

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
REGULAR MEETING**

**January 24, 2019
7:00 P.M.
CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - i. Approval of Minutes
 - a. January 10, 2019
4. OPEN FORUM
5. NEW BUSINESS
 - A. Appeal Hearings in:
 - 1) L17-0120, Bergen v. Tenants
 - 2) L17-0132, Freeland Cooper and Foreman, LLP v. Tenants
 - 3) L17-0165, Kuhner v. Tenants
6. SCHEDULING AND REPORTS
7. ADJOURNMENT

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

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo

electrónico a sshannon@oaklandnet.com o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

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

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

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

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

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

Foreign language interpreters may be available from the Equal Access Office (510) 239-2368. Contact them for availability. Please refrain from wearing **strongly scented products** to this meeting.

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CITY OF OAKLAND

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD MEETING

January 10, 2019

7:00 p.m.

City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA

MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:05 p.m. by Acting Board Chair Robert Stone

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
D. Mesaros	Tenant			X
T. Hall	Tenant Alt.	X		
Ed Lai	Homeowner Alt.			X
R. Stone	Homeowner	X		
M. Cook	Homeowner	X		X
J. Warner	Homeowner			
K. Blackburn.	Homeowner Alt.	X		X
K. Friedman	Landlord	X		
B. Scott	Landlord Alt.			X

Staff Present

Kent Qian	Deputy City Attorney
Ubaldo Fernandez	Deputy City Attorney
Chanee Franklin Minor	Program Manager
Barbara Kong-Brown	Senior Hearing Officer
Kelly Rush	Acting Program Analyst I

3. CONSENT ITEMS

a. Board Minutes for Approval, December 13, 2018

K. Friedman moved to approve the minutes. T. Hall seconded. The Board voted as follows:

Aye:	T. Hall, R. Stone, K. Friedman, K. Blackburn, M. Cook
Nay:	0
Abstain:	0

The motion was approved by consensus.

4. OPEN FORUM

- a. William Wiebe
- b. James Vann

5. NEW BUSINESS

a. Appeal Hearings in:

i. L17-0083, Abidi v. Tenants

Appearances: Keivan Abidi
No Appearance by Tenants

The owner appealed from a hearing decision which denied an exemption on the basis of substantial rehabilitation because the owner did not provide contracts, invoices and proof of payment. The owner contended that the work was done in 1998 and it was unreasonable to require such documentation of costs and the work was done.

The owner contended that he provided the records and receipts for the work done that was provided by the company that did the work. He also provided a document from his accountant to the IRS to substantiate the costs. These documents were not provided at the underlying hearing. The 2009 valuation used by the hearing officer was incorrect. The expenses were in 1997 and based on the 1997 construction table, his costs meet the requirements for construction costs.

After arguments made by the owner, questions and Board discussion, K. Friedman moved to affirm the hearing decision based on substantial evidence. T, Hall seconded. The Board voted as follows:

Aye: T. Hall, K. Friedman, R. Stone, K. Blackburn
Nay: M. Cook
Abstain: 0

The motion was approved by consensus.

ii. L17-0018, Ghahyaz v. Tenants

Appearances: Issac Jacobson-Owner Appellant
No appearance by tenant

The owner appealed from a hearing decision which denied the owner's petition for exemption on the basis of substantial rehabilitation because 1) the owner took longer than two years to complete the project and 2) he failed to meet the 50% construction

requirement for a substantial rehabilitation exemption.

The owner stated that his financial troubles during construction should be good cause to waive the 2 year requirement and the hearing officer should not have disallowed work if there was no invoice or receipt.

The owner representative contended that the property was uninhabitable when the owner purchased it and he doubled the square footage and put a tremendous amount of work into the building. \$210,000 was allowed against the \$331,000 requirement. All labor costs were excluded because the owner did not provide invoices although the owner provided cancelled checks and testimony. \$169,441 was incurred in labor costs, which would more than meet the \$331,000 benchmark requirement for substantial rehabilitation.

