. I do want to remind all tenants to write down their unit address on the deposit slips when making your rent deposits so I can credit you correctly. Please find attached the RAP sheet as required by the Oakland rent board in regards to your tenant rights.

Thank you for your attention and cooperation.

Sincerely,



May Fong
415-812-9908

000063



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program (“RAP”) that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (“CPI increase”). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases (“banking”). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland, CA 94612 or: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has **not** been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
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- 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 1791, 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 Baùo quyeàn lôii cuûa ngôðøi thueâ trong Oakland naøy cuõng coù baèng tieáng Vieät. Ñeà coù moät baùn sao, xin goii (510) 238-3721.

THIRTY-DAY NOTICE OF CHANGE OF MONTHLY RENT

TO: Nazana Nevarez, Teresa Vazques, Fernando Nevarez and Cesar Nevarez, et al
All Residents (tenants and subtenants) in possession (full name) and all others in possession

of the premises located at:

1791-28th Avenue, Unit # (if applicable) _____
(Street Address)
Oakland, CA 94601
(City) (Zip)

You are hereby notified, in accordance with California Law, that 30 days after service upon you of this Notice, or

8/1/16, whichever is later, your monthly rent which is payable in advance on or before the
(Date)

1st day of each month, will be the sum of \$ 995, instead of \$ 945, the current monthly rent.

Except as herein provided, all other terms of your tenancy shall remain in full force and effect.

If you fail to fulfill the terms of your credit obligations, a negative credit report may be submitted to a credit reporting agency.

6/30/16
Date

Owner/Agent May Fong

Proof of Service

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this is a true copy, on the 30th day of June (month), 2016 (year), on the above-mentioned resident(s) in possession, in the manner indicated below. (Select one)

BY MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence

Place of Mailing: San Francisco Date of Mailing: 6/30/16

- BY DELIVERING** a copy of the Notice to the following resident(s) **PERSONALLY**: _____
- BY LEAVING** a copy for each of the above-named resident(s) with a person of suitable age and discretion at the residence or usual place of business of the resident(s), said resident(s) being absent thereof;
AND MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence.
- BY POSTING** a copy for each of the above-named resident(s) in a conspicuous place on the property therein described, there being no person of suitable age or discretion to be found at any known place of residence or business of said resident(s);
AND MAILING by first class mail on the same day as posted, a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope with postage fully prepaid, addressed to the resident(s) at the place where the property is situated.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and if called as a witness to testify thereto, I could do so competently.

Executed this 30th day of June (month), 2016 (year), in San Francisco (city), Ca (state).

May Fong
Name of Declarant (Print)

(Signature of Declarant)



California Apartment Association Approved Form
www.caanet.org
Form 5.1-SV - Revised 12/14 - ©2014 - All Rights Reserved
Page 1 of 1

Unauthorized Reproduction
of Blank Forms is Illegal.





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

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 La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
 Bàun Thoàng Bàuò qyeàñ lờii củuà ngồđồi thueà trong Oakland nàøy củỡng cồù bàềng tiếang Việät. Ñềã cồù mớat bàùn sao, xin gồii (510) 238-3721.

EXHIBIT F

TEXTS FROM LUIS 8/17/17 ESTABLISHED ILLEGALLY STAYING AT UNIT

3:46
Phone
Luis

Aug 18, 2017, 5:50 PM
Hey this luis I just had a question if is possible if you can change the apartment name under our name because my social worker is asking for the papers I was just trying to see if you can do us that favor

Ok please send me the names of everyone on lease

Aug 19, 2017, 7:09 AM

Can you send the name

Aug 19, 2017, 9:20 AM

3:46
Phone
Luis

- María Amezcuita Arceo
- Luis Cervantes
- Jovani Ayala Amezcuita
- Linda Ayala Amezcuita
- Luis David Ayala Amezcuita
- Ruby Ayala Amezcuita
- Jessica Ayala Amezcuita

Aug 20, 2017, 6:02 AM

7 people are living there ?

3:46
Phone
Luis

Aug 20, 2017, 6:02 AM

Luis I'm looking at the old lease and I don't see any of the names on the lease. I thought you were the son of Nazana Nevarez?

How are you related to nazana ?

Aug 20, 2017, 10:39 AM

Hi Luis! Per my conversation with you and Nancy you are residing in the unit illegally as Nancy cannot allow or sublet

3:47
Phone
Luis

Aug 20, 2017, 10:39 AM

Hi Luis! Per my conversation with you and Nancy you are residing in the unit illegally as Nancy cannot allow or sublet the unit to others without my permission or consent. I was unaware Nancy left the country. She is in breach of contract and she and you and your family must vacate the unit immediately. I will send Nancy and everyone in the unit a 3 day notice to quit. This is the beginning process of

3:47
Phone
Luis

Nancy and everyone in the unit a 3 day notice to quit. This is the beginning process of eviction. This will effect Nancy's credit if you do not vacate the unit

At this time there's 7 people living in the unit and that is endangering the lives of you and those residing in the unit as well as my other tenants in the apartment complex. You must not allow more than 3 in the unit as it against housing code and a

3:47
Phone
Luis

At this time there's 7 people living in the unit and that is endangering the lives of you and those residing in the unit as well as my other tenants in the apartment complex. You must not allow more than 3 in the unit as it against housing code and a possible fire hazard

This is against the fire code

Hey we are waiting for my mom to get out of work and I was trying to ask if we can pay less

3:47
Phone
Luis

Hey we are waiting for my mom to get out of work and I was trying to ask if we can pay less because we really want to stay here

I will meet you on Thursday at 9am

Here are some non profit organizations that can help you per our conversation

Season of sharing Catholic charities

Ok thank you



EXHIBIT G

Online Banking

Fong Investments: Account Activity Transaction Details

Post date: 07/08/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0262910428

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0262910428

Transaction category: Income: Deposits

000068



Fong Investments: Account Activity Transaction Details

Post date: 06/05/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1476793191

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1476793191

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 05/06/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0317314036

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 0317314036

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 04/05/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1750389378

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 1750389378

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 03/06/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1789276445

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 1789276445

Transaction category: Income: Deposits



Fong Investments: Account Activity Transaction Details

Post date: 02/05/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 2740017444

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 2740017444

Transaction category: Income: Deposits



Fong Investments: Account Activity Transaction Details

Post date: 12/05/2018

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1603915720

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1603915720

Transaction category: Income: Deposits



Fong Investments: Account Activity Transaction Details

Post date: 03/05/2018

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0511268718

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0511268718

Transaction category: Income: Deposits

City of Oakland Rent Adjustment Program

Owner Response

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION TRIBUNAL

2018 NOV 27 PM 12: 28

Case **T18-0311**
Property Address **1791 28th Avenue**

Party	Name	Address	Mailing Address
Tenant	Maria & Luis Cervantes (510) 927-1332	1791 28th Avenue Oakland, CA 94601	
Owner	May & Grant Fong 650-757-2988	358 Cerro Court Daly City, CA 94015	

Business Information

Date of which you aquired the building	1-30-2015
Total Number of Units	6
Is there more than one street address on the parcel?	No
Type of Unit	Apartment, Room or Live-work
Is the contested increase a capital improvements increase?	No

Rent History

The tenant moved into the rental unit on	8-24-2017
Initial monthly rent	1233
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
On what date was the notice first given?	8-24-2017
Is the tenant current on the rent?	No

Exemption

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:	No
---	----

City of Oakland Rent Adjustment Program

Owner Response

Case **T18-0311**
Property Address **1791 28th Avenue**

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. No

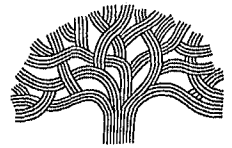
The unit was newly constructed and a certificate of occupancy was issued for it on or after January 1, 1983. No

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. No

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. No

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. No

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. No



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND.

Housing and Community Development
Department Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

CORRECTED HEARING DECISION

CASE NUMBER: T18-0311 Cervantes v. Fong
PROPERTY ADDRESS: 1791 28th Avenue, Oakland, CA
DATE OF HEARING: June 3, 2019
DATE OF CORRECTED DECISION: October 16, 2019
APPEARANCES: Xavier Johnson, Attorney for Tenant
Luis Ayala Cervantes, Tenant
Maria Amezquita, Tenant
Abigail Romero, Interpreter
May Fong, Owner

REASON FOR CORRECTED DECISION

On October 3, 2019, a Hearing Decision was mailed to all parties. On page 3 of that Hearing Decision, it stated "The owner also told the tenant her rent would be increased because there were so many people living in the unit." After reviewing the audio recording of the Hearing, that sentence has been removed. Other than the removal of that sentence from page 3, the Hearing Decision remains the same.

This CORRECTED HEARING DECISION does not set a new appeal period.

SUMMARY OF DECISION

The tenant's petition is partly granted.

CONTENTIONS OF THE PARTIES

On June 12, 2019, the tenant filed a petition contesting two (2) rent increases, and alleging that her housing services have decreased. The basis for the tenant's petition includes the following:

- The CPI and/or banked rent increase notice I was given was calculated incorrectly;

- The increases exceed the CPI Adjustment and are unjustified or are greater than 10%;
- I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such as increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase;
- No written notice of Rent Program was given to me together with the notice of increases I am contesting;
- The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increases;
- The increase I am contesting is the second increase in my rent in a 12-month period;
- There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance;
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner; and
- The proposed rent increase would exceed an overall increase of 30% in 5 years.

The owner filed a timely response denying the allegations.

THE ISSUES

- (1) When, if ever, did the tenant receive the form Notice to Tenants (RAP Notice)?
- (2) Are the contested rent increases valid?
- (3) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

Rent History and RAP Notice

On her petition, the tenant stated that she moved into the subject unit in August of 2015, at an initial monthly rent of \$945.00. She did not sign a lease at that time but paid rent directly to the owner. On August 24, 2017, the tenant signed a written lease for the subject property effective September 1, 2017.¹ The lease states that the tenant's rent shall be \$1,233.00 for the first three (3) months and will increase to \$1,400.00 in December of 2017. The tenant testified that she paid \$1,233.00 in rent monthly for September, October, and November of 2017. In December of 2017, the tenant began paying \$1,200.00 in rent monthly instead of the increased amount of \$1,400.00. The tenant testified that she began paying \$1,200.00 because she found out that she was

¹ Exhibit 1

paying more than other tenants in the building. The tenant is still paying \$1,200.00 in rent monthly.

The tenant further testified that the 2017 lease was negotiated in Spanish, with the tenant's minor son serving as an interpreter, but the tenant was only provided the written lease in English. The tenant also testified that she first received the RAP Notice on August 24, 2017, at the time she signed the lease.² The RAP Notice was provided to her in English and in Spanish. Finally, the tenant testified that she signed the 2017 lease under duress, because the owner told her that if she did not sign it, the owner would evict them because there were too many people living in the unit. The tenant testified that there are two (2) adults, and five (5) minor children living in the unit.

The owner testified that she received a text from the tenant's son in August of 2017, requesting a lease under the tenant's name. It was only at that time that she realized that the tenants did not have a lease for the property. She also found out that there were seven (7) people living in the unit. That is a fire hazard, so the owner told the tenant that she could only have three (3) people living in the unit. Finally, she testified that both parties came to an agreement that the rent would be \$1,233.00 for the first three months after the lease was signed and would increase to \$1,400.00 in December of 2017. The owner testified that the tenant has paid \$1,200.00 in rent monthly instead of the increased amount of \$1,400.00.

Decreased Housing Services

With the petition, the tenant submitted a list of decreased housing services. The parties testified as follows regarding the tenant's list of decreased housing services.

Electrical Wiring: The tenant testified that some of the electrical outlets were broken. Sparks came out if anything was plugged into the outlets. She first noticed this issue shortly after moving into the unit, in August of 2015. She complained about the electrical outlets to the maintenance worker, Mateo, on three or four occasions over the years but nothing was done. The City of Oakland Code Enforcement Services did an inspection of the unit on April 23, 2018, and issued a Notice of Violation on April 25, 2018.³ The Notice of Violation cited a code violation for the electrical outlets in the living room and bathroom. In response, the owner completed repairs and Code Enforcement records show that the violation was abated on July 6, 2018.⁴ The tenant testified that she has not had any issues with the outlets since July of 2018.

The owner testified that she did not receive notice of this issue until she received the Notice of Violation dated April 25, 2018. She never received a verbal or written complaint from the tenant. In response to the Notice of Violation, she completed the necessary repairs and the violation was abated as of July 2018.

² Exhibit 1

³ Exhibit 3

⁴ Exhibit 3

Windows: The tenant testified that the windows in the bedroom do not open completely and the window in the living room is not installed properly. She noticed this issue when she first moved into the unit. She complained to Mateo, the maintenance worker, about this issue multiple times. The Notice of Violation dated April 25, 2018, cited a code violation for the windows, stating that the "windows in the bedroom do not open/close properly". In response, the owner completed repairs and Code Enforcement records show that the violation was abated on July 6, 2018.⁵ The tenant testified that she has not had any issues with the windows since July of 2018.

Mold in Bathroom: The tenant testified that there is mold in the bathroom, specifically around the sink and bathtub. She uses Clorox to clean the mold but it keeps returning. She complained to Mateo about the mold when she first moved into the unit but nothing has been done. The tenant submitted photographs of the mold.⁶

The owner testified that she never received notice of the mold prior to the filing of the petition. Further, mold was not cited in the Notice of Violation dated April 25, 2018.⁷

Kitchen Drawers: The tenant testified that the kitchen drawers and cabinets do not open and close properly. The drawers get stuck because they do not fit properly into the cabinets. She complained to Mateo, the maintenance worker, about this issue approximately a year after moving into the unit. Mateo sanded the drawers but they still got stuck. The Notice of Violation dated April 25, 2018, cited a code violation for the kitchen drawers. Code Enforcement records show that the violation was abated on July 6, 2018.⁸

Splitting of Utilities: The parties did not provide any testimony on this issue; therefore, this claim is dismissed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increases

The Rent Adjustment Ordinance states that an owner seeking a rent increase in excess of the CPI Rent Adjustment or available banking must first petition the Rent Program and receive approval for the rent increase before the rent increase can be imposed⁹. Any rent increase not based on the CPI Rent Adjustment or Banking that is not first approved by the Rent Adjustment Program is void and unenforceable.¹⁰

In this case, the contested rent increases exceed the CPI Rent Adjustment and available banking. The owner failed to petition the Rent Program to receive approval for

⁵ Exhibit 3

⁶ Exhibit 4

⁷ Exhibit 3

⁸ Exhibit 3

⁹ O.M.C. §8.22.065(A)

¹⁰ O.M.C. §8.22.065(A)

the rent increases built into the 2017 lease before imposing the increases on the tenants. Therefore, the contested rent increases are void and unenforceable as a matter of law. The monthly rent remains \$945.00, the rent amount prior to the rent increases imposed in the 2017 lease. Since the tenants have paid a portion of the rent increases, they are owed restitution for rent overpayments as outlined in the Table below.

Although the tenant acknowledged receiving the RAP Notice in August of 2017, the timeliness requirements outlined in the RAP Notice only apply to rent increases based on the CPI, banking, or other claims such as decreased housing services, code violations etc. The timeliness requirements do not apply to rent increases that are void and unenforceable as a matter of law.

Timeliness of Decreased Housing Service Claims

The Oakland Rent Ordinance provides that for a petition claiming decreased housing services:

- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within ninety days of whichever of the following is later:
 - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or
 - ii. The date the tenant first receives the RAP Notice.
- b. If the decreased housing is ongoing, the tenant may file a petition at any point but is limited in restitution for ninety (90) days before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.¹¹

Therefore, the tenant's restitution for any decreased housing services shall be limited to March of 2018, ninety (90) days before the petition filing date of June 12, 2018.

Decreased Housing Services

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹² and may be corrected by a rent adjustment.¹³ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy, or one that is required to be provided in a contract between the parties, or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. Further, an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted.

¹¹ O.M.C. Section 8.22.090(A)(3)

¹² O.M.C. Section 8.22.070(F)

¹³ O.M.C. Section 8.22.110(E)

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

Electrical Wiring: The tenant testified credibly that some of the electrical outlets were broken and she notified Mateo, the maintenance worker, about this issue multiple times. Mateo is an agent of the owner, and therefore, notice of this issue is imputed onto the owner. Further, the Notice of Violation dated April 25, 2018, cited a code violation for the electrical outlets in the living room and bathroom. Code Enforcement records show that the violation was abated on July 6, 2018.

This claim affects the habitability of the unit and the tenant is entitled to compensation for past decreased housing services from March 2018, through July 2018, as stated in the Table below.

Windows: The tenant testified credibly that the windows in the bedroom do not open completely and she notified Mateo about this issue multiple times. Further, the Notice of Violation dated April 25, 2018, cited a code violation for the windows, stating that the "windows in the bedroom do not open/close properly", Code Enforcement Records show that the violation was abated on July 6, 2018.¹⁴

This claim affects the habitability of the unit and the tenant is entitled to compensation for past decreased housing services from March 2018, through July 2018, as stated in the Table below.

Mold in Bathroom: The tenant testified that she complained about mold in the bathroom to Mateo when she first moved into the unit. However, mold was not cited in the Notice of Violation dated April 25, 2018. The tenant has failed to sustain her burden of proof regarding the mold and compensation for this claim is denied.

Kitchen Drawers: The tenant testified that the kitchen drawers and cabinets do not open and close properly. Further, the Notice of Violation dated April 25, 2018, cited a code violation for the kitchen drawers. Code Enforcement Records show that the violation was abated on July 6, 2018.

This claim affects the habitability of the unit and the tenant is entitled to compensation for past decreased housing services from March 2018, through July 2018, as stated in the Table below.