Permits were issued in 2006 and the work was finished in 2016. There was good cause to extend time. The owner had financial troubles. There was a notice of default in 2006. He filed bankruptcy in 2009, there was a trustee sale in 2010 and he lost his house. He also sustained a property tax default through 2011.

After arguments made by the owner representative, questions and Board discussion, K. Friedman moved to affirm the hearing decision because the owner's failure to complete the project within two years did not constitute good cause. M.Cook seconded. The Board voted as follows:

Aye: T. Hall, R. Stone, K. Blackburn, M. Cook, K. Friedman
Nay: 0
Abstain: 0

The motion was approved by consensus.

iii. T17-0421, Nanos v. Jerez

Appearances: Angela Sandoval Owner Appellant Representative
No appearance by tenant

The owner appealed from a hearing decision which granted a tenant petition for decreased housing services based on the owner's refusal to allow his partner and daughter to move into his two bedroom unit.

The owner representative contended that there are four reasons to grant the appeal:

- 1) Consent for replacement tenant is not a housing service under the Rent Ordinance. Housing services are repairs, maintenance, water, heat, etc.;
- 2) The owner's process for reviewing applications for sublease is not a housing service; The hearing decision granting the tenant petition is an unlawful

taking and there are insufficient facts to support a finding that the denial was unreasonable;

3) There is a prior hearing decision in T16-0727, Gottfried v. Bacon, with similar facts in which the decision determined that the tenant's claim for decreased housing services based on the owner's denial of consent for a replacement roommate was beyond the jurisdiction of the Rent Board;

4) The tenant had full use of the 2nd bedroom and there was no loss of use.

After arguments made by the owner representative, questions and Board discussion of the issues, K. Friedman moved to reverse the hearing decision on the grounds that this does not constitute decreased housing services. R. Stone added a friendly amendment that the denial of the tenant's occupancy does not constitute decreased housing services, which was accepted. M. Cook seconded. K. Friedman withdrew the motion. K. Blackburn offered a friendly amendment to remand for a repayment schedule.

K. Friedman restated her motion to overturn the hearing decision and remand to the hearing officer for development of a repayment schedule. M. Cook seconded. The Board voted as follows:

Aye: T. Hall, R. Stone, M. Cook, K. Friedman, K. Blackburn

Nay: 0

Abstain: 0

The motion was approved by consensus.

6. SCHEDULING AND REPORTS

Ms. Minor reported on the status of appointment of new board members, that there will be new members joining the Board in the near future. Interviews for two landlord seats as well as a tenant and neutral representative have been conducted and are moving forward in the process.

Removal from the Board is for cause pursuant to Section 601 by of the City Charter. Cause is listed in Section 8.22.040 B (2) of the Rent Ordinance which includes conviction of a felony, incompetence, inattention, or inability to perform duties. The Mayor may also choose not to re-appoint a member.

The Board requests a recommended policy from staff regarding absences. Some of these issues, e.g. notification of absences can be addressed by the Board as an agenda item, and forming a subcommittee would not save substantial amount of time due to staffing issues and Brown Act issues. This item will be calendared for the for February 28, 2019, Board meeting.

7. ADJOURNMENT

The Board adjourned at 9:00 p.m.

CHRONOLOGICAL CASE REPORT

Case No.: L17-0120
Case Name: Bergen v. Tenants
Property Address: 5015A Lawton Ave., Oakland, CA
Parties: Roger Bergen (Owner)
Nancy Bergen (Owner)
Natalie Loftus (Tenant)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	June 5, 2017
Tenant Response filed	August 14, 2017
Hearing Decision mailed	May 8, 2018
Tenant Appeal filed	May 24, 2018
Landlord filed a response to Appeal	June 5, 2018
Tenant submitted a summary	June 20, 2018

412000 OMD
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612
 (510) 238-3721

For date stamp. **RECEIVED**
 JUN 05 2017
 RENT ADJUSTMENT PROGRAM
 OAKLAND
LANDLORD PETITION
FOR CERTIFICATE OF EXEMPTION
 (OMC §8.22.030.B)

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

Section 1. Basic Information

Your Name ROGEN BEN GEN		Complete Address (with zip code) 675 DOREEN WAY LAFAYETTE, CA 94549	Telephone Day: 925-708-3049
Your Representative's Name SAME		Complete Address (with zip code) SAME	Telephone Day: SAME
Property Address 5015A LAWTON AVENUE, OAKLAND, CA 94609		Total number of units in bldg or parcel. 2	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	<u>Apartment</u> or Room (LOWER UNIT OF DUPLEX)
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No
Assessor's Parcel No. 13-1141-48-5			

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

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

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

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

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

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

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

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

Section 4. Verification Each petitioner must sign this section.