¹⁴ Exhibit 3

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Electrical Outlets	1-Mar-18	1-Jul-18	\$945	2%	\$ 18.90	5	\$ 94.50
Windows	1-Mar-18	1-Jul-18	\$945	2%	\$ 18.90	5	\$ 94.50
Drawers	1-Mar-18	1-Jul-18	\$945	1%	\$ 9.45	5	\$ 47.25
TOTAL LOST SERVICES							\$ 236.25

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Sep-17	1-Nov-17	\$1,233	\$945	\$ 288.00	3	\$ 864.00
1-Dec-17	1-Oct-19	\$1,200	\$945	\$ 255.00	23	\$ 5,865.00
TOTAL OVERPAID RENT						\$ 6,729.00

RESTITUTION

MONTHLY RENT		\$945
TOTAL TO BE REPAYED TO TENANT		\$ 6,965.25
TOTAL AS PERCENT OF MONTHLY RENT		737%
AMORTIZED OVER	MO. BY REG. IS	
OR		
OVER 24	MONTHS BY HRG. OFFICER IS	\$ 290.22

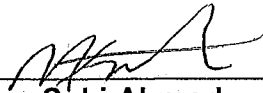
ORDER

- Petition T18-0311 is partly granted.
- The 2017 rent increases are invalid. The tenant's base rent remains \$945.00.
- The tenant is entitled to restitution for rent overpayments and past decreased housing services in the amount of \$6,965.25. The restitution shall be amortized over twenty-four (24) months. The tenant's rent from November 2019 to October 2021 is \$654.78. In November of 2021, the tenant's rent will revert to the base rent of \$945.00.
- The remaining claims of decreased housing services are denied.

Right to Appeal: This decision is the final decision of the Rent Adjustment Program. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received

within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: October 16, 2019



Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T18-0311

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 documents listed below by placing a true copy 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:

Documents Included

Corrected Hearing Decision

Owner

May & Grant Fong
358 Cerro Court
Daly City, CA 94015

Tenant

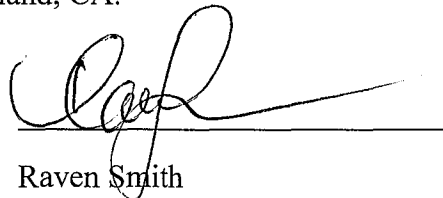
Maria & Luis Cervantes
1791 28th Avenue
Oakland, CA 94601

Tenant Representative

Xavier Johnson, Centro Legal de la Raza
3022 International Blvd Ste. 410
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 **October 17, 2019** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

000086

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 5313
OAKLAND, CALIFORNIA 94612-2034

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

Housing, Residential Rent and Relocation Board (HRRRB)

PANEL APPEAL DECISION

CASE NUMBER: T18-0311, Cervantes v. Fong
APPEAL HEARING: January 16, 2020
PROPERTY ADDRESS: 1791 28th Avenue
Oakland, CA
APPEARANCES: May Lee Fong Owner Appellant
Xavier Johnson Tenant Appellee Representative

Procedural Background

On June 12, 2018, tenants Maria Amezcua and Luis Ayala Cervantes filed a petition contesting rent increases and claiming code violations and decreased housing services. The contested rent increases included the following:

- 4/26/18-from \$1,200 to \$1,400
- 10/3/17-from \$945 to \$1,200
- 9/5/17-from \$945 to \$1,233

The decreased housing claims included (1) malfunctioning electrical wiring, (2) windows not closing or installed properly, (3) mold in the bathroom, (4) kitchen drawers do not open properly and (5) splitting of utilities.

Staff mailed a copy of the tenant petition and owner response form to the owners on August 17, 2018. The owners filed untimely Owner Responses on November 18, 2018, and November 27, 2018.

On October 3, 2019, the Hearing Officer issued a Hearing Decision, stating the owners filed a timely response to the tenant petition (Owner May Fong was permitted to participate in the hearing). The Decision noted that the tenant

testified that her rent was \$945 when she moved into the unit in August 2015 and that the owner testified that she realized in 2017 that the tenants did not have a lease. Regarding the decreased housing services claims, the Hearing Decision noted that the tenant testified that she complained to the building maintenance worker about the problems, that the City issued a Notice of Violation in April 2018 related to the electrical wiring, windows, and drawers, and that City records showed that the violations were abated in July 2018.

The Decision denied the rent increases in the 2017 lease (\$1,233 for the first three months, \$1,400 thereafter) on the grounds that the owners did not seek prior approval from the Rent Adjustment Program of increases more than CPI or banking, and stated that the tenants' base rent remains \$945.00. The Decision ordered restitution for rent overpayment and past decreased housing services in the amount of \$6,965.25 (\$6,729 for rent paid 9/1/17 to 11/1/17 and 12/1/17 to 10/1/19; \$236.25 for problems with electrical outlets, windows, and drawers, 3/1/18 to 7/1/18), amortized over 24 months. Finally, the Decision denied the remaining decreased housing services claims. The Decision did not address the Costa Hawkins issue of whether the 2017 lease constituted a new tenancy.

Grounds for Appeal

The owners filed an appeal on October 9, 2019, on the following grounds:

- The decision violates federal, state or local law;
- The decision is not supported by substantial evidence;
- Other.

Specifically, the owner contends that:

- (1) The Hearing Officer calculated the rent incorrectly, which is \$1,400.00 per the signed lease, not \$945.00;
- (2) Regarding the decreased housing claim, the electrical outlet issue was caused by the tenants' overloading appliances and overcrowding of the 1 bedroom unit, the restitution period was incorrectly calculated from March 2018 to July 2018, and the owners were not advised of any problems until May 2018 and made repairs by June 1, 2018;
- (3) The Hearing Decision violates California Civil Code Section Article 2, Rental Agreement, §798.15-798.23.5. The original tenant was Nazana Nevarez, who sublet his unit to the tenant without the owner's prior written consent. The owner was unaware that Ms. Amezquita and Mr. Cervantes were illegal tenants until August 24, 2017. The owners agreed to allow them to stay upon signing of a new lease, based on 3 persons residing in the unit. The lease provides that the rent for the unit may be raised to market rates when the last original tenant moves

from the premises. The original tenant moved out and the owner raised the monthly rent to \$1,400.00;

- (4) The decision is not supported by substantial evidence because the tenants' claims are not supported with documents;
- (5) While the tenants did not receive the RAP notice until they signed the new lease, the RAP notice was sent to the original tenant. The owners also denied that they told the tenants that their rent would be increased because there were so many people living in the unit. On October 17, 2019, the Hearing Officer issued a Corrected Hearing Decision, removing the sentence on page 3 of the Hearing Decision stating "The owner also told the tenant her rent would be increased because there were so many people living in the unit."

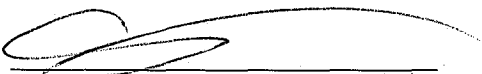
Appeal Decision

After questions to the parties and Board discussion, R. Stone moved to remand the Hearing Decision to the Hearing Officer to address when the tenancy commenced, and state the reasoning as to when the tenancy commenced, and restate the monthly base rent, disregarding any evidence presented on appeal. K. Sims seconded the motion.

The Board panel voted as follows:

Aye: R. Stone, K. Sims
Nay: H. Flanery
Abstain: 0

The motion carried.



CHANEE FRANKLIN MINOR
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD

3/9/20
DATE

PROOF OF SERVICE
Case Number T18-0311

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 documents listed below by placing a true copy 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:

Documents Included

HRRRB Panel Appeal Decision

Owner

May & Grant Fong
358 Cerro Court
Daly City, CA 94015

Tenant

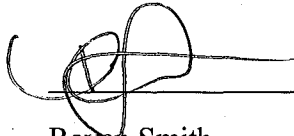
Maria & Luis Cervantes
1791 28th Avenue
Oakland, CA 94601

Tenant Representative

Xavier Johnson, Centro Legal de la Raza
3022 International Blvd Ste. 410
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 **March 10, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

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DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

REMAND HEARING DECISION

CASE NUMBER: T18-0311 Cervantes v. Fong
PROPERTY ADDRESS: 1791 28th Avenue, Oakland, CA
DATE OF HEARING: June 3, 2019
DATE OF DECISION: October 3, 2019
DATE OF CORRECTED DECISION: October 17, 2020
DATE OF APPEAL HEARING: January 16, 2020
DATE OF APPEAL DECISION: March 10, 2020
DATE OF REMAND DECISION: November 24, 2020

INTRODUCTION

A Hearing Decision in this case was issued on October 3, 2019. A Corrected Hearing Decision was issued on October 17, 2020. The Hearing Decision partly granted the tenant's petition. Specifically, the Hearing Decision denied the rent increases in the 2017 lease (\$1,233.00 for the first three months, \$1,400.00 thereafter), on the grounds that the owner did not seek prior approval from the Rent Adjustment Program for increases exceeding the CPI and banking, and stated that the tenant's base rent remains \$945.00. Additionally, the Hearing Decision granted restitution for rent overpayments and past decreased housing services in the amount of \$6,965.25. The owner filed an Appeal, which was heard by the Board on January 16, 2020. The Board remanded the case to the Hearing Officer to address when the tenant's tenancy commenced, and state the reasoning as to when the tenancy commenced, and restate the monthly base rent, disregarding any evidence presented on appeal.

EVIDENCE

A review of the evidence presented at the underlying hearing and the Hearing Decision shows the following:

Commencement of Tenancy and Base Rent: The tenant stated on her petition and testified at the hearing that she moved into the subject unit in August of 2015, at an

initial monthly rent of \$945.00. She did not sign a lease at that time but paid rent directly to the owner. The tenant submitted copies of rent receipts verifying rent payments to the owner.¹ The tenant further testified that the owner was aware that they were living the subject unit as of 2015.

The owner testified that she received a text from the tenant's son in August of 2017, requesting a lease under the tenant's name. It was only at that time that she realized the tenants did not have a lease for the property. In response, she met with the parties and they signed a new lease effective September 1, 2017. At that time, they came to an agreement that the rent would be \$1,233.00 for the first three months after the lease was signed and would increase to \$1,400.00 in December of 2017.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The tenant testified credibly that she moved into the subject unit in August of 2015 at an initial rent of \$945.00. Although the tenant did not sign a lease at the time she moved into the unit, she paid rent directly to the owner and provided rent receipts verifying these payments.


The Rent Ordinance defines a tenant as "A person entitled, by written or oral agreement, to the use or occupancy of any covered unit"². The tenant's credible testimony establishes that the subject tenancy commenced in August of 2015. The owner's acceptance of the tenant's rent since 2015, as shown by the rent receipts, is further evidence of a tenancy between the tenant and the owner. It is hereby found that the subject tenancy began in August of 2015, and the monthly base rent is \$945.00.

ORDER

1. The subject tenancy commenced in August of 2015.
2. The monthly base rent is \$945.00.

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: November 24, 2020



Maimoona S. Ahmad, Hearing Officer
Rent Adjustment Program

¹ Exhibit 2

² Rent Ordinance, Definitions

PROOF OF SERVICE
Case Number T18-0311

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 **REMAND 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:

Tenant:

Maria & Luis Cervantes
1791 28th Avenue
Oakland, CA 94601

Tenant Representative

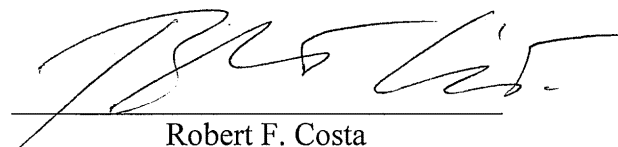
Xavier Johnson, Centro Legal de la Raza
3022 International Boulevard, Suite #410
Oakland, CA 94601

Property Owner

May & Grant Fong
358 Cerro Court
Dali City, CA 94105

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 December 18, 2020 in Oakland, California.



Robert F. Costa
Oakland Rent Adjustment Program

000093

 CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp.
	<u>APPEAL</u>

Appellant's Name May Fong		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1791-28th Avenue, Oakland, Ca 94601			
Appellant's Mailing Address (For receipt of notices) 358 Cerro Court, Daly City, Ca 94015		Case Number T18-0311	
		Date of Decision appealed November 24, 2020	
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 must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 32.

*Please listen to only the section of testimony on the audio day of hearing.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •

I declare under penalty of perjury under the laws of the State of California that on October 8, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Luis Cervantes AND Maria Amezquita
<u>Address</u>	1791-28th Avenue
<u>City, State Zip</u>	Oakland, Ca 94601
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	12/28/20
---	----------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

T18-0311 APPEAL EXPLANATION

1) The hearing officer calculated the rent incorrectly. The rent for tenants Cervantes and Amerzquita was \$1400 as per signed lease in **Exhibit A**. The application for habitability issues is also incorrect. The electrical issues was due to the tenants' overloading the circuits with expansive outlets with overloading appliances. Please see attached **Exhibit B**. This caused shortages and dangerous circumstances and is due to the overcrowding of the unit 1 bedroom unit. The hearing officer calculated the decreased housing from March 2018 to July 2018. She has to put into account that the Owner was not made aware of any problems until receiving notice regarding the issues from code enforcement in or about May 2, 2018. Owners are allotted a reasonable time period to make repairs. Electrical and cabinets were repaired on May 8, 2018. Window Repairs were completed June 1, 2018 due to ordering of windows. Please see attached receipts and email with the Code Enforcement Inspector. Please see attached **Exhibit C**. **The hearing officer did not adhere to the decrease housing clause.** [an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted] These were all repaired within a reasonable time period which is exactly a day after receiving notice repairs had been made with exception of the windows that needed special ordering; therefore, there should be no compensation for decreased housing. The issues were abated in July only because the inspection for the unit was scheduled for July.

2) d) The decision violates Ca state law 2007 California Civil Code Article 2. Rental Agreement CA Codes (civ:798.15-798.23.5) CIVIL CODE SECTION 798.15-798.23.5. Tenant Luis Cervantes AND Maria Amezquita attempts to claim they should takeover the rent amount set at the original tenant lease. Nazana Nevarez was the original tenant that signed a valid lease with previous landlord on May 30, 2012. Please see attached **Exhibit D**. Owner May Fong purchased property January 30, 2015 and sent notices to existing tenants of new ownership information along with RAP information to the original authorized tenant. Please see attached **Exhibit E**.

Nazana Nevarez subletted the unit to Luis Cervantes and Maria Amezquita without my approval or consent which is a breach of lease terms. Please see highlighted section regarding Subletting. It states the following:

[Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owners rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of

this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.

In the event that Owner consents to any sub-tenancy, is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner.

No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.]

Owner May Fong was totally unaware that Luis Cervantes and Maria Amezquita were illegal subtenants that moved into premises without authorization until the text sent by Luis Cervantes 8/18/17 as stated at the hearing. Please see attached **Exhibit F**. Original tenants were given proper notices with RAP notices. Please see attached **Exhibit E**.

When Owner was made aware of the Cervantes and Amezquita were illegal subtenants, Owner was to evict them based on violation of lease and unauthorized subtenants. Tenants begged owner to stay. With heart, On August 24, 2017, Owner decided to allow tenant to stay and have tenants fill out an application and sign new lease as per original lease **ONLY** based on 3 persons residing in Premises and abide by stipulation in the original lease that the **rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises**. Tenants Cervantes and Amezquita professed on multiple occasions they only had 3 in their family. Owner would never have signed a new lease with 7 living in a 1 bedroom unit because it is an unsafe and unhealthy environment.

Per original lease, Original Tenant(s) moved out of Premises and Cervantes and Amezquita had become the new tenant, the lease sign and agreed by both parties raised to market rate at \$1400 per month is valid according to the California state law. Please see attached **Exhibit D**.

2.e. The decision is not supported by substantial evidence. The **Preponderance** of evidence is upon the Petitioner to not give testimony but present factual supported documented evidence. All of the tenants' claim has not been supported with any documents and the evidence the hearing officer claims is not accurate. The hearing officer claimed the tenant did not receive the RAP until we signed a new lease which is correct. However, she neglected to acknowledge all the RAP notices Owner sent was to the original tenant Nanzania. Tenants Cervantes and Amezquita would not be sent these notices. Please see attached **Exhibit F**.

The hearing officer did not take into account that tenants Cervantes and Amezquita were unauthorized subtenants until the new lease was signed. I emphasize they were not the authorized master tenants. Any rent payments the Petitioner claims was directly deposited in Owners account without disclosing to the Owner the rent payments were from anyone but the master tenants owners. Rent payments were also deposited in owners account with either cash or bank transfer masking who is depositing the rent. Please see **Exhibit G**. As evidenced in the application and lease signed and dated August 24, 2017. Please see attached **Exhibit A**. This is the Petitioners'

only and original lease as new tenants at the new marker rate of \$1400 (market value is \$1800). The attached stated the terms of lease as per California law and was based on the tenant's misrepresentation of facts regarding their claim was only 3 persons in the unit.

The hearing officer incorrectly claims that Owner testified "told the tenant her rent would be increased because there were so many people living in the unit." This is TOTALLY UNTRUE. Please listen to audio. Owner never made any claims of raising the rent due to the amount of people in unit. The rent was raised to market value as allowed by law when the original tenant vacates premises which happened. It is a fact I stated only 3 tenants can reside in the Premises and the tenant misrepresented themselves. Owner did indicate and firmly believe 7 in a 300 sleeping space is unsafe and hazardous but never claimed the rent is raised due to the amount of people that would be living there.

Tenants Cervantes and Amezquita were unauthorized subtenants and as per original lease in **Exhibit D**, the rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises as well as State and local laws.

h) The hearing officer did not adhere to the State or local laws. There was no 2017 rent increase as the hearing officer claims. This was a new lease to the new tenants of the unit. Prior to that they were unauthorized subtenants that never made me aware of their unauthorized residency until August 2017. Contracts matter and it is unjust to reward tenants who move into units without written or oral authorization. Owners have the right to choose their tenants and charge market rent to new tenants once authorized. Tenants Cervantes and Amezquita deceived the Owner by moving into Premises without authorization and then misrepresenting themselves in order to avoid eviction and to obtain a new lease. This is not legally adhering to the laws.

2 (a & b) The hearing officer did not adhere to the evidence presented and did not include all evidence as with my past hearings including T12-0105, T17-0025, where all evidence was taken into account and the hearing officer based the decision on facts and evidence including evidence attorneys brought into hearing on day of case and offered to extend to tenants more time for evidence for the case to be sure all facts were taken into account.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 28, 2020 in Oakland, CA.