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

Roan Beyer
Owner's Signature

6/2/2017
Date

Owner's Signature

Date

Important Information

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

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

Section 2- Tenants

Claiming exemption for the lower duplex unit located at 5015A Lawton Avenue:

- 1) Natalie Loftus, 5015A Lawton Avenue, Oakland CA 94609
- 2) Tay Hoang, 5015A Lawton Avenue, Oakland CA 94609

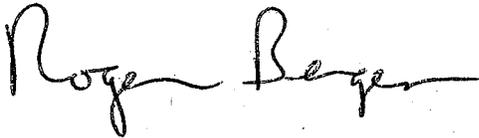
Section 3- Rationale and Supporting Documentation for Certificate of Exemption

- A) **Summary Rationale-** We are requesting a Certificate of Exemption for the lower duplex unit located at 5015A Lawton Avenue, Oakland CA 94609 on the grounds that it was new construction. Construction of that unit was not begun and was not completed prior to the 1/1/1983 cut off date. The following documentation and detailed rationale supports this fact.
- B) **Supporting Documentation and Detailed Rationale:**
1. ***Request for Granting of a Major Conditional Use Permit at 5015 Lawton Avenue, Oakland CA 94609 (3 pages)***- This letter was submitted to the City of Oakland Planning Department on May 24, 1983. The letter concerns the desire to build out the lower level of the duplex structure which was, at the time, a completely undeveloped open storage area. The letter also provides background on the history of the 5015 Lawton Ave structure.
 2. ***City of Oakland Planning Department Letter- Major Conditional Use Permit...(4 pages)***- This letter from the City of Oakland Planning Department (dated 7/13/83) communicates the Planning Commission's approval of our application for a major conditional use permit to convert the single family residence at 5015 Lawton Avenue into two, duplex units.
 3. ***Building Permit Application (2 pages)***- A copy of the Building Permit Application form is provided. The form shows a filing date of 11/28/83, well after the 1/1/83 "new construction" cut off date. The purpose is described as converting a single family residence into two units. The intention was for us to live in the top (second floor) unit and rent out the bottom/lower unit.
 4. ***Construction Contracting Documentation-*** We have attached a copy of the Notice to Owner Regarding Mechanic's Lien Law to document the fact that construction of the lower unit was undertaken in early 1984 (again, well after the 1/1/83 cut off date) once our building permit was submitted and approved. The example document refers to the contracting out and installation of two electric meters to service the duplex and wiring of the lower duplex unit. We can, if desired, provide other documentation concerning the contracting out of plumbing, carpentry and other tasks associated with the new construction of the lower duplex unit at 5015A Lawton Avenue.
 5. ***Building Inspection Documentation (1 page)***- We have attached a copy of the City of Oakland Inspectional Services Department inspection card (we have the original cardboard, signed copy as well). The document concerns building permit D31630 and is initially dated January 12, 1984. The document indicates both rough and final inspections. Among other facts it shows the rough plumbing inspection was completed and signed-off on 3/6/84 by A.J. Holmes. Final inspections for Construction, Plumbing, Mechanical and Electric were all completed and signed off. Of note, no Certificate of Occupancy document was issued upon completion of the lower unit. *We were informed by the Planning Department staff (including from David Miles, Supervisor of Planning, Permits and Inspection) that the practice circa 1984 was only to issue an initial Certificate of Occupancy. We have a copy of the original COA from 1981. David noted a second COA would not have been issued when the second, lower unit was completed in 1984. As such, the final permit sign offs are the best documentation we have concerning completion of the lower unit.*
 6. ***Telephone Service for Lower Unit (1 page)***- we have attached a copy of the Pacific Bell work order documenting telephone service was requested by and hooked up for Karen Passantine. Karen (and her partner Mario Oropeza and their two children) was the first tenant occupying the lower duplex, 5015A Lawton unit. The work order date of 9/14/84 documents occupancy of the lower rental unit was well after the 1/1/83 "new construction" cut off date.