May Fong, Owner

000098

EXHIBIT A

APPLICATION TO RENT OR LEASE

APPLICANT Each Applicant over the age of 18 must complete their own application form

PLEASE PRINT

First, Middle, Last Name <i>Maria Amezquita Arceo</i>	Date of Birth <i>7-5-81</i>	Social Security # <i>617-392871</i>	Driver's License #
Other Names Used In the Last 10 Years	Home Phone	Cell Phone	Email Address

ADDITIONAL OCCUPANTS List everyone who will live with you:

First, Middle, Last Name <i>Luis Ayala cervantes</i>	Date of Birth <i>6-19-68</i>	Relationship To Applicant <i>ESPOSO</i>
<i>Jovani Ayala</i>	<i>2-16-02</i>	<i>hijo</i>
<i>Maria Amezquita</i>	<i>7-5-81</i>	<i>mamá</i>

EMPLOYMENT

	Current Employment	Prior Employment
Employer	<i>Limpiando casas</i>	
Address		
Employer Phone	<i>Negocio propia cuenta</i>	
Job Title		
Name of Supervisor		
Dates of Employment	From: To:	From: To:
Income Per Month	\$	\$

RESIDENCE

	Current Residence	Previous Residence	Previous Residence
Street Address	<i>1791 28th Ave</i>		
City	<i>Oakland cal</i>		
State & Zip	<i>94601</i>		
Dates of Stay			
Owner/Manager And Phone number			
Reason For Leaving			
Last Rent Paid	\$	\$	\$

VEHICLES

Automobiles	Make	Model	Color	Year	License No.
Motorcycles					

PERSONAL REFERENCES

In Case Of Emergency, Notify	Address/City	Phone	Relationship
<i>Nancy nevares</i> Close Friend		<i>(610)213-9707</i>	<i>prima y amiga</i>
Nearest Relative Living Elsewhere			



CREDIT INFORMATION Please list all your financial obligations

Name of Bank or Savings & Loan		Branch or Address		Account No.		Balance
				Checking		\$
				Savings		\$
Credit Accounts	Account No.	Address/City		Phone	Balance	Due Monthly

GENERAL INFORMATION Check answer that applies

- Do you smoke? YES NO
- Do you have any pets/animals? YES NO
- Have you ever filed for bankruptcy? YES NO
- Do you have any musical instruments? YES NO
- Do you have any water-filled furniture or do you intend to use water filled furniture in the apartment? YES NO
- Have you ever been convicted for selling, possessing, distributing or manufacturing illegal drugs or convicted of any other crime? YES NO
- Have you ever been evicted or named as a defendant in an eviction for non-payment of rent or any other reason? YES NO

Please explain any "yes" answers to the above questions:

Why are you leaving your current residence? _____

The applicant hereby applies to rent/lease Apartment # _____ at _____ for \$ _____ per month, and upon owner's approval agrees to enter into a Rental Agreement and/or Lease and pay all rent and security deposits required before occupancy.

An application fee of \$ _____ is hereby submitted for the cost of processing this application, to obtain credit history and other background information.

Applicant represents that all information given on this application is true and correct. Applicant hereby authorizes verification of all references and facts, including but not limited to current and previous landlords and employers, and personal references. Applicant hereby authorizes owner/agent to obtain Unlawful Detainer, Credit Reports, Telechecks, and/or criminal background reports. Applicant agrees to furnish additional credit and/or personal references upon request. Applicant understands that incomplete or incorrect information provided in the application may cause a delay in processing which may result in denial of tenancy. In the event that a material misstatement or misrepresentation is discovered after Applicant is accepted as a Resident, and whether or not a Lease or Month to Month Rental Agreement is executed, Owner may, at Owner's sole discretion, deem such misstatement or misrepresentation to be a material and non-curable breach of any subsequent Lease or Month to Month Rental Agreement and grounds for rescission of the contract and immediate eviction. Applicant hereby waives any claim and releases from liability any person providing or obtaining said verification or additional information.

Applicant: Maria Amezcuita Date: 8-24-17
 (Signature required)



Received \$600 8/21/17

OAKLAND RENTAL AGREEMENT AND/OR LEASE

Landlord/Lessor/Agent: Mav Fong Apartment Number 1791
Tenant(s)/Lessee: Maria Ametzquita Arceo
Tenant(s)/Lessee: Luis Cervantes, Jovani Ayala Ametzquita
Apartment Number: 1791
Apartment Address: 1791-28th Avenue
City: Oakland State Ca Zip 94601
Monthly Rental Rate: \$1700
Rental Due Date: 1st of month
Security Deposit: \$3500
Late Charge: \$75 if not paid by 3rd
Parking Space: 1
Storage Space: 0

\$1400 from 12/1/17 M.A

1. This Rental Agreement and/or Lease shall evidence the complete terms and conditions under which the parties whose signatures appear below have agreed. Landlord/Lessor/Agent shall be referred to as "OWNER" and Tenant(s)/Lessee(s) shall be referred to as "RESIDENT."

2. PAYMENTS: Rent and/or other charges are to be paid at the office or apartment of the manager of the building or at such other place designated in writing by OWNER. For the safety of the manager, all payments are to be made by check or money order and no cash shall be acceptable. OWNER acknowledges receipt of the First month's rent of: \$1233 and a Security Deposit of \$2000 for a total payment of \$3433 per month pay by 9/1/17

3. LATE CHARGE/FEE: The late charge amount noted above, not to exceed 6% of the monthly rent, shall be added to any payment of rent not made on the rental due date or for which a deficient (bounced) check shall have been given. Tenant shall be liable for \$25 each time a check is returned to OWNER because the check was dishonored.

4. SECURITY DEPOSITS: The Security Deposit shall not exceed two times the monthly rent for unfurnished apartments or three times the monthly rent for furnished apartments. The total of the above deposits shall secure compliance with the terms and conditions of this agreement and shall be refunded to RESIDENT within 21 days after the premises have been completely vacated less any amount necessary to pay OWNER: a) any unpaid rent, b) cleaning costs, c) key replacement costs, d) costs for repair of damages to apartment and/or common areas above ordinary wear and tear, and e) any other amount legally allowable under the terms of this agreement.

5. UTILITIES: RESIDENT agrees to pay for all utilities and/or services based upon occupancy of the premises except garbage.

6. OCCUPANTS: Guest(s) staying over 14 days cumulative or longer during any 12-month period, without the OWNER'S written consent, shall be considered a breach of this agreement. ONLY the following listed individuals and/or animals, AND NO OTHERS shall occupy the subject apartment for more than 14 days unless the expressed written consent of OWNER is obtained in advance. (the 14 day period maybe extended by local Rent Control Laws): Oakland RESIDENT shall pay additional rent at the rate of \$100.00 per month or 25% (or the amount allowed under rent control) of the current monthly rent, whichever amount is greater, for the period of time that each additional guest in excess of the above named shall occupy the premises.

7. PETS AND FURNISHINGS: Furnishings - No liquid-filled furniture of any kind may be kept on the premises. If the structure was built in 1973 or later RESIDENT may possess a waterbed if he maintains waterbed insurance valued at \$100,000.00 or more. RESIDENT must furnish OWNER with proof of said insurance. RESIDENT must also comply with Civil Code Section 1940.5. Resident shall not keep on premises a receptacle containing more than ten gallons of liquid, highly combustible materials or other items which may cause a hazard or affect insurance rates such as, musical instrument, item(s) of unusual weight or dimension, RESIDENT also agrees to carry insurance deemed appropriate by OWNER to cover possible losses caused by using said items. Pets - No animal, fowl, fish, reptile, and/or pet of any kind shall be kept on or about the premises, for any amount of time, without obtaining the prior written consent and meeting the requirements of the OWNER. Said consent, if granted, shall be revocable at OWNER'S option upon giving a 30-day written notice. In the event laws are passed or permission is granted to have any item prohibited by this agreement or if for any reason such item exists on the premises, there shall be minimum additional rent of \$25.00 a month for each such item if another amount is not stated in this agreement. In the event laws are passed or permission is granted to have a pet and/or animal of any kind, an additional deposit in the amount of \$3,000 shall be required along with the signing of OWNER'S "PET AGREEMENT."

8. PARKING/STORAGE: When and if RESIDENT is assigned a parking space on OWNER'S property, the parking space shall be used exclusively for parking of passenger automobiles and/or those approved vehicles listed on RESIDENT'S "Application to Rent/Lease" or attached hereto. RESIDENT may not wash, repair, or paint in this parking space or at any other common areas on the premises. (RESIDENT may not assign, sublet, or allow RESIDENT'S guest(s) to use this or any other parking space.) RESIDENT is responsible for oil leaks and other vehicle discharges for which RESIDENT shall be charged for cleaning if deemed necessary by OWNER. Only vehicles that are operational may park in their assigned space.

9. NOISE: RESIDENT agrees not to cause or allow any noise or activity on the premises that might disturb the peace and quiet of another RESIDENT. Said noise and/or activity shall be a breach of this Agreement.

10. LOITERING AND PLAY: Lounging, playing, or unnecessary loitering in the halls, on the front steps, or in the common areas in such a way as to interfere with the free use and enjoyment, passage or convenience of another RESIDENT is prohibited.

11. DESTRUCTION OF PREMISES: If the premises become totally or partially destroyed during the term of this Agreement so that RESIDENT'S use is seriously impaired, RESIDENT or OWNER may terminate this Agreement immediately upon three-day written notice to the other.

12. CONDITION OF PREMISES: RESIDENT acknowledges that he has examined the premises and that said premises, all furnishings, fixtures, furniture, plumbing, heating, electrical facilities, all items listed on the attached inventory sheet, if any, and/or all other items provided by OWNER are all clean, and in good satisfactory condition except as may be indicated elsewhere in this Agreement. RESIDENT agrees to keep the premises and all items in good order and condition and to immediately pay for costs to repair and/or replace any portion of the above damaged by RESIDENT, his guests and/or invitees, except as provided by law. At the termination of this Agreement, all of the above-enumerated items in this provision shall



can also deposit to Bank of America Account

000101

be returned to OWNER in clean and good condition except for reasonable wear and tear; the premises shall be free of all personal property and trash not belonging to OWNER. It is agreed that all dirt, holes, tears, burns, or stains of any size or amount in the carpets, drapes, walls, fixtures, and/or any other part of the premises, do not constitute reasonable wear and tear.

13. MAINTENANCE AND ALTERATIONS: RESIDENT shall not paint, wallpaper, alter or redecorate, change or install locks, install antenna or other equipment, screws, fastening devices, excessively large nails, or adhesive materials, place signs, displays, or other exhibits, on or in any portion of the premises without the written consent of the OWNER except as may be provided by law. RESIDENT shall deposit all garbage and waste in a clean and sanitary manner into the proper receptacles as provided and shall cooperate in keeping the garbage area neat and clean. RESIDENT shall be responsible for disposing of items of such size or nature as is not normally acceptable by the garbage hauler for the building. RESIDENT shall be responsible for keeping the garbage disposal clean of chicken bones, toothpicks, match sticks, celery, pits, grease, metal vegetable ties, and all other items that may tend to cause stoppage of the mechanism. RESIDENT shall pay for the cleaning out of any plumbing fixture that may need to be cleared of stoppage and for the expense or damage caused by the stopping of waste pipes or overflow from bathtubs, washbasins, toilets, or sinks, if caused by negligence or misuse by RESIDENT or their guests. Tenant must notify landlord with a written notice stating what item(s) need service or repair and give landlord a reasonable opportunity to service or repair that item(s). Should any charges be incurred by the City as a result of not notifying the Landlord in writing of such needed service or repairs, tenant shall be responsible for a minimum of \$201.50 for each occurrence plus any additional fines or inspection fees imposed by a government office as a result of RESIDENT not notifying OWNER in writing of any deficiencies with the residence.

14. SMOKE/CARBON MONOXIDE DETECTORS: The rental unit is equipped with properly functioning smoke and carbon monoxide detectors. Resident agrees to test the smoke and carbon monoxide detectors in the rental unit monthly for proper function. Resident agrees not to interfere with their normal function or disable any detectors in any manner.

15. HOUSE, POOL, AND LAUNDRY RULES: RESIDENT shall comply with all house, pool, pet, and laundry rules attached to this agreement which may be changed from time to time. These rules shall apply to, but are not limited to, noise, odors, disposal of trash, pets, parking, use of common areas, and storage of toys, bicycles, tools, and other personal items (including signs and laundry), which must be kept inside and out of view. OWNER shall not be liable to RESIDENT for any violation of such rules by any other RESIDENTS or persons. Rights of usage and maintenance of the laundry room and/or pool and pool area are gratuitous and subject to revocation by OWNER at any time.

16. CHANGE OF TERMS: The terms and conditions of this agreement are subject to future change by OWNER after the expiration of the agreed lease period upon 30 days written notice setting forth such change and delivered to RESIDENT. Any changes are subject to laws in existence at the time of the Notice Of Change Of Terms.

17. TERMINATION: After expiration of the leasing period, this agreement is automatically renewed from month-to-month, but may be terminated by either party. The owner giving a 60-day notice and the resident giving a 30-day written notice of intention to terminate. Where laws require "just cause," such just cause shall be so stated on said notice. The premises shall be considered vacated only after all areas including storage areas are clear of all RESIDENT'S belongings, and keys and other property furnished for RESIDENT'S use are returned to OWNER. Should the RESIDENT hold over beyond the termination date or fail to vacate all possessions on or before the termination date, RESIDENT shall be liable for additional rent and damages, which may include damages due to OWNER'S loss of prospective new RENTERS.

18. POSSESSION: If OWNER is unable to deliver possession of the Apartment to RESIDENT on the agreed date, because of the loss or destruction of the Apartment or because of the failure of the prior RESIDENT to vacate or for any other reason, the RESIDENT and/or OWNER may immediately cancel and terminate this agreement upon written notice to the other party at their last known address, whereupon neither party shall have liability to the other, and any sums paid under this Agreement shall be refunded in full. If neither party cancels, this Agreement shall be pro-rated and begin on the date of actual possession.

19. INSURANCE: RESIDENT acknowledges that OWNER'S insurance does not cover personal property damage caused by fire, theft, rain, war, acts of God, acts of others, and/or any other causes, nor shall OWNER be held liable for such losses. RESIDENT HEREBY AGREES TO OBTAIN HIS OWN INSURANCE POLICY TO COVER ANY PERSONAL LOSSES. This does not waive OWNER'S duty to prevent personal injury or property damage where that duty is imposed by law, however, RESIDENT'S failure to maintain said policy shall be a complete waiver of RESIDENT'S rights to seek damages against OWNER for above stated losses.

20. RIGHT OF ENTRY AND INSPECTION: OWNER or OWNER'S Agent by themselves or with others, may enter, inspect and/or repair the premises at any time in case of emergency or suspected abandonment. OWNER shall give 24 hours advance notice and may enter for the purpose of showing the premises during normal business hours to prospective renters, buyers, lenders, for smoke alarm inspections, and/or for normal inspection and repairs. OWNER is permitted to make all alterations, repairs and maintenance that in OWNER'S judgment is necessary to perform. In addition, OWNER has the right to enter pursuant to Civil Code Section 1954. If the work performed requires that RESIDENT temporarily vacate the unit, then RESIDENT shall vacate for this temporary period upon being served a 7-day notice by OWNER. RESIDENT agrees that in such event RESIDENT will be solely compensated by a corresponding reduction in the rent for those many days that RESIDENT was temporarily displaced. No other compensation shall be due to the RESIDENT. If the work to be performed requires the cooperation of the RESIDENT to perform certain tasks, then RESIDENT shall perform those tasks upon receiving a 24-hour written notice. (EXAMPLE: removing food items from cabinets so that the unit may be sprayed for pests.) Upon 24 hours notice, RESIDENT hereby agrees to lend OWNER the keys to the premises for the purpose of having a duplicate made for OWNER'S use.

21. ASSIGNMENT: RESIDENT agrees not to transfer, assign or sublet the premises or any part thereof and hereby appoints and authorizes the OWNER as his agent and/or by OWNER'S own authority to evict any person claiming possession by way of any alleged assignment or subletting.

22. PARTIAL INVALIDITY: Nothing contained in this Agreement shall be construed as waiving any of RESIDENT'S or OWNER'S rights under the law. If any part of this Agreement shall be in conflict with the law, that part shall be void to the extent that it is in conflict, but shall not invalidate this Agreement nor shall it affect the validity or enforceability of any other provision of this Agreement.

23. NO WAIVER: OWNER'S acceptance of rent with knowledge of any default by RESIDENT or waiver by OWNER of any breach of any term or condition of this Agreement shall not constitute a waiver of subsequent breaches. Failure to require compliance or to exercise any right shall not be construed as a waiver by OWNER of said term, condition, and/or right, and shall not affect the validity or enforceability of any other provision of this Agreement.

24. ATTORNEY'S FEES: If any legal action or proceeding be brought by either party to this agreement, the prevailing party shall be reimbursed for all reasonable attorneys' fees up to but not more than \$500 in addition to other damages awarded.

25. ABANDONMENT: California Civil Code Section 1951.2 shall govern Abandonment. If any rent has remained unpaid for 14 or more consecutive days and the OWNER has a reasonable belief of abandonment of the premises, OWNER shall give 18 days written notice to RESIDENT at any place (including the rented premises) that OWNER has reason to believe RESIDENT may receive said notice of OWNER'S intention to declare the premises abandoned. RESIDENT'S failure to respond to said notice as required by law shall allow OWNER to reclaim the premises.

26. The undersigned RESIDENTS are jointly and severally responsible and liable for all obligations under this agreement and shall indemnify OWNER for liability caused by the actions (omission or commission) of RESIDENTS, their guests and invitees.

27. Pursuant to Section 1785.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit history may be submitted to a credit reporting agency, if you fail to fulfill the terms of your credit obligation. RESIDENT expressly authorizes OWNER/AGENT (including a collection agency) to obtain Resident's consumer credit report, which OWNER/AGENT may use if attempting to collect past due rent payments, late fees, or other charges from Resident, both during the term of the Agreement and thereafter.

28. **Lead Warning Statement:** Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, OWNERS must disclose the presence of known lead-based paint hazards in the dwelling. RESIDENTS must also receive a federally approved pamphlet on lead poisoning prevention.

OWNER/AGENT DISCLOSURE (Initial)

ME OWNER'S initials (on left) mean OWNER has no knowledge of lead-based paint and/or lead-based hazards in or on the Premises and OWNER has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in or on the Premises, and OK RENTER'S initial (on left) indicate that RENTER has received a copy of a "Protect Your Family from Lead in Your Home", and that RENTER shall notify OWNER promptly in writing of any deteriorating and/or peeling paint.

29. **MOLD:** The OWNER/AGENT has inspected the unit prior to lease and knows of no damp or wet building materials and knows of no mold contamination. Resident agrees to accept full responsibility and maintain the premises in a manner that prevents the occurrence of an infestation of mold in the premises. Resident also agrees to immediately report to the OWNER/AGENT any evidence of water leaks, excessive moisture or lack of proper ventilation and evidence of mold that cannot be removed by cleaning.



30. ADDITIONS AND EXCEPTIONS: TENANT is responsible for all repairs and replacements of all appliances including refrigerator, stove and microwave.

31. NOTICES: All notices to RESIDENT shall be served at RESIDENT'S apartment / house whether or not RESIDENT is present at the time of delivery and all notices to OWNER / AUTHORIZED PERSON shall be served by first class mailing to:

Person Authorized To Manage Property:

Name _____ Address _____

Phone Number _____

Owner of property or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.

Name _____ Address _____

Phone Number _____

Person or Entity Authorized to Receive Payment of Rent:

Name _____ Address _____

Phone Number _____

32. INVENTORY: The Apartment contains the following items for use by RESIDENT: stove, refrigerator

RESIDENT further acknowledges that the subject premises are furnished with the additional furnishings listed on the attached inventory and that said attached inventory is hereby made part of this agreement.

33. Proposition 65 Notice: Warning: Some areas may contain chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

34. Notice is hereby given of the existence of the Residential Rent Arbitration Board (RRAB) and the Rent Arbitration Program of the City of Oakland, the office of which is located at 250 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA, 94612, phone number (510) 238-3721. The Rent Arbitration Program (Oakland Municipal Code, Chapter 8.22) lease addendum is attached to this lease and acknowledged in number 35 below as a lease addendum notifying tenants of the Notice to Tenants regarding Oakland's Rent Adjustment Program. In the event that Owner/Agent elects not to implement an annual rent adjustment, the Owner/agent hereby advises Tenant that Owner/agent elects to bank any such rent adjustment to future year(s) pursuant to the provisions of the Oakland Rent Arbitration Ordinance.

Note: Tenant and Landlord has adopted, and agree to comply with Measure EE "Just Cause Eviction" Ordinance for the City of Oakland, CA., which requires landlords of specified residential properties, the right to evict a tenant only for reasons specified in the measure, such as non-payment of rent, breach of lease, damaging premises, drug or other illegal activity, disorderly conduct, rehabilitation of unit, landlord or relative occupancy, except in certain circumstances where the tenant is disabled, elderly or catastrophically ill. Further, the ordinance provides for damages, penalties and attorneys' fees against landlords who violate this law. Should Tenant violate any portion of the ordinance, Landlord may exercise his/her right to evict tenant for damages, penalties and attorneys' fees.

35. RESIDENT acknowledges receipt of the following, which shall be deemed a part of this Agreement: (Please check)

- House Rules
- Laundry Rules
- Mailbox Keys

- Pet Agreement
- Pool Rules
- Apartment Keys

- Garage Door Opener _____
- Notice to Tenants: Oakland's Rent Adjustment Program
- Information About Bed Bugs Sheet

36. ENTIRE AGREEMENT: This Agreement constitutes the entire Agreement between OWNER and RESIDENT. No oral agreements have been entered into, and all modifications or notices shall be in writing to be valid. The undersigned Residents are jointly and severally responsible for all obligations under this agreement and shall indemnify Owner for liability caused by the actions (omission or commission) of residents, their guests and invitees. Renter has relied on his own judgment in entering into this agreement.

37. NOTICE: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

38. RECEIPT OF AGREEMENT: The undersigned RESIDENT hereby certifies that he/she is fluent in the English language and has read and completely understands this Agreement and hereby acknowledges receipt of a copy of this "Rental Agreement and/or Lease." (_____) RESIDENT'S initials:

OR Pursuant to California Civil Code 1632, which requires translation of specified contracts or agreements that are negotiated in Spanish, Chinese, Vietnamese, Tagalog or Korean:

(Maria A.) Resident's Initials on left hereby acknowledge that this agreement was translated and interpreted in their foreign language of: Spanish

Jovani Ayala Printed Name of Interpreter, Jovani Ayala Signature of Interpreter, 08/24/17 Date

Mav Fong Owner/Agent, 8/24/17 Date

Owner/Agent Date

Owner/Agent Date

Maria Amezcua Resident, 8-24-17 Date

Luis Ramirez Resident, _____ Date

Jovani Ayala Resident, 8-24-17 Date

NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR THE ADEQUACY OF ANY PROVISION IN THIS AGREEMENT. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.



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...
Starting on February 1, 2017, an owner must petition the RAP for any rent increase...
Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases...
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition...
Oakland has eviction controls...
Oakland charges owners a Rent Program Service Fee per unit per year...
Oakland has a Tenant Protection Ordinance ("TPO")...
The owner [] is [X] is not permitted to set the initial rent on this unit without limitations...

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit 1791, the unit you intend to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building.
There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____.

I received a copy of this notice on 8-24-17 (Date) Maria Amezcua (Tenant's signature)

此份屋書 (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.



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 en el alquiler (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en alquiler construidas antes de 1983. Para más información sobre las viviendas cubiertas, contacte a la oficina del RAP.
- A partir del 1º de febrero de 2017, un propietario debe presentar una petición ante el RAP para todo aumento en el alquiler que sea mayor que el aumento general anual en el alquiler (“aumento CPI”) o permitido que los aumentos en el alquiler sean “invertidos”. Estos incluyen mejoras de capital y aumentos en los gastos operativos. En lo que respecta a este tipo de aumentos, el propietario puede aumentar su alquiler sólo después de que un funcionario de audiencia haya autorizado el incremento. Ningún aumento anual en el alquiler podrá exceder el 10%. Usted tiene derecho a disputar el aumento en el alquiler propuesto respondiendo a la petición del propietario. No es indispensable que usted presente su propia petición.
- **Cómo disputar un aumento en el alquiler:** Puede presentar una petición ante el RAP para disputar aumentos ilícitos en el alquiler o la disminución de servicios en la vivienda. Para disputar el aumento en el alquiler, debe presentar una petición (1) en un plazo de (90) días a partir de la fecha del aviso de aumento en el alquiler si el propietario también proporcionó este Aviso a los Inquilinos con la notificación del aumento en el alquiler; o (2) en un plazo de 120 días a partir de la fecha de recepción del aviso de aumento en el alquiler si este Aviso a los Inquilinos no fue entregado con la notificación de aumento en el alquiler. 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 del RAP en el Centro de Asistencia de Vivienda: 250 Frank H. Ogawa Plaza, 6º Piso, Oakland; también puede visitar: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>.
- Si usted disputa un aumento en el alquiler, debe pagar su alquiler con el aumento disputado hasta que presente la petición. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha de inicio de vigencia 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 viviendas cubiertas. Para más información contacte la oficina RAP.
- Oakland les cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por vivienda al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. No se requiere que los inquilinos de viviendas subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir el 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.)
- El propietario tiene no tiene permitido establecer el alquiler inicial de esta vivienda sin limitaciones (por ejemplo, de conformidad con la Ley Costa-Hawkins). Si el propietario no tiene permitido establecer el alquiler inicial sin limitaciones, el alquiler vigente cuando el inquilino anterior desalojó la vivienda era de 2016.

INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES

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

Recibí una copia de este aviso el 8-24-17 Maria Amezcua
(Fecha) (Firma del inquilino)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

**MICHAEL MEHRETEAB
ELECTRIC**

RECEIVED 05/10/18

RECEIPIENT:

May Fong

LOCATION:

**1791 28th Ave
Oakland**

SENDER:

Michael Mehreteab Electric

6119 Market St, Oakland, Ca 94608

Phone: (510) 978- 2489

Replace burnt outlet in living room due to overloaded circuit. Checked circuit breaker for damages. \$200

Received payment 5/9/18

Job #29

000107



SPECIAL SERVICES CUSTOMER INVOICE EXHBIT C

Notice of Cancellation (see Exhibit A) may be sent to this address:

HOME DEPOT U.S.A., INC.

Phone: (650) 755-9600

Store 0639 COLMA II

Salesperson: kxh6ggf

2 COLMA BLVD

Reviewer: sv995

COLMA, CA 94014

REPRINT

SOLD TO	Name MAY FONG MAY FONG		Phone 1 (415) 812-9908	
	Address 358 CERRO CT		Phone 2	
	Company Name			
	City DALY CITY		Job Description 1791	
	State CA	Zip 94015	County SAN MATEO	

2018-05-09 14:00

CUSTOMER PICKUP #1

MERCHANDISE AND SERVICE SUMMARY

We reserve the right to limit the quantities of merchandise sold to customers

REF # **W02** SKU # **0000-515-664** Customer Pickup / Will Call

S.O. MERCHANDISE TO BE PICKED UP:				S/O MILGARD MFG INC	REF # S01	ESTIMATED ARRIVAL DATE: 05/30/2018	P.O. #39505099	
REF #	SKU	QTY	UM	DESCRIPTION	PI	TAX	PRICE EACH	EXTENSION
S0101	0000-301-390	0.00	EA	NA / SINGLE SLIDER 29.5 X 47.5 VINYL XO / SINGLE SLIDER 29.5 X 47.5 VINYL XO{#1}	A	N	\$269.07	\$0.00*
SCHEDULED PICKUP DATE: Will be scheduled upon arrival of all S/O Merchandise							MERCHANDISE TOTAL:	\$0.00
END OF CUSTOMER PICKUP - REF #W02								

CUSTOMER PICKUP #2

REF # **W04** SKU # **0000-515-664** Customer Pickup / Will Call

S.O. MERCHANDISE TO BE PICKED UP:				S/O MILGARD MFG INC	REF # S03	ESTIMATED ARRIVAL DATE: 05/31/2018	P.O. #39505130	
REF #	SKU	QTY	UM	DESCRIPTION	PI	TAX	PRICE EACH	EXTENSION
S0303	0000-301-390	1.00	EA	NA / SINGLE SLIDER 29.5 X 47.5 VINYL XO / SINGLE SLIDER 29.5 X 47.5 VINYL XO{#1}	A	Y	\$220.57	\$220.57*
SCHEDULED PICKUP DATE: Will be scheduled upon arrival of all S/O Merchandise							MERCHANDISE TOTAL:	\$220.57
END OF CUSTOMER PICKUP - REF #W04								

WILL-CALL MERCHANDISE PICK-UP

Will-Call items will be held in the store for 7 days only.

Check your current order status online at

www.homedepot.com/orderstatus

FOR WILL CALL
MERCHANDISE PICK-UP
PROCEED TO WILL CALL OR
SERVICE DESK AREA

(Pro Customers, Proceed To The Pro Desk)

* Indicates item markdown
Customer Copy

TOTAL CHARGES OF ALL MERCHANDISE & SERVICES

Policy Id (PI):

A: 90 DAYS DEFAULT POLICY;

'The Home Depot reserves the right to limit / deny returns. Please see the return policy sign in stores for details.'

ORDER TOTAL	\$220.57
SALES TAX	\$19.30
TOTAL	\$239.87
BALANCE DUE	\$0.00

END OF ORDER No. H0639-111901

EXHIBIT C

Re: Case 1801330 1783-28th Avenue

From: May Fong (mayfong@pacbell.net)

To: HBarron@oaklandnet.com

Date: Friday, June 15, 2018, 9:55 AM PDT

Hi Hugo!

The inspection passed on Wednesday.

Please confirm the case has been abated.

Thx

May
Sent from my iPhone

On Jun 6, 2018, at 8:33 AM, Barron, Hugo <HBarron@oaklandnet.com> wrote:

Not, you need to call 238-3444 and schedule a final inspection once the permit is final please call me and let me know. Hugo.

From: May Fong [<mailto:mayfong@pacbell.net>]
Sent: Tuesday, June 05, 2018 12:47 PM
To: Barron, Hugo <HBarron@oaklandnet.com>
Subject: Re: Case 1801330 1783-28th Avenue

Hi Hugo!

I wanted to find if you are able to pass my inspection for my windows since you were at the unit yesterday?

Thanks.

May

From: May Fong <mayfong@pacbell.net>

To: "hbarron@oaklandnet.com" <hbarron@oaklandnet.com>
Sent: Wednesday, May 2, 2018 2:49 PM
Subject: Case 1801330 1783-28th Avenue

<image001.jpg>

To Inspector Barron,

I received the above reference complaint. Please find attached the notice I sent to the tenants regarding a violation you have included. I was made aware of the dumping on April 18th by a tenant, not by Luis Ayala. I verified the issues and contacted Luis regarding the violations he has caused and sent over the notices. Mr. Ayala has never complained to me regarding electrical or cabinet issues. I was made aware of the window and my handyman will repair the drawers in the kitchen and window well as today. My electrician will take care of the electrical on Friday and I already had made arrangements for bulky item pickup next Wednesday. I warned the tenant with the red van not to park at the lawn and I installed yellow parking bumpers to prevent cars from entering the lawn as per picture. I also installed security cameras in hopes to prevent the dumping and illegal car parking.

I will send you the confirmation that everything is taken care of and you can reinspect by May 14th.

Thanks.

May

Rental Agreement (Month-to-Month)

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

Terms of Tenancy

DS GW 12/29/2014

Owner Joseph S. Martinez (Name)

Agent for Rent & Notices Same as above (Name)
1814 28th Ave Oakland Ca. 94601 (Address)
570-326-1943 JSMGoldenHours@gmail.com (Phone & Email)

Tenants Nazania V. Nevarez (Name) 11-25-77 (DOB)
Teresa Vazquez (Name) 5-17-95 (DOB)
Fernando Nevarez (Name) 10-15-97 (DOB)
Cesar Nevarez (Name) 6-29-04 (DOB)

Premises X 1791 28th Avenue, Oakland Ca 94601 (Address)

Rent \$ 895.00 per month payable in advance on the 1st day of each month.

Parking Parking space assigned yes. Monthly charge \$ NA, payable with monthly rent.

Storage Storage space assigned yes. Monthly charge \$ NA, payable with monthly rent.

Rent Payments Electronic Funds Transfer (EFT)
 Personal check
 Cashier's check or money order
 Cash

Security Deposit \$ 800.00

Late Charge \$ 53.70 if Owner does not receive rent in full within 5th days after the due date.

Returned Payment \$ 25.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

Term of Tenancy The Tenancy begins on Dec 1 2012 and ends on May 30, 2012 and thereafter continues on a month-to-month basis until terminated.

Pets Approved pets NO Pets

Owner's Utilities Owner pays for Water & garbage

Tenant's Utilities Tenant pays for Gas & Electric

Appliances & Fixtures Owner provides stove & Refrigerator

General Terms and Conditions of Tenancy

Use and Occupancy The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page N.N (Tenant initials)

Rental Agreement (Month-to-Month)

Rent Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.

Late Payments Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.

Returned Payments Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.

Individual Liability Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.

Failure to Pay As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.

Security Deposit Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within two weeks after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check for any deposit balance. Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.

Subletting Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.
In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner.
No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.

Parking The assigned parking space is for the exclusive use of the Tenants and may be used for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.
Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

Storage Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.

I have reviewed this page NN (Tenant initials)

Rental Agreement (Month-to-Month)

Condition of Premises Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.

Appliances and Fixtures Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.

Pets Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.

Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manor. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleaing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.

Trash Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.

Owner's Access California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).

Extended Absences Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.

Quiet Enjoyment Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.

Repairs and Alterations Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.

Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.

Financial Responsibility Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.

Water-filled Furniture No waterbed or other item of water-filled furniture will be kept on the Premises.

Smoke Detectors The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

Termination The tenancy may be terminated by Tenant by serving a 30-day written notice of termination upon Owner, and by Owner by serving a 30-day written notice of termination upon Tenant if Tenant has been in possession of the Premises for less than one year, or by serving a 60-day written notice of termination upon Tenant if Tenant has been in possession of the Premises for one year or longer. Any termination notice is subject to applicable local rent control ordinances and regulations. If the Premises are damaged by fire, flood, earthquake or any other cause so as to render them uninhabitable and therefore destroyed, the tenancy is terminated.

I have reviewed this page N.N. (Tenant initials)

Rental Agreement (Month-to-Month)

Attorney Fees In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to local rent control ordinances and regulations that may apply.

Megan's Law Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

Notices Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

Validity of Each Part If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

Captions and Headings The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.

Application Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

Attachments The following attachments are incorporated as part of this Agreement:
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards
 Move-In-Move-Out Checklist
 Oakland Notice to Tenants
 EPA booklet entitled "Protect Your Family from Lead in Your Home"

Entire Agreement This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By: Josephs Martine 11-26-12
 Owner or Agent Date

Tenant _____	Date _____	Tenant _____	Date _____
Tenant <u>Nazario Nunez</u>	Date <u>11-28-12</u>	Tenant _____	Date _____
Tenant _____	Date _____	Tenant _____	Date _____
Tenant _____	Date _____	Tenant _____	Date _____

Receipt

By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:

Security Deposit: \$ _____

Rent: \$ _____ for the period _____ to _____

Other: \$ _____ for _____

Total received: \$ _____ payment method _____



Form provided by the East Bay Rental Housing Association®
www.ebrha.com
 Form Rental Agreement (Month-to-Month) © (06/11)



EXHIBIT E

NOTICE TO TENANTS AT 28TH AVENUE

Dear Tenants,

I am writing in regards to the rules and maintenance of the building for 1783-28th Avenue. Thank you for those who have been doing their share in maintaining the cleanliness of the building and property including the carport, yard and garbage areas. Unfortunately, there seems to be some big problems we have been having with the garbage and some tenants have been throwing diapers down their windows to the back and sides of the building. I hope all tenants are aware that garbage that is thrown on the property and not put in the proper containers will cause huge rodent problems. According to the lease, each tenant has a responsibility to maintain the property. As a courtesy to all the other tenants, please do your share in keeping the property in good condition.

I want to clarify the rule that there is only 1 carport space per unit. If you have more than 1 car, you must not park it in any of the carport space or yard. Your car must be parked outside the gated area.

Since there seems to be some problems with the moving of the garbage container, I will be looking into having individual garbage cans where each tenant would be responsible for moving out their garbage container outside on garbage day. We have recycle bins. Please be sure to use these for recycling plastic, glass and paper. This will help the environment.

I will be slowly making repairs and improvement to the building to make the property more beautiful. Please do your part in helping to improve our building.

I will be meeting with each tenant to sign leases. I do want to remind all tenants to write down their unit address on the deposit slips when making your rent deposits so I can credit you correctly. Please find attached the RAP sheet as required by the Oakland rent board in regards to your tenant rights.

Thank you for your attention and cooperation.

Sincerely,



May Fong
415-812-9908

000116



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program (“RAP”) that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (“CPI increase”). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases (“banking”). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland, CA 94612 or: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has **not** been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance (“TPO”) to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS’ SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or **IS NOT** permitted in Unit 1791, 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 Thoàng Baùo quyềàn lôõì cuõa ngõõõì thueã trong Oakland nàõy cuõng còu bàeng tieáng Vieät. Ñeã còu moät baùn sao, xin goii (510) 238-3721.

THIRTY-DAY NOTICE OF CHANGE OF MONTHLY RENT

TO: Nazana Nevarez, Teresa Vazques, Fernando Nevarez and Cesar Nevarez, et al
All Residents (tenants and subtenants) in possession (full name) and all others in possession

of the premises located at:

1791-28th Avenue, Unit # (if applicable) _____
(Street Address)
Oakland, CA 94601
(City) (Zip)


You are hereby notified, in accordance with California Law, that 30 days after service upon you of this Notice, or
8/1/16, whichever is later, your monthly rent which is payable in advance on or before the
(Date)

1st day of each month, will be the sum of \$ 995, instead of \$ 945, the current monthly rent.

Except as herein provided, all other terms of your tenancy shall remain in full force and effect.

If you fail to fulfill the terms of your credit obligations, a negative credit report may be submitted to a credit reporting agency.

6/30/16
Date


Owner/Agent May Fong

Proof of Service

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this is a true copy, on the 30th day of June (month), 2016 (year), on the above-mentioned resident(s) in possession, in the manner indicated below. (Select one)

- BY MAILING** by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence

Place of Mailing: San Francisco Date of Mailing: 6/30/16

- BY DELIVERING** a copy of the Notice to the following resident(s) **PERSONALLY**: _____
- BY LEAVING** a copy for each of the above-named resident(s) with a person of suitable age and discretion at the residence or usual place of business of the resident(s), said resident(s) being absent thereof;
AND MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence.
- BY POSTING** a copy for each of the above-named resident(s) in a conspicuous place on the property therein described, there being no person of suitable age or discretion to be found at any known place of residence or business of said resident(s);
AND MAILING by first class mail on the same day as posted, a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope with postage fully prepaid, addressed to the resident(s) at the place where the property is situated.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and if called as a witness to testify thereto, I could do so competently.

Executed this 30th day of June (month), 2016 (year), in San Francisco (city), Ca (state).

May Fong
Name of Declarant (Print)

(Signature of Declarant)



California Apartment Association Approved Form
www.caanet.org
Form 5.1-SV – Revised 12/14 - ©2014 – All Rights Reserved
Page 1 of 1

**Unauthorized Reproduction
of Blank Forms is Illegal.**



000118



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program (“RAP”) that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (“CPI increase”). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases (“banking”). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6th Fl., Oakland, CA 94612 or: <http://www2.oaklandnet.com/Government/o/hcd/o/RentAdjustment>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has **not** been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance (“TPO”) to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)

TENANTS’ SMOKING POLICY DISCLOSURE

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

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

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Baun Thoang Baun quyèan lôii của ngõôøi thuêã trong Oakland nàøy cuõng còu baèng tieáng Vieät. Ñeã còu moät baun sao, xin goii (510) 238-3721.

EXHIBIT F

TEXTS FROM LUIS 8/17/17 ESTABLISHED ILLEGALLY STAYING AT UNIT

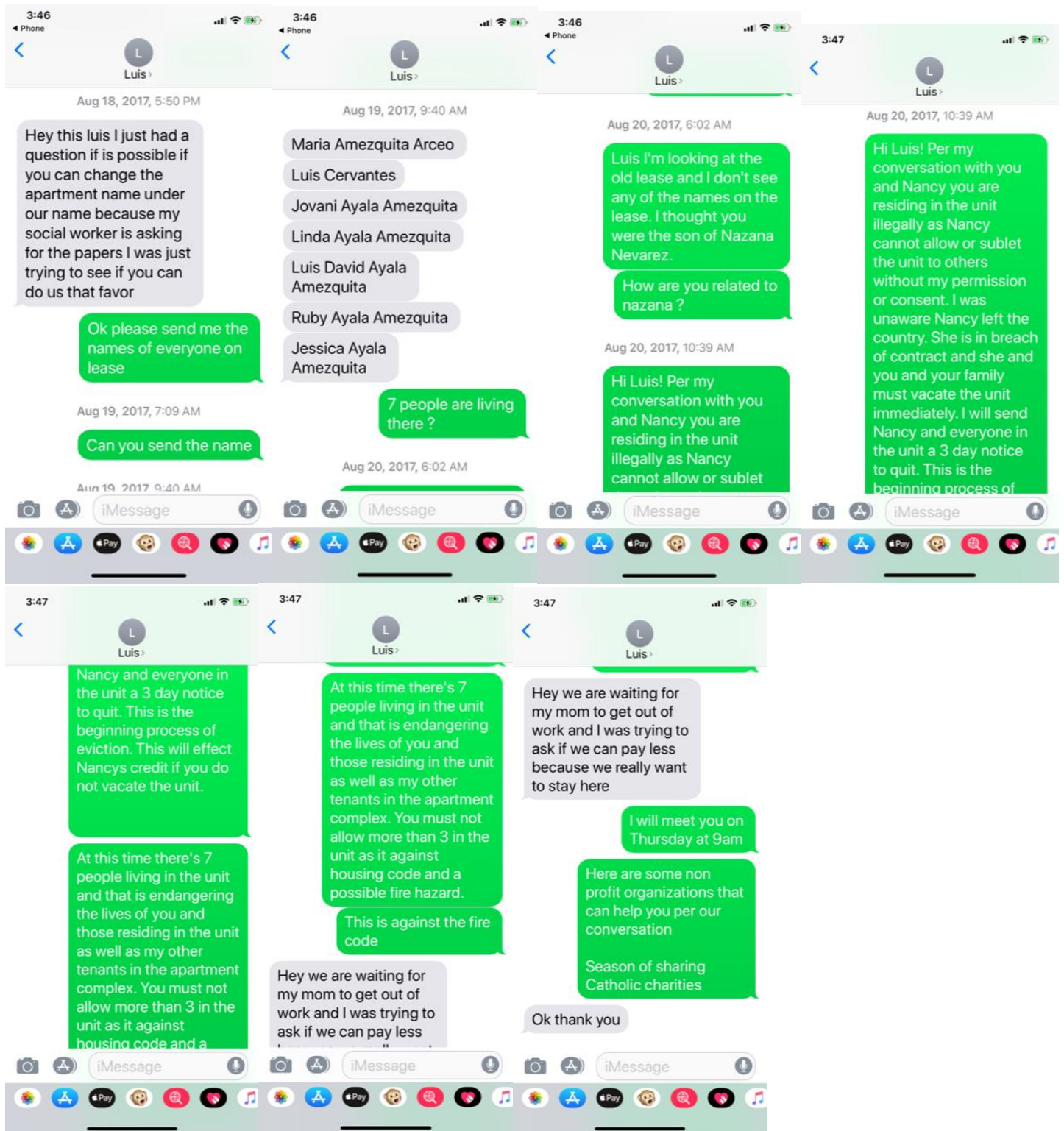




EXHIBIT G

Online Banking


Fong Investments: Account Activity Transaction Details

Post date: 07/08/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0262910428

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 0262910428

Transaction category: Income: Deposits

000121




Fong Investments: Account Activity Transaction Details

Post date: 06/05/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1476793191

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 1476793191

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 05/06/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0317314036

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 0317314036

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 04/05/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1750389378

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 1750389378

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 03/06/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1789276445

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 1789276445

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 02/05/2019

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 2740017444

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 2740017444

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 12/05/2018

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1603915720

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 1603915720

Transaction category: Income: Deposits




Fong Investments: Account Activity Transaction Details

Post date: 03/05/2018

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 0511268718

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
 #0000546 CA Confirmation# 0511268718

Transaction category: Income: Deposits



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA 94612-2034

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

Housing, Residential Rent and Relocation Board (HRRRB)

APPEAL DECISION

CASE NUMBER: T18-0311, Cervantes v. Fong
APPEAL HEARING: September 23, 2021
PROPERTY ADDRESS: 1791 28th Avenue, Oakland, CA
APPEARANCES: May Fong (Owner/Appellant)
Samantha Beckett (Tenant Representative/Respondent)
Maria Amezcuita (Tenant/Respondent)

PROCEDURAL BACKGROUND

On June 12, 2018, tenants Maria Amezcuita and Luis Ayala Cervantes filed a petition contesting rent increases and claiming code violations and decreased housing services. The contested rent increases included the following:

- 4/26/18 – from \$1,200 to \$1,400
- 10/3/17 – from \$945 to \$1,200
- 9/5/17 – from \$945 to \$1,233

On October 3, 2019, the Hearing Officer issued a Hearing Decision, denying the rent increases in the 2017 lease (\$1,233 for the first three months, \$1,400 thereafter) on the grounds that the owners did not seek prior approval from the Rent Adjustment Program of increases in excess of CPI or banking, and stating that the tenants' base rent remains \$945.00. The Decision ordered restitution for rent overpayment and past decreased housing services in the amount of \$6,965.25 (\$6,729 for rent paid 9/1/17 to 11/1/17 and 12/1/17 to 10/1/19; \$236.25 for problems with electrical outlets, windows, and drawers, 3/1/18 to 7/1/18), amortized over 24 months. The Decision denied the remaining decreased housing services claims.

Owner May Fong filed an appeal on October 9, 2019, on various grounds, including asserting that the rent was \$1,400 per the 2017 lease, that the original tenant had sublet the unit to the petitioners without the owners' consent, and that the owners were unaware that the petitioners were illegal subtenants until August 2017.

The owners also denied that they told the tenants that their rent would be increased because there were so many people living in the unit. On October 17, 2019, the Hearing Officer issued a Corrected Hearing Decision, removing the sentence on page 3 of the Hearing Decision stating "The owner also told the tenant her rent would be increased because there were so many people living in the unit."

On January 16, 2020, the Owners' 2019 appeal was heard by an Appeal Panel of the HRRRB. The Panel remanded the case to the Hearing Officer to address when the tenants' tenancy commenced, state the reasoning as to when the tenancy commenced, and restate the base rent, without considering any evidence submitted after the hearing.

RULING ON THE CASE

On November 24, 2020, the Hearing Officer issued a Remand Hearing Decision, finding that the tenancy commenced in August of 2015 at an initial monthly rent of \$945, due to rent paid directly to and accepted by the owner, based on evidence in the record including rent receipts. The Decision noted testimony indicating that the owners were aware that the tenants were living in the unit as of 2015 and that the owner did not realize the lack of a lease until 2017. The Decision was served on the parties on December 18, 2020.

GROUND FOR APPEAL

On December 28, 2020, Owner May Fong filed a timely appeal on the following grounds:

- the decision is inconsistent with Oakland Municipal Code Chapter 8.22, Rent Board Regulations, or prior decisions of the Board;
- the decision is inconsistent with decisions issued by other Hearing Officers;
- the decision violates federal, state or local law;
- the decision is not supported by substantial evidence;
- denial of a sufficient opportunity to respond to the petitioner's claim.

The owner further contended that the rent was \$1,400 per the 2017 lease, that the original tenant had sublet the unit to the petitioners without the owners' consent, and that the owners were unaware that the petitioners were illegal subtenants until August 2017.

APPEAL DECISION

After parties' arguments, questions, and Board discussions, T. Williams moved to remand the case to the Hearing Officer to determine base rent and commencement of tenancy based on more than just rent receipts and testimony. B. Scott seconded.

The Board voted as follows:

Aye: T. Williams, R. Nickens, Jr., B. Scott, C. Lieu, S. Devuono-Powell
Nay: None
Abstain: None

The motion was adopted.

Chanée Franklin Minor
CHANÉE FRANKLIN MINOR
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT
AND RELOCATION BOARD

November 18, 2021
DATE

PROOF OF SERVICE

Case Number T18-0311

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

Today, I served the attached documents listed below by placing a true copy in Oakland mail collection receptacle for mailing on the below date at 250 Frank H Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included

Appeal Decision

Owner

May & Grant Fong
358 Cerro Court
Daly City, CA 94015

Tenant

Maria & Luis Cervantes
1791 28th Avenue
Oakland, CA 94601

Tenant Representative

Xavier Johnson, Centro Legal de la Raza
3022 International Blvd Ste. 410
Oakland, CA 94601

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

I declare under penalty of perjury under the laws of the State of California that the above and correct. Executed on **November 19, 2021** in Oakland, CA.



Merna Attalla

Oakland Rent Adjustment Program **000132**



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Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

SECOND REMAND HEARING DECISION

CASE NUMBER:	T18-0311 Cervantes v. Fong
PROPERTY ADDRESS:	1791 28th Avenue, Oakland, CA
DATE OF HEARING:	June 3, 2019
DATE OF DECISION:	October 3, 2019
DATE OF CORRECTED DECISION:	October 17, 2020
DATE OF APPEAL HEARING:	January 16, 2020
DATE OF APPEAL DECISION:	March 10, 2020
DATE OF REMAND DECISION:	December 18, 2020
DATE OF APPEAL HEARING:	September 23, 2021
DATE OF APPEAL DECISION:	November 18, 2021
DATE OF SECOND REMAND DECISION:	February 1, 2022

INTRODUCTION

A Hearing Decision in this case was issued on October 3, 2019. A Corrected Hearing Decision was issued on October 17, 2020. The Hearing Decision partly granted the tenant's petition. Specifically, the Hearing Decision denied the rent increases in the 2017 lease (\$1,233.00 for the first three months, \$1,400.00 thereafter), on the grounds that the owner did not seek prior approval from the Rent Adjustment Program for increases exceeding the CPI and banking, and stated that the tenant's base rent remains \$945.00. Additionally, the Hearing Decision granted restitution for rent overpayments and past decreased housing services in the amount of \$6,965.25. The owner filed an Appeal, which was heard by the Board on January 16, 2020. The Board remanded the case to the Hearing Officer to address when the tenant's tenancy commenced, and state the reasoning as to when the tenancy commenced, and restate the monthly base rent, disregarding any evidence presented on appeal.

On December 18, 2020, the Hearing Officer issued a Remand Hearing Decision, finding that the tenancy commenced in August of 2015 at an initial monthly rent of \$945.00, based on rent paid directly to and accepted by the owner. This finding was based on evidence in the record, including rent receipts. The Remand Hearing Decision also noted testimony indicating that the owner was aware that the tenants were living in the unit as of 2015, and that the owner did not realize the lack of a lease until 2017. On December 28, 2020, the tenant appealed the Remand Hearing Decision. The appeal was heard by the Board on September 23, 2021. The Board remanded the case back to the Hearing Officer to determine the base rent and commencement of tenancy based on more than just rent receipts and testimony.

EVIDENCE

A review of the record at the underlying hearing, including the documentary evidence, the audio recording of the hearing, and the Hearing Decision shows the following:

The only evidence received into the record pertaining to the base rent and commencement of tenancy were rent receipts submitted by the tenant, the 2017 lease signed by the parties with accompanying RAP Notice, and the testimony of the parties.¹ The owner did not file any timely documentary evidence prior to the underlying hearing on June 3, 2019. At the June 3, 2019, hearing, the owner attempted to introduce documents into evidence but the documents were not admitted into the record as they were untimely. All documentary evidence submitted by the owner on appeal was new evidence that was not admitted into the record at the underlying hearing.

Additionally, a review of the audio recording of the June 3, 2019, hearing shows that the tenants testified they paid rent directly to the owner when they moved into the unit in August of 2015. The tenants testified that they moved into the unit with the understanding that the prior tenant, Nancy Nevarez, and the owner had agreed to allow the tenants to move into the unit. That's why they set up a direct deposit with the owner for all rent payments. The tenants never paid rent to a master tenant as subtenants. The owner did not dispute this testimony regarding the payment of rent and did not raise any issues with the rent deposits at the underlying hearing. Further, at the underlying hearing, the owner never raised the argument that the original tenant had moved out and that she was raising the rent to market rate for subsequent occupants pursuant to California Civil Code Section 1954.53(d)(2). This was a new argument presented for the first time on appeal. At the underlying hearing, the owner only testified that she was not aware that the tenants were not listed on the original 2012 lease. She only became aware that they were not listed on the 2012 lease in 2017, when the tenants asked for a new lease. That's when she determined that they were illegal subtenants and decided to enter into a new lease with the tenants.

¹ Exhibits 1 and 2

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Rent Adjustment Ordinance states that "Appeals shall be based on the record as presented to the Hearing Officer unless the Appeal Body determines that an evidentiary hearing is required. If the Appeal Body deems an evidentiary hearing necessary, the case will be continued and the Appeal Body shall issue a written order setting forth the issues on which the parties may present evidence."²

Based on a review of the underlying record the Hearing Officer finds that there is no additional evidence to consider beyond the rent receipts and the testimony of the parties in determining the base rent and the commencement of tenancy. Since the Board has not directed the Hearing Officer to reopen the case and conduct an evidentiary hearing based on new evidence pertaining to the commencement of tenancy and the base rent, the underlying Hearing Decision and the first Remand Hearing Decision are hereby affirmed.

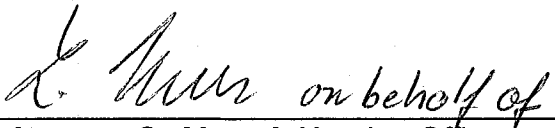
ORDER

1. The first Remand Hearing Decision is affirmed.
2. The subject tenancy commenced in August of 2015 and the monthly base rent is \$945.00.

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

Dated: February 1, 2022

Signed 7/26/22



Maimoona S. Ahmad, Hearing Officer
Rent Adjustment Program

² O.M.C. 8.22.120(C)(4)

PROOF OF SERVICE
Case Number T18-0311

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 documents listed below by placing a true copy 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:

Documents Included

Second Remand Hearing Decision

Owner

May & Grant Fong
358 Cerro Court
Dali City, CA 94105

Tenant

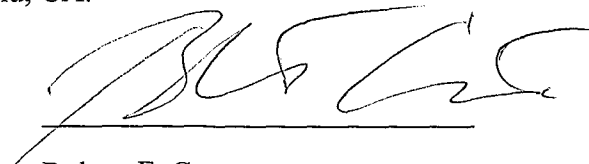
Maria & Luis Cervantes
1791 28th Avenue
Oakland, CA 94609

Tenant Representative

Xavier Johnson
c/o Samantha Beckett
3022 International Boulevard, Ste. # 410
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.

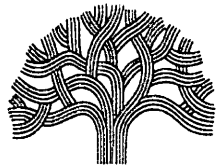
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **July 28, 2022** in Oakland, CA.



Robert F. Costa

Oakland Rent Adjustment Program

000136



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

APPEAL

Appellant's Name May Fong		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1791-28th Avenue, Oakland, Ca 94601			
Appellant's Mailing Address (For receipt of notices) 358 Cerro Court, Daly City, Ca 94015		Case Number T18-0311	
		Date of Decision appealed 7/26/22	
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.)*

- 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 the Owner's 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.)

Supporting documents (in addition to this form) must *not* exceed 25 pages, and must be received by the Rent Adjustment Program, along with a proof of service on the opposing party, within 15 days of the filing of this document. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(4). Please number attached pages consecutively. Number of pages attached: 23.

• You must serve a copy of your appeal on the opposing parties, or your appeal may be dismissed. • I declare under penalty of perjury under the laws of the State of California that on August 17, 2022, 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	Maria Amezquita Arceo
Address	1791-28th Avenue
City, State Zip	OAKLAND, CA 94601
Name	
Address	
City, State Zip	

	8/17/22
---	---------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

ADDENDUM TO APPEAL CASE NUMBER T18-0311

- a) **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations, or prior decisions of the Board.** The Rent Board abides and upholds the rules and regulations under City of Oakland Rent Levels and Rent Regulation (O.M.C. 8.22.070 et seq.), where it describes the **Costa-Hawkins Rental Housing Act**, a property owner may set the initial rent and associated housing services for new tenancies beginning on or after January 1, 1996. The initial rent becomes the new rent ceiling, which may be changed only by allowable increases under the Rent Ordinance. Any change in housing services from that provided at the beginning of the tenancy may be grounds for an adjustment of the lawful rent ceiling. Nazana Nevarez was the original tenant with written lease December 2012 as attached hereto **“EXHIBIT 1”** and TENANT CERVANTES was an illegal subtenant that not allowed under said lease.

Under the City of Oakland Rent Adjustment Program, it allows Before the unit is rented, the property owner has the right to:

1. Offer and advertise vacant units for rent.
2. Screen potential tenants.
3. Select the tenant who is to reside in the rental unit.
4. Collect first month's rent and security deposit.

Because TENANT CERVANTES moved into the unit without my knowledge or consent sometime in 2016 or 2017, Owner was denied these rights.

As an illegal subtenant, TENANT CERVANTES became a new tenant 8/24/17; therefore, Owner is allowed to set initial rent which we agree at \$1400 per month that was negotiated for hours and finally mutually agreed and signed to agreed terms on 8/24/17 hereto attached as **“EXHIBIT 3”**.

- b) **The decision is inconsistent with decisions issued by other Hearing Officers.** The hearing officer did not allow the original lease as attached hereto **“EXHIBIT 1”** and the tenant notices that LANDLORD served to the original tenant as additional documents as attached hereto **“EXHIBIT 2”**. These were emailed to the Rent Board case worker Margaret Sullivan on May 14, 2019 which was at least 14 days prior to the hearing as per rules by the Oakland rent board as attached hereto **“EXHIBIT 4”**. Emailing legal documents for the hearing was an accepted delivery by the rent board at that time. At the hearing June 3, 2019, LANDLORD brought original lease and increase of rent for Nazana Nevarez as additional evidence, but hearing officer claimed they did not receive these documents via email and would not allow it to be provided as the crucial evidence of lease terms that explicitly prohibits subtenants.

Moreover, I had several cases where the hearing officer allowed the nonprofit attorney for the tenant additional evidence to provide for their case at the day of hearing, such as in case No. L16-0083.

- c)
- d) **This decision violates federal, state, or local law.** On, 6/12/18 Tenant Cervantes filed petition to reduce his rent based on fraud. The hearing officer's decision violates Ca state law 2007 California Civil Code Article 2. Rental Agreement CA Codes (civ:798.15-798.23.5) CIVIL CODE SECTION 798.15-798.23.5. Nazana Nevarez with her 3 children Teresa Vazques, Fernando Nevarez and Cesar Nevarez were the original tenant that signed a valid lease on 11/28/12 for \$895 and lease states clearly subletting is strictly prohibited attached hereto **“EXHIBIT 1”**. This lease evidence

and was submitted on time attached “EXHIBIT 4”. Original TENANT Nancy was the one that received all legal rent increase for rent to \$990 effective 8/1/16 and RAP Notices as “EXHIBIT 2”. TENANT Cervantes claim they should be paying \$945 rent as did the original tenants in 2015, but by their own acknowledgment and admission at the hearing, they were illegal subtenants which was strictly prohibited as per ORIGINAL LEGAL Nevarez lease.

This ruling violates the state law of Costa-Hawkins Act, California Civil Code Sec. 1954.50-1954.535, under which a property owner may set the initial rent and associated housing services for new tenancies beginning on or after January 1, 1996. The initial rent becomes the new rent ceiling, which may be changed only by allowable increases under the Rent Ordinance. Any change in housing services from that provided at the beginning of the tenancy may be grounds for an adjustment of the lawful rent ceiling. Nazana Nevarez was the original tenant with written lease December 2012. TENANT CERVANTES was an illegal subtenant that not allowed under original lease as attached hereto “EXHIBIT 1”.

- e) **The decision is not supported by substantial evidence.** All tenants in the building have written leases while TENANT Cervantes did not prior to 8/24/17 because they were not authorized tenants. The hearing officer ignored critical fact and the fact that TENANT did not provide any evidence to show they were original tenants while ignoring the mutual agreed upon lease for new TENANT Cervantes for \$1400 rent with \$2000 security deposit where small claims court on 3/6/20 ordered the security deposit as per lease and as well as \$1200 to be paid to me for electrical and plumbing damage Tenant caused in the unit. Tenant were ILLEGAL subtenants and acknowledged they moved into my unit illegally without my knowledge, consent or my authorization verbal or written. This is fraud! They also told me there were only 3 to reside in the unit when they had 7. This is a safe and hazardous condition in the unit that could lead up to issues that occurred with the ghost ship fire. This was acknowledged in the unlawful detainer lawsuit on 1/22/20. This was another fraud.

The hearing officer only considered the rent deposits TENANT Cervantes provided. However, the hearing officer ignored reviewing thoroughly the rent deposit details. From TENANT “Exhibit A” hereto attached as “EXHIBIT 5” CERVANTES in Tenant Evidence Submission (LANDLORD never received a copy prior to appeal) are documents I never received. On their page 4 of 50 shows the deposit slip LANDLORD provided to Nazaria Nevarez and they wrote on the slip Nazaria Nevarez, not CERVANTES for a cash deposit of \$990 which correlates to the rent increase for 8/1/16 as found in “EXHIBIT 2”. The rent receipts with cash deposits to the bank does not indicate who is depositing the rent. Therefore, the rent cash deposits can only be assumed to be deposited from the original tenant Nazana Nevarez as shown on CERVANTES submission on page 4 of 50 “EXHIBIT 5”. LANDLORD only sees a transfer when CERVANTES deposited cash for rent into Bank of America as attached hereto “EXHIBIT 6.” Therefore, rent receipts provided by CERVANTES cannot determine base rent.

On 8/17/17 when TENANT disclosed to LANDLORD they were residing at the premise without permission as illegal subtenants. After sending eviction papers to Nazana Nevarez as attached hereto as “EXHIBIT 7”, CERVANTES requested to stay and to obtain a new lease as new tenants. As per lease dated 8/24/17, \$600 was received for September 2017 rent and on page 9 of 50 in “EXHIBIT 5” shows a cash deposit of \$633 to total the \$1233 as per lease. On 8/24/17, we spent hours negotiating the market rent from \$1700 to \$1400. CERVANTES expressed their strain in coming up with the \$2000 security deposit we agreed to; therefore, I agreed to accept \$1233 for the

first 2 months and CERVANTES would have to pay the full \$1400 effective 12/1/17 as per verbal and written mutual agreement.

- f) **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** Please refer to b) as hearing officer did not allow me to use submitted additional documents that were emailed prior to the 14 days rule.
- g) **The decision denies the Owner a fair return on the Owner's investment.** The hearing officer did not take into account any banking in her calculations. As new tenant, LANDLORD has right to establish base rent at market rate. In 2017, market rate for 1 bedroom is \$1900. As The Oakland Rent Adjustment Ordinance allows an annual rent increase based on the regional Consumer Price Index (CPI) which was

August 1, 2022: 3% (current CPI)

- July 1, 2021: 1.9%
- July 1, 2020: 2.7%
- July 1, 2019: 3.5%
- July 1, 2018: 3.4%
- July 1, 2017: 2.3%

- h) **The hearing officer did not comply with the Boards' order to "determine base rent and commencement of tenancy based on more than just rent receipts and testimony" attached hereto as 'EXHIBIT 6'.** On the contrary, the hearing officer only relied on testimony and rent receipts and did not comply with the board to take into account the signed mutual lease 8/24/17 submitted with LANDLORD ANSWER TO PETITION as 'EXHIBIT 3' where there is an establishment of new tenancy of unit at new market rate by a new tenant that would fall under rules of the Costa Hawkins Rental Housing Act.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


May Fong

8/16/22
Date

Rental Agreement (Month-to-Month)

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

Terms of Tenancy

DS DS
GIF 12/29/2014

Owner Joseph S. Martinez

Agent for Rent & Notices Same as above (Name)
1814 28th Ave Oakland Ca. 94601 (Address)
510-326-1943 JSMGoldenHours@gmail.com (Phone & Email)

Tenants Nazania V. Nevarrez (Name) 11-25-77 (DOB)
Teresa Vazques (Name) 5-17-95 (DOB)
Fernando Nevarrez (Name) 10-15-97 (DOB)
Cesar Nevarrez (Name) 6-29-04 (DOB)

Premises X 1791 28th Avenue, Oakland Ca 94601 (Address)

Rent \$ 895.00 per month payable in advance on the 1st day of each month.

Parking Parking space assigned yes Monthly charge \$ NA payable with monthly rent.

Storage Storage space assigned yes Monthly charge \$ NA payable with monthly rent.

Rent Payments Electronic Funds Transfer (EFT)
 Personal check
 Cashier's check or money order
 Cash

Security Deposit \$ 800.00

Late Charge \$ 53.70 if Owner does not receive rent in full within 5th days after the due date.

Returned Payment \$ 25.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

Term of Tenancy The Tenancy begins on Dec 1 2012 and ends on May 30, 2012 and thereafter continues on a month-to-month basis until terminated.

Pets Approved pets NO Pets

Owner's Utilities Owner pays for Water & Garbage

Tenant's Utilities Tenant pays for Gas & Electric

Appliances & Fixtures Owner provides stove & Refrigerator

General Terms and Conditions of Tenancy

Use and Occupancy The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page N.N (Tenant initials)

Rental Agreement (Month-to-Month)

Rent Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.

Late Payments Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.

Returned Payments Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.

Individual Liability Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.

Failure to Pay As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.

Security Deposit Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within two weeks after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check for any deposit balance. Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.

Tenant will not sublet any part of the Premises or assign this Agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.

In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner.

No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.

Parking The parking area is for the exclusive use of the named tenants and is for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.

Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

Storage Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.

I have reviewed this page NN (Tenant initials)

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Rental Agreement (Month-to-Month)

- Condition of Premises** Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) Immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.

- Appliances and Fixtures** Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.

- Pets** Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.

Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manor. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-leasing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.

- Trash** Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.

- Owner's Access** California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).

- Extended Absences** Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.

- Quiet Enjoyment** Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.

- Repairs and Alterations** Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.

Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.

- Financial Responsibility** Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.

- Water-filled Furniture** No waterbed or other item of water-filled furniture will be kept on the Premises.

- Smoke Detectors** The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

- Termination** The tenancy may be terminated by Tenant by serving a 30-day written notice of termination upon Owner, and by Owner by serving a 30-day written notice of termination upon Tenant if Tenant has been in possession of the Premises for less than one year, or by serving a 60-day written notice of termination upon Tenant if Tenant has been in possession of the Premises for one year or longer. Any termination notice is subject to applicable local rent control ordinances and regulations. If the Premises are damaged by fire, flood, earthquake or any other cause so as to render them uninhabitable and therefore destroyed, the tenancy is terminated.

I have reviewed this page N N (Tenant initials)

Rental Agreement (Month-to-Month)

Attorney Fees In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to local rent control ordinances and regulations that may apply.

Megan's Law Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

Notices Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

Validity of Each Part If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

Captions and Headings The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.

Application Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

Attachments The following attachments are incorporated as part of this Agreement:
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards
 Move-In-Move-Out Checklist
 Oakland Notice to Tenants
 EPA booklet entitled "Protect Your Family from Lead in Your Home"

Entire Agreement This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By: Joseph Martinez 11-26-12
 Owner or Agent Date

Tenant _____	Date _____	Tenant _____	Date _____
Tenant <u>Nazaria Navarro</u>	Date <u>11-28-12</u>	Tenant _____	Date _____
Tenant _____	Date _____	Tenant _____	Date _____
Tenant _____	Date _____	Tenant _____	Date _____

Receipt	
By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:	
Security Deposit:	\$ _____
Rent:	\$ _____ for the period _____ to _____
Other:	\$ _____ for _____
Total received:	\$ _____ payment method _____



Form provided by the East Bay Rental Housing Association®
www.ebrha.com
 Form Rental Agreement (Month-to-Month) © (06/11)



~~CONFIDENTIAL~~

NOTICE TO TENANTS AT 28TH AVENUE

Dear Tenants,

I am writing in regards to the rules and maintenance of the building for 1783-28th Avenue. Thank you for those who have been doing their share in maintaining the cleanliness of the building and property including the carport, yard and garbage areas. Unfortunately, there seems to be some big problems we have been having with the garbage and some tenants have been throwing diapers down their windows to the back and sides of the building. I hope all tenants are aware that garbage that is thrown on the property and not put in the proper containers will cause huge rodent problems. According to the lease, each tenant has a responsibility to maintain the property. As a courtesy to all the other tenants, please do your share in keeping the property in good condition.

I want to clarify the rule that there is only 1 carport space per unit. If you have more than 1 car, you must not park it in any of the carport space or yard. Your car must be parked outside the gated area.

Since there seems to be some problems with the moving of the garbage container, I will be looking into having individual garbage cans where each tenant would be responsible for moving out their garbage container outside on garbage day. We have recycle bins. Please be sure to use these for recycling plastic, glass and paper. This will help the environment.

I will be slowly making repairs and improvement to the building to make the property more beautiful. Please do your part in helping to improve our building.

I will be meeting with each tenant to sign leases. I do want to remind all tenants to write down their unit address on the deposit slips when making your rent deposits so I can credit you correctly. Please find attached the RAP sheet as required by the Oakland rent board in regards to your tenant rights.

Thank you for your attention and cooperation.

Sincerely,



May Fong
415-812-9908

000046

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.
• 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").
• To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants.
• If you contest a rent increase, you must pay your rent with the contested increase until you file a petition.
• 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.
• Oakland charges owners a Rent Program Service Fee per unit per year.
• 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).

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit: 1791, the unit you intend to rent.
• Smoking (circle one) IS or IS NOT permitted in other units of your building.
• There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at _____.

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

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.
Baun Thoang Baun quyean löi cuõa ngöðøi thueã trong Oakland nøy cuõng cõu baeng tieäng Vieät. Neã cõu möät baun sao, xin goõi (510) 238-3721.

EXHIBIT 2

THIRTY-DAY NOTICE OF CHANGE OF MONTHLY RENT

TO: Nazana Nevarez, Teresa Vazques, Fernando Nevarez and Cesar Nevarez, et al
All Residents (tenants and subtenants) in possession (full name) and all others in possession

of the premises located at:

1791-28th Avenue, Unit # (if applicable) _____
(Street Address)
Oakland, CA 94601
(City) (Zip)

You are hereby notified, in accordance with California Law, that 30 days after service upon you of this Notice, or 8/1/16, whichever is later, your monthly rent which is payable in advance on or before the 8/1/16 (Date)

1st day of each month, will be the sum of \$ 995, instead of \$ 945, the current monthly rent.

Except as herein provided, all other terms of your tenancy shall remain in full force and effect.

If you fail to fulfill the terms of your credit obligations, a negative credit report may be submitted to a credit reporting agency.

6/30/16 Date Owner/Agent May Fong

Proof of Service

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this is a true copy, on the 30th day of June (month), 2016 (year), on the above-mentioned resident(s) in possession, in the manner indicated below. (Select one)

BY MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence
Place of Mailing: San Francisco Date of Mailing: 6/30/16

BY DELIVERING a copy of the Notice to the following resident(s) PERSONALLY: _____
 BY LEAVING a copy for each of the above-named resident(s) with a person of suitable age and discretion at the residence or usual place of business of the resident(s), said resident(s) being absent thereof;
AND MAILING by first class mail on said date a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope, with postage fully prepaid, addressed to the above-named resident(s) at their place of residence.
 BY POSTING a copy for each of the above-named resident(s) in a conspicuous place on the property therein described, there being no person of suitable age or discretion to be found at any known place of residence or business of said resident(s);
AND MAILING by first class mail on the same day as posted, a copy to each resident by depositing said copies in the United States Mail, in a sealed envelope with postage fully prepaid, addressed to the resident(s) at the place where the property is situated.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct and if called as a witness to testify thereto, I could do so competently.

Executed this 30th day of June (month), 2016 (year), in San Francisco (city), Ca (state).

May Fong Name of Declarant (Print) (Signature of Declarant)



California Apartment Association Approved Form
www.caanet.org
Form 5.1-SV - Revised 12/14 - ©2014 - All Rights Reserved
Page 1 of 1

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Received \$600 8/24/17 EXHIBIT 3

OAKLAND RENTAL AGREEMENT AND/OR LEASE

Landlord/Lessor/Agent: Mav Fong Apartment Number 1791
Tenant(s)/Lessee: Maria Amezcua Arce, Luis Cervantes, Jovani Ayala Amezcua
Apartment Number: 1791
Apartment Address: 1791-28th Avenue
City: Oakland State Ca Zip 94601
Monthly Rental Rate: \$1,233 per month
Rental Due Date: 1st of month
Security Deposit: \$200
Late Charge: \$75 if not paid by 3rd
Parking Space: 1
Storage Space: 0

\$1400 from 12/1/17 M.A

- 1. This Rental Agreement and/or Lease shall evidence the complete terms and conditions under which the parties whose signatures appear below have agreed.
2. PAYMENTS: Rent and/or other charges are to be paid at the office or apartment of the manager of the building or at such other place designated in writing by OWNER.
3. LATE CHARGES: The late charge amount noted above, not to exceed 6% of the monthly rent, shall be added to any payment of rent not made on the rental due date or for which a deficient (bounced) check shall have been given.
4. SECURITY DEPOSITS: The Security Deposit shall not exceed two times the monthly rent for unfurnished apartments or three times the monthly rent for furnished apartments.
5. UTILITIES: RESIDENT agrees to pay for all utilities and/or services based upon occupancy of the premises except garbage.
6. OCCUPANTS: Guest(s) staying over 14 days cumulative or longer during any 12-month period, without the OWNER'S written consent, shall be considered a breach of this agreement.
7. PETS AND FURNISHINGS: Furnishings - No liquid-filled furniture of any kind may be kept on the premises.
8. PARKING/STORAGE: When and if RESIDENT is assigned a parking space on OWNER'S property, the parking space shall be used exclusively for parking of passenger automobiles and/or those approved vehicles listed on RESIDENT'S 'Application to Rent/Lease' or attached hereto.
9. NOISE: RESIDENT agrees not to cause or allow any noise or activity on the premises that might disturb the peace and quiet of another RESIDENT.
10. LOITERING AND PLAY: Lounging, playing, or unnecessary loitering in the halls, on the front steps, or in the common areas in such a way as to interfere with the free use and enjoyment, passage or convenience of another RESIDENT is prohibited.
11. DESTRUCTION OF PREMISES: If the premises become totally or partially destroyed during the term of this Agreement so that RESIDENT'S use is seriously impaired, RESIDENT or OWNER may terminate this Agreement immediately upon three-day written notice to the other.
12. CONDITION OF PREMISES: RESIDENT acknowledges that he has examined the premises and that said premises, all furnishings, fixtures, furniture, plumbing, heating, electrical facilities, all items listed on the attached inventory sheet, if any, and/or all other items provided by OWNER are all clean, and in good satisfactory condition except as may be indicated elsewhere in this Agreement.

rent of \$1,233 and a Security Deposit of \$200 for a total payment of \$1,433 per month pay by 9/1/17
All payments are to be made payable to Mav Fong and delivered to 358 Cerro Court, Daly City California, Telephone Number: [blank] who is usually available on the following days: Every day during the following hours: 9am-5pm

Can M.A. Deposit to Bank of America Arce

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be returned to OWNER in clean and good condition except for reasonable wear and tear, the premises shall be free of all personal property and trash not belonging to OWNER. It is agreed that all dirt, holes, tears, burns, or stains of any size or amount in the carpets, drapes, walls, fixtures, and/or any other part of the premises, do not constitute reasonable wear and tear.

13. MAINTENANCE AND ALTERATIONS: RESIDENT shall not paint, wallpaper, alter or redecorate, change or install locks, install antennas or other equipment, screws, fastenings, dowels, excessively large nails, or adhesive materials, place signs, displays, or other exhibits, on or in any portion of the premises without the written consent of the OWNER except as may be provided by law. RESIDENT shall deposit all garbage and waste in a clean and sanitary manner into the proper receptacles as provided and shall cooperate in keeping the garbage area neat and clean. RESIDENT shall be responsible for disposing of items of such size or nature as to not normally accumulate by the garbage handler for the building. RESIDENT shall be responsible for keeping the garbage depress clean of chicken bones, breadsticks, match sticks, celery, pits, grease, metal vegetable tins, and all other items that may tend to cause stoppage of the mechanism. RESIDENT shall pay for the clearing out of any plumbing fixture that may need to be cleared of stoppage and for the expense or may tend to cause stoppage of the mechanism. RESIDENT shall pay for the clearing out of any plumbing fixture that may need to be cleared of stoppage and for the expense or damage caused by the stopping of waste pipes or overflow from bathtubs, washbasins, toilets, or sinks, if caused by negligence or misuse by RESIDENT or their guests. Tenant must notify landlord with a written notice stating what item(s) need service or repair and give landlord a reasonable opportunity to service or repair that item(s). Should any charges be incurred by the City as a result of not notifying the Landlord in writing of such needed service or repairs, tenant shall be responsible for a minimum of \$201.50 for each occurrence plus any additional fines or inspection fees imposed by a government office as a result of RESIDENT not notifying OWNER in writing of any deficiencies with the residence.

14. SMOKE DETECTOR: The rental unit is equipped with properly functioning smoke and carbon monoxide detectors. Resident agrees to test the smoke and carbon monoxide detectors in the rental unit monthly for proper function. Resident agrees not to interfere with their normal function or disable any detector in any manner.

15. HOUSE, POOL, AND LAUNDRY RULES: RESIDENT shall comply with all house, pool, pet, and laundry rules attached to this agreement which may be changed from time to time. These rules shall apply to, but are not limited to, coats, odors, deposit of trash, pets, parking, use of common areas, and storage of toys, bicycles, tools, and other personal items (including signs and laundry), which must be kept inside and out of view. OWNER shall not be liable to RESIDENT for any violation of such rules by any other RESIDENTS or persons. Rights of usage and maintenance of the laundry room and/or pool area are gratuitous and subject to revocation by OWNER at any time.

16. CHANGE OF TERMS: The terms and conditions of this agreement are subject to future change by OWNER after the expiration of the agreed lease period upon 30 days written notice being forth such change and delivered to RESIDENT. Any changes are subject to laws in existence at the time of the Notice Of Change Of Terms.

17. TERMINATION: After expiration of the leasing period, this agreement is automatically renewed from month-to-month, but may be terminated by either party. The owner giving a 60-day notice and the resident giving a 30-day written notice of intention to terminate. Where laws require "just cause", such just cause shall be so stated on said notice. The premises shall be considered vacated only after all areas including storage areas are clear of all RESIDENTS belongings, and keys and other property furnished for RESIDENTS use are returned to OWNER. Should the RESIDENT hold over beyond the termination date or fail to vacate all possessions on or before the termination date, RESIDENT shall be liable for additional rent and damages, which may include damages due to OWNER'S loss of prospective new RENTERS.

18. POSSESSION: If OWNER is unable to deliver possession of the Apartment to RESIDENT on the agreed date, because of the loss or destruction of the Apartment or because of the failure of the prior RESIDENT to vacate or for any other reason, the RESIDENT and/or OWNER may (immediately) cancel and terminate this agreement upon written notice to the other party at their last known address, whereupon neither party shall have liability to the other, and any sums paid under this Agreement shall be refunded in full. If neither party cancels, this Agreement shall be pro-rated and begin on the date of actual possession.

19. INSURANCE: RESIDENT acknowledges that OWNER'S insurance does not cover personal property damage caused by fire, theft, rain, war, acts of God, acts of others, and/or any other causes, nor shall OWNER be held liable for such losses. RESIDENT HEREBY AGREES TO OBTAIN HIS OWN INSURANCE POLICY TO COVER ANY PERSONAL LOSSES. This does not waive OWNER'S duty to prevent personal injury or property damage where that duty is imposed by law, however, RESIDENT'S failure to maintain said policy shall be a complete waiver of RESIDENT'S rights to seek damages against OWNER for above stated losses.

20. RIGHT OF ENTRY AND INSPECTION: OWNER or OWNER'S Agent by themselves or with others, may enter, inspect and/or repair the premises at any time in case of emergency or suspected abandonment. OWNER shall give 24 hours advance notice and may enter for the purpose of showing the premises during normal business hours to prospective renters, buyers, lenders, for smoke alarm inspections, and/or for normal inspection and repairs. OWNER is permitted to make all alterations, repairs and improvements that in OWNER'S judgment is necessary to perform. In addition, OWNER has the right to enter pursuant to Civil Code Section 1984. If the work performed requires that RESIDENT temporarily vacate the unit, then RESIDENT shall vacate for this temporary period upon being served a 7-day notice by OWNER. RESIDENT agrees that in such event RESIDENT will be solely compensated by a corresponding reduction in the rent for those many days that RESIDENT was temporarily displaced. No other compensation shall be due to the RESIDENT. If the work to be performed requires the cooperation of the RESIDENT to perform certain tasks, then RESIDENT shall perform those tasks upon receiving a 24-hour written notice. (EXAMPLE: removing food items from cabinets so that the unit may be sprayed for pests.) Upon 24 hours notice, RESIDENT hereby agrees to lend OWNER the keys to the premises for the purpose of having a duplicate made for OWNER'S use.

21. ASSIGNMENT: RESIDENT agrees not to transfer, assign or sublet the premises or any part thereof and hereby appoints and authorizes the OWNER as his agent and/or by OWNER'S own authority to evict any person claiming possession by way of any alleged assignment or subletting.

22. PARTIAL INVALIDITY: Nothing contained in this Agreement shall be construed as waiving any of RESIDENT'S or OWNER'S rights under the law. If any part of this Agreement shall be in conflict with the law, that part shall be void to the extent that it is in conflict, but shall not invalidate this Agreement nor shall it effect the validity or enforceability of any other provision of this Agreement.

23. NO WAIVER: OWNER'S acceptance of rent with knowledge of any default by RESIDENT or waiver by OWNER of any breach of any term or condition of this Agreement shall not constitute a waiver of subsequent breaches. Failure to require compliance or to exercise any right shall not be construed as a waiver by OWNER of said term, condition, and/or right, and shall not affect the validity or enforceability of any other provision of this Agreement.

24. ATTORNEY'S FEES: If any legal action or proceeding be brought by either party to this agreement, the prevailing party shall be reimbursed for all reasonable attorneys' fees up to but not more than \$500 in addition to other damages awarded.

25. ABANDONMENT: California Civil Code Section 1951.2 shall govern Abandonment. If any rent has remained unpaid for 14 or more consecutive days and the OWNER has a reasonable belief of abandonment of the premises, OWNER shall give 16 days written notice to RESIDENT at any place (including the rented premises) that OWNER has reason to believe RESIDENT may receive said notice of OWNER'S intention to declare the premises abandoned. RESIDENT'S failure to respond to said notice as required by law shall allow OWNER to reclaim the premises.

26. The undersigned RESIDENTS are jointly and severally responsible and liable for all obligations under this agreement and shall indemnify OWNER for liability caused by the actions (omission or commission) of RESIDENTS, their guests and invitees.

27. Pursuant to Section 1792.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit history may be submitted to a credit reporting agency, if you fail to keep the terms of your credit obligation. RESIDENT expressly authorizes OWNER/AGENT (including a collection agency) to obtain Resident's consumer credit report, which OWNER/AGENT may use if attempting to collect past due rent payments, late fees, or other charges from Resident, both during the term of the Agreement and thereafter.

28. Lead Warning Statement: Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, OWNERS must disclose the presence of known lead-based paint hazards in the dwelling. RESIDENTS must also receive a federally approved pamphlet on lead poisoning prevention.

OWNER/AGENT DISCLOSURE (Initials)

29. OWNER'S attests (or attests) that OWNER has no knowledge of lead-based paint and/or lead-based paint hazards in or on the Premises and OWNER has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in or on the Premises, and **OK** RENTER'S Initials (on left) indicates that RENTER has received a copy of a "Protect Your Family from Lead in Your Home", and that RENTER shall notify OWNER promptly in writing of any abatement and/or testing plan.

30. HOLD: The OWNER/AGENT has inspected the unit prior to lease and knows of no damp or wet building materials and knows of no mold contamination. Resident agrees to accept full responsibility and maintain the premises in a manner that prevents the occurrence of an infestation of mold in the premises. Resident also agrees to immediately report to the OWNER/AGENT any evidence of water leaks, excessive moisture or lack of proper ventilation and evidence of mold that cannot be removed by cleaning.



30. ADDITIONS AND EXCEPTIONS: TENANT is responsible for all repairs and replacements of all appliances including refrigerator, stove and microwave.

31. NOTICES: All notices to RESIDENT shall be served at RESIDENT'S apartment / house whether or not RESIDENT is present at the time of delivery and all notices to OWNER / AUTHORIZED PERSON shall be served by first class mailing to:

Person Authorized To Manage Property:
Name _____ Address _____
Phone Number _____

Owner of property or a person who is authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for all notices and demands.
Name _____ Address _____
Phone Number _____

Person or Entity Authorized to Receive Payment of Rent:
Name _____ Address _____
Phone Number _____

32. INVENTORY: The Apartment contains the following items for use by RESIDENT: stove, refrigerator

RESIDENT further acknowledges that the subject premises are furnished with the additional furnishings listed on the attached inventory and that said attached inventory is hereby made part of this agreement.

33. Proposition 65 Notice: Warning: Some areas may contain chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

34. Notice is hereby given of the existence of the Residential Rent Arbitration Board (RRAB) and the Rent Arbitration Program of the City of Oakland, the office of which is located at 250 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA, 94612, phone number (510) 238-3721. The Rent Arbitration Program (Oakland Municipal Code, Chapter 8.22) lease addendum is attached to this lease and acknowledged in number 35 below as a lease addendum notifying tenants of the Notice to Tenants regarding Oakland's Rent Adjustment Program). In the event that Owner/Agent elects not to implement an annual rent adjustment, the Owner/Agent hereby advises Tenant that Owner/Agent elects to bank any such rent adjustment to future year(s) pursuant to the provisions of the Oakland Rent Arbitration Ordinance.

Note: Tenant and Landlord has adopted, and agree to comply with Measure EE "Just Cause Eviction" Ordinance for the City of Oakland, CA, which requires landlords of specified residential properties, the right to evict a tenant only for reasons specified in the measure, such as non-payment of rent, breach of lease, damaging premises, drug or other illegal activity, disorderly conduct, rehabilitation of unit, landlord or relative occupancy, except in certain circumstances where the tenant is disabled, elderly or catastrophically ill. Further, the ordinance provides for damages, penalties and attorneys' fees against landlords who violate this law. Should Tenant violate any portion of the ordinance, Landlord may exercise his/her right to evict tenant for damages, penalties and attorneys' fees.

35. RESIDENT acknowledges receipt of the following, which shall be deemed a part of this Agreement: (Please check)

- House Rules
- Laundry Rules
- Mailbox Keys
- Pet Agreement
- Pool Rules
- Apartment Keys
- Garage Door Opener _____
- Notice to Tenants: Oakland's Rent Adjustment Program
- Information About Bed Bugs Sheet

36. ENTIRE AGREEMENT: This Agreement constitutes the entire Agreement between OWNER and RESIDENT. No oral agreements have been entered into, and all modifications or notices shall be in writing to be valid. The undersigned Residents are jointly and severally responsible for all obligations under this agreement and shall indemnify Owner for liability caused by the actions (omission or commission) of residents, their guests and invitees. Renter has relied on his own judgment in entering into this agreement.

37. NOTICE: Pursuant to Section 280.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.

38. RECEIPT OF AGREEMENT: The undersigned RESIDENT hereby certifies that he/she is fluent in the English language and has read and completely understands this Agreement and hereby acknowledges receipt of a copy of this "Rental Agreement and/or Lease." (_____) RESIDENT'S initials:

OR Pursuant to California Civil Code 1632, which requires translation of specified contracts or agreements that are negotiated in Spanish, Chinese, Vietnamese, Tagalog or Korean:

(_____) Resident's initials on left hereby acknowledge that this agreement was translated and interpreted in their foreign language of: Spanish

Jovani Ayala Printed Name of Interpreter
Jovani Ayala Signature of Interpreter
08/24/17 Date

Mav Fong _____
Owner/Agent Date 8/24/17

Maria Arnezquite 8-24-17
Resident Date

Owner/Agent _____ Date _____

Luis Arnezquite _____
Resident Date

Owner/Agent _____ Date _____

Jovani Ayala 8-24-17
Resident Date

NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR THE ADEQUACY OF ANY PROVISION IN THIS AGREEMENT. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

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.
• 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.
• Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases or decreased housing services.
• If you contest a rent increase, you must pay your rent with the contested increase until you file a petition.
• 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.
• Oakland charges owners a Rent Program Service Fee per unit per year.
• 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).
• The owner [] is [X] is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act).

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit 1791, the unit you intend to rent.
• Smoking (circle one) IS or IS NOT permitted in other units of your building.
• There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at

I received a copy of this notice on 8-24-17 (Date)

Maria Amezcua (Tenant's signature)

此份通告 (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.

CIUDAD DE OAKLAND



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 en el alquiler (Capítulo 8.22 del Código Municipal de Oakland) y cubre a la mayoría de las unidades residenciales en alquiler construidas antes de 1983. Para más información sobre las viviendas cubiertas, contacte a la oficina del RAP.
- A partir del 1º de febrero de 2017, un propietario debe presentar una petición ante el RAP para todo aumento en el alquiler que sea mayor que el aumento general anual en el alquiler ("aumento CPI") o permitido que los aumentos en el alquiler sean "invertidos". Estos incluyen mejoras de capital y aumentos en los gastos operativos. En lo que respecta a este tipo de aumentos, el propietario puede aumentar su alquiler sólo después de que un funcionario de audiencia haya autorizado el incremento. Ningún aumento anual en el alquiler podrá exceder el 10%. Usted tiene derecho a disputar el aumento en el alquiler propuesto respondiendo a la petición del propietario. No es indispensable que usted presente su propia petición.
- **Cómo disputar un aumento en el alquiler:** Puede presentar una petición ante el RAP para disputar aumentos ilícitos en el alquiler o la disminución de servicios en la vivienda. Para disputar el aumento en el alquiler, debe presentar una petición (1) en un plazo de (90) días a partir de la fecha del aviso de aumento en el alquiler si el propietario también proporcionó este Aviso a los Inquilinos con la notificación del aumento en el alquiler; o (2) en un plazo de 120 días a partir de la fecha de recepción del aviso de aumento en el alquiler si este Aviso a los Inquilinos no fue entregado con la notificación de aumento en el alquiler. 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 del RAP en el Centro de Asistencia de Vivienda: 250 Frank H. Ogawa Plaza, 6º Piso, Oakland; también puede visitar: <http://www2.oaklandnet.com/Government/ofcd/of/RentAdjustment>.
- Si usted disputa un aumento en el alquiler, debe pagar su alquiler con el aumento disputado hasta que presente la petición. Si el aumento es aprobado y usted no lo pagó, adeudará la suma del incremento retroactivo a la fecha de inicio de vigencia 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 viviendas cubiertas. Para más información contacte la oficina RAP.
- Oakland les cobra a los propietarios una Tarifa de Servicio del Programa de Alquiler (Rent Program Service Fee) por vivienda al año. Si la tarifa se paga a tiempo, el propietario tiene derecho a cobrar la mitad del costo de esta tarifa al inquilino. No se requiere que los inquilinos de viviendas subsidiadas paguen la porción del inquilino de la tarifa.
- Oakland posee una Ordenanza de Protección al Inquilino (Tenant Protection Ordinance, TPO) para impedir el 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.)
- El propietario tiene no tiene permitido establecer el alquiler inicial de esta vivienda sin limitaciones (por ejemplo, de conformidad con la Ley Costa-Hawkins). Si el propietario no tiene permitido establecer el alquiler inicial sin limitaciones, el alquiler vigente cuando el inquilino anterior desalojó la vivienda era de 2016_____.

INFORMACIÓN A LOS INQUILINOS SOBRE LAS POLÍTICAS PARA FUMADORES

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

Recibí una copia de este aviso el 8-24-17 Maria Amezcua
(Fecha) (Firma del inquilino)

此份屋海(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.

EXHIBIT 4

From: MAY FONG mayleefong@icloud.com
Subject: Re: Owner Response - Rent Adjust Program - T18-0311
Date: August 14, 2022 at 9:41 AM
To: MAY FONG mayfong@pacbell.net



From: May Fong <mayfong@pacbell.net>
Date: May 14, 2019 at 9:29:21 AM PDT
To: "Sullivan, Margaret" <MSullivan@oaklandca.gov>
Subject: Owner Response - Rent Adjust Program - T18-0311

Hi Margaret!

Please find attached my additional documents for the above referenced case.

May

From: "Sullivan, Margaret" <MSullivan@oaklandca.gov>
To: May Fong <mayfong@pacbell.net>
Sent: Monday, December 3, 2018 10:03 AM
Subject: RE: Owner Response - Rent Adjust Program - T18-0311

Hello Ms. Fong,

Yes I will retrieve the owner response and send it to you.

Best regards,

Margaret Sullivan

City of Oakland Housing & Community Development Department
Rent Adjustment Program Analyst III

Mailing Address: Rent Adjustment Program /250 Frank H. Ogawa Plaza, Ste.
5313/ Oakland, CA 94612

TEL. 510-238-7387 – Direct

TEL. 510-238-3721 – Main Number

FAX. 510-238-6181

Email: msullivan@oaklandca.gov

Rent Adjustment Drop-In Services are located at the:
Housing Assistance Center, 6th Floor

250 Frank Ogawa Plaza, Oakland, CA (near BART 12th Street station, 14th Street exit)

DROP-IN HOURS: _____

Monday and Wednesday: 9:00 a.m.-12:00 noon / Closed in afternoon

Tuesday and Thursday: 10:00 a.m-12:00 noon; 2:00-4:00 p.m.

Friday: Closed

000155

17

From: May Fong [mailto:mayfong@pacbell.net]
Sent: Monday, November 26, 2018 10:00 PM
To: Sullivan, Margaret <MSullivan@oaklandca.gov>
Cc: Costa, Robert <RCosta@oaklandca.gov>
Subject: Re: Owner Response - Rent Adjust Program - T18-0311

Hi!

Can you please email me a copy of my response to petition? It's very difficult seeing it online? Also for some reason I thought I received a change in date for this hearing. Can you please confirm the hearing date for me?

Thank you.

May

From: May Fong <mayfong@pacbell.net>
To: "Sullivan, Margaret" <MSullivan@oaklandca.gov>
Cc: "Costa, Robert" <RCosta@oaklandca.gov>
Sent: Tuesday, November 13, 2018 2:47 PM
Subject: Re: Owner Response - Rent Adjust Program - T18-0311

Hi !

Can you let me know if you received the lease ?

May
Sent from my iPhone

On Nov 13, 2018, at 10:40 AM, Sullivan, Margaret <MSullivan@oaklandca.gov> wrote:

Dear Ms. Fong,

I have received the hard copy of your online Owner Response in case T18-0311 from Mr. Costa.

If you need to contact me directly, my email is: msullivan@oaklandca.gov, or you may call at the number below.

Best regards,

Margaret Sullivan
City of Oakland Housing & Community Development Department
Rent Adjustment Program Analyst III
Mailing Address: Rent Adjustment Program /250 Frank H. Ogawa Plaza, Ste. 5313/
Oakland, CA 94612
TEL. 510-238-7387 – Direct
TEL. 510-238-3721 – Main Number
FAX. 510-238-6181
Email: msullivan@oaklandca.gov

Rent Adjustment Drop-In Services are located at the:
Housing Assistance Center, 6th Floor

EXHIBITS

City of Oakland Rent Adjustment Program

Case Number: T18-0311

Tenant Evidence Submission

Exhibit A

DEPOSIT TICKET
Grant Wai Fong
May Lee Fong
358 Cerro Ct (650) 257-2988
Daly City, CA 94015

1791

11-35/1210
693

CASH

990

CHECKS

DATE Nazaria Nevarez

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

CHECKS OR TOTAL FROM OTHER SIDE

SUB TOTAL

LESS CASH

NET DEPOSIT \$

1,200.

990

SIGN HERE IF CASH RECEIVED FROM DEPOSIT

Bank of America
San Carlos
760 Laurel St
San Carlos CA
650.824.4488

9/5
4/8

DO NOT USE DEPOSIT TICKET AGAINST FUND
AUTOMATIC PAYMENTS. USE VOIDED CHECK

⑆510000655⑆ 08937003533⑈

Bank of America

Customer Receipt

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.

Save time with fast, reliable deposits, withdrawals, transfers and more at thousands of convenient ATM locations.

05/05/2017 17:31 NCA T0025

40 R540930135

Acct# *****3533 CC 0000546 Tlr 00004

Total Deposit To CHK \$945.00

Available Now \$945.00

IntRef F3909VX4MC4668A88AF8

Member FDIC
95-14-2005B 10-2012

Bank of America

Customer Receipt

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.

Save time with fast, reliable deposits, withdrawals, transfers and more at thousands of convenient ATM locations.

06/05/2017 16:57 NCA T00300 R540930135

Acct# *****3533 CC 0000546 Tlr 00010

Total Deposit To CHK \$945.00

Available Now \$945.00

IntRef F3909VX4MC4668A88AF8

Member FDIC
95-14-2005B 10-2012

Bank of America

Customer Receipt

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.

Save time with fast, reliable deposits, withdrawals, transfers and more at thousands of convenient ATM locations.

07/05/2017 14:01 NCA T00202 R540930135

Acct# *****3533 CC 0000546 Tlr 00009

Total Deposit To CHK \$945.00

Available Now \$945.00

IntRef F3909VX4MC4668A88AF8

Member FDIC
95-14-2005B 10-2012

Bank of America

Customer Receipt

All items are credited subject to verification, collection, and conditions of the Rules and Regulations of this Bank and as otherwise provided by law. Payments are accepted when credit is applied to outstanding balances and not upon issuance of this receipt. Transactions received after the Bank's posted cut-off time or Saturday, Sunday, and Bank Holidays, are dated and considered received as of the next business day.

Please retain this receipt until you receive your account statement.

Thank you for banking with Bank of America.

Save time with fast, reliable deposits, withdrawals, transfers and more at thousands of convenient ATM locations.

09/05/2017 14:31 NCA T004560 R540930135

Acct# *****3533 CC 0000546 Tlr 00009

Total Deposit To CHK \$633.00

Available Now \$633.00

IntRef F3909VX4MC4668A88AF8

Member FDIC
95-14-2005B 10-2012



EXHIBIT 6

Online Banking

Fong Investments: Account Activity Transaction Details

Post date: 12/05/2018

Amount: 1,200.00

Type: Deposit

Description: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1603915720

Merchant name: CA TLR transfer Banking Ctr FRUITVALE
#0000546 CA Confirmation# 1603915720

Transaction category: Income: Deposits

000202

000160

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3-DAY NOTICE TO CURE VIOLATION(S) OR MOVE OUT (Oakland)

Plaintiff(s): May Lee Fong, Owner(s)

vs.

Defendant(s): Nazana V. Nevarez, Resident

Teresa Vázquez, Resident

Fernando Nevarez, Cesar Neve, Resident

Notice To Perform Or Quit

To: Nazana V Nevarez, Resident(s)

AND ALL OTHERS IN POSSESSION, PLEASE TAKE NOTICE that you are in violation of the terms of your rental agreement and/or the law applicable to your tenancy at the premises located at 1791-28th Avenue, Apartment number _____, in the City of Oakland, California.

YOUR VIOLATION(S) consist of the following circumstances:

Legal Tenants on lease abandoned unit to leave for Mexico. Tenant illegally subleased without authorization from Owner. This is a material breach of contract under Use and Occupancy general rules. I llegaltenants named 7 people living in unit causing health and safety hazard.

WITNESS(ES) TO VIOLATION(S): Mateo Lopez, Nazana V Nevarez

DATE AND PLACE OF VIOLATION(S): 11/ 16-present at 1791-28th Avenue, Oakland, Ca 94601

YOUR FAILURE TO PERFORM THE ABOVE COVENANTS OF YOUR RENTAL AGREEMENT AND/OR CURE the above violation(s) OR QUIT WITHIN THREE (3) DAYS can result in legal proceedings against you to recover possession of the premises and PENALTY DAMAGES OF \$600.00 under Section 1174 of California Code of Civil Procedure.

Because of the above violation(s) the undersigned does hereby declare a forfeiture of your rental agreement. NOTICE: Pursuant to Section 1785.26 of the California Civil Code, as required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation.

Pursuant to Oakland Municipal Code Chapter 8.22.360.A.2 codifying the "Just Cause" for Eviction Ordinance, seeking to recover possession in good faith, the landlord asserts that "the tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, provided further that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord. "[A]dvice regarding the notice terminating tenancy is available from the Rent Board." The Rent Board is located at 250 Frank J. Ogawa Plaza, Suite 5313, Oakland CA 94612, telephone (510) 238-3015.

Dated this 21st day of August, 2017.

Owner(s): May L Fong By: _____ Agent





MEMORANDUM

Date: September 16, 2022
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Oliver Luby, Deputy City Attorney
Re: Appeal Summary in T18-0311, Cervantes v. Fong
Appeal Hearing Date: September 22, 2022

Property Address: 1791 28th Avenue, Oakland, CA
Appellant/Owner: May Fong and Grant Fong
Respondent/Tenant: Maria Amezcuita and Luis Ayala Cervantes

BACKGROUND

On June 12, 2018, the tenants filed a petition contesting rent increases and claiming code violations and decreased housing services. The contested rent increases included the following:

- 4/26/18 – from \$1,200 to \$1,400
- 10/3/17 – from \$945 to \$1,200
- 9/5/17 – from \$945 to \$1,233

The owner filed a response on November 13, 2018.

On October 3, 2019, the Hearing Officer issued a Hearing Decision, denying the rent increases in the 2017 lease (\$1,233 for the first three months, \$1,400 thereafter) on the grounds that the owners did not seek prior approval from the Rent Adjustment Program of increases in excess of CPI or banking, and stating that the tenants' base rent remains \$945.00. The Decision ordered restitution for rent overpayment and past decreased housing services in the amount of \$6,965.25 (\$6,729 for rent paid 9/1/17 to 11/1/17 and 12/1/17 to 10/1/19; \$236.25 for problems with electrical outlets, windows,

and drawers, 3/1/18 to 7/1/18), amortized over 24 months. The Decision denied the remaining decreased housing services claims.

On October 9, 2019, the owners filed an appeal on various grounds, including asserting that the rent was \$1,400 per the 2017 lease, that the original tenant had sublet the unit to the petitioners without the owners' consent, and that the owners were unaware that the petitioners were illegal subtenants until August 2017.

The owners also denied that they told the tenants that their rent would be increased because there were so many people living in the unit. On October 17, 2019, the Hearing Officer issued a Corrected Hearing Decision, removing the sentence on page 3 of the Hearing Decision stating "The owner also told the tenant her rent would be increased because there were so many people living in the unit."

On January 16, 2020, the Owners' 2019 appeal was heard by an Appeal Panel of the HRRRB. The Panel's decision remanded the case to the Hearing Officer to address when the tenants' tenancy commenced, state the reasoning as to when the tenancy commenced, and restate the base rent, without considering any evidence submitted after the hearing.

On November 24, 2020, the Hearing Officer issued a Remand Hearing Decision, finding that the tenancy commenced in August of 2015 at an initial monthly rent of \$945, due to rent paid directly to and accepted by the owner, based on evidence in the record including rent receipts. The Decision noted testimony indicating that the owners were aware that the tenants were living in the unit as of 2015 and that the owner did not realize the lack of a lease until 2017. The Decision was mailed to the parties on December 18, 2020.

On December 29, 2020, the owners filed an appeal of the Remand Decision on various grounds, including asserting the same arguments raised in the 2019 appeal. On September 23, 2021, the 2020 appeal was heard by the HRRRB, which remanded the case to the hearing officer for a second time to determine base rent and commencement of tenancy on more than just receipts and testimony.

RULING ON SECOND REMAND

This year, the Hearing Officer issued a Remand Hearing Decision, which addressed review of all of the evidence in the record, including receipts, the 2017 lease with accompanying RAP notice, and testimony. The Decision found that the only evidence in the record available for determining base rent and commencement of tenancy consisted of the receipts and testimony. On the basis of the available evidence, the Decision reached the same decision regarding base rent and commencement of tenancy as was previously decided (\$945 commencing in August of 2015). The Decision was mailed to the parties on July 28, 2022.

GROUND FOR APPEAL

On August 16, 2020, Owner May Fong filed a timely appeal on the following grounds:

- the decision is inconsistent with Oakland Municipal Code Chapter 8.22, Rent Board Regulations, or prior decisions of the Board;
- the decision is inconsistent with decisions issued by other Hearing Officers;
- the decision violates federal, state or local law;
- the decision is not supported by substantial evidence;
- denial of a sufficient opportunity to respond to the petitioner’s claim;
- Other.

In the addition to raising various past arguments made in the prior appeals and some new arguments regarding the original appeal decision, including various proffers of new evidence, most of which were attached to the prior appeals, the owner contends that the Second Remand Decision did not follow the Board’s direction.

ISSUE

1. Are the determinations in the Second Remand Decision regarding base rent and the time of commencement of the tenancy supported by substantial evidence?

APPLICABLE LAW AND PAST BOARD DECISIONS

1. Applicable Law

- a. Appeal Hearings – Oakland Municipal Code Section 8.22.120(B)(4):

“Appeals shall be based on the record as presented to the Hearing Officer unless the Appeal Body determines that an evidentiary hearing is required. If the Appeal Body deems an evidentiary hearing necessary, the case will be continued and the Appeal Body shall issue a written order setting forth the issues on which the parties may present evidence. All evidence submitted to the Appeal Body must be submitted under oath.”

- b. Evidence at Appeal Hearing - Rent Adjustment Program Regulations Section 8.22.120(F)(3):

“In order for new evidence to be considered, the party offering the new evidence must show that the new evidence could not have been available at the Hearing Officer proceedings.”

2. Past Board Decisions

a. Substantial Evidence

T00-0340, -0367, & -0368, Knox v. Progeny Properties

Board will not overturn factual findings made by Hearing Officer if there is substantial evidence to support the hearing decision.

b. Acceptance of Rent

T07-0133, Huynh v. Ly

Board found substantial evidence to support hearing decision that new tenancy was created despite lack of written agreement when tenant paid rent and it was accepted for 20 months by owner.

T07-0210, Generalao v. Treadway, & T07-0214, Girasolimo v. Treadway

Petitioner is a tenant when he paid rent for four years while occupying apartment with knowledge of former and current owners, although unit was previously occupied by petitioner's mother.

c. New Evidence

T05-0245, Hobbs v. Bernstein

Owner request to submit new evidence denied where evidence in the record is sufficient to support hearing decision.

T15-0368, Bivens v. Ali

Board declined to accept new evidence even though the owner provided copies of prior RAP notices signed by the tenant in 2013 where tenant signed tenant petition under penalty of perjury that she never received the RAP notice.

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