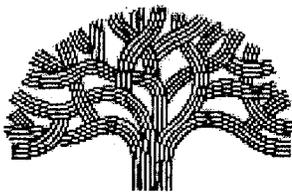
Section 3- Rationale and Supporting Documentation for Certificate of Exemption

7. **County of Alameda Office of Assessor Letter (1 page)**- This document, dated 4/8/85 is from the County of Alameda Office of the Assessor providing a Notice of Supplemental Assessment. The notice references the Assessor's Parcel Number 13-1141-48-5 and documents the type of event ("**New Construction**"), associated date (9/15/84) and permit number (D31630) as referenced on the previously presented Building Inspection Card.

Thanks for considering our request.

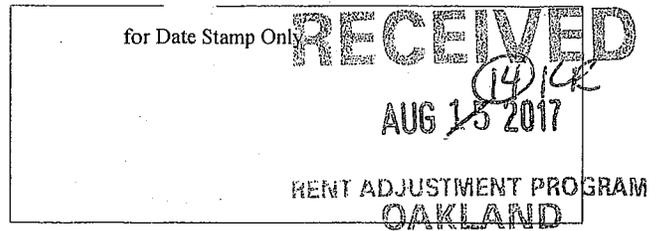
A handwritten signature in black ink that reads "Roger Bergen". The signature is written in a cursive style with a long horizontal flourish at the end.

Sincerely, Roger Bergen
Dated: 6/2/2017



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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



CASE NUMBER L17-0120

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Natalie Loftus</i>	Complete Address (with Zip Code) <i>5015A Lawton Ave Oakland, CA 9409</i>	Telephone <i>415 269 9118</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

Exemption Contested

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

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

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

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

This unit is not new construction, but instead a result of rehabilitation, improvement or conversion of existing space in an existing structure. This is inconsistent with Ord. 12537 § 1 (part), from 2003.

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
03/28/16	7/1/16	\$ 2060 -	\$ 2095 -	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
07/2/15	07/1/15	\$ 2025	\$ 2059	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
03/31/13	05/1/13	\$ 2000	\$ 2025 *	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

* Alarm installed, 50% of monthly cost split between landlord & self.

Verification

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

[Signature]

 Tenant's Signature

08/09/2017

 Date

 Tenant's Signature

 Date

Important Information

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

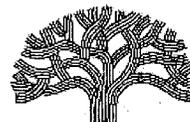
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



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

CITY OF OAKLAND

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: L17-0120, Bergen v. Tenants
PROPERTY ADDRESS: 5015A Lawton Avenue
DATE OF HEARING: October 18, 2017
DATE OF DECISION: May 8, 2018
APPEARANCES:

Roger Bergen	Owner
Nancy Bergen	Owner
Natalie Loftus	Tenant

SUMMARY OF DECISION

The Owner petition is GRANTED IN PART.

INTRODUCTION

The owner filed a petition to request an exemption from the Rent Ordinance based on new construction. The tenant filed a response to the petition and questions the owner's contention of new construction, and believes the construction constituted substantial rehabilitation of existing space to the existing structure.

THE ISSUE

- (1) Is 5015A Lawton Avenue exempt from the Rent Adjustment Ordinance based on new construction?

EVIDENCE

Exemption

The owners testified that the subject property was formerly a single family residence that was moved from Desmond to Lawton Avenue. The building was raised

000017

and a new unit was constructed on the ground floor. Construction was completed in September 1984.

The owner provided a letter from the City of Oakland Planning Commission dated July 13, 1983, which granted his application for a Major Conditional Use Permit in order to convert a single family residence into two units at 5015 Lawton Avenue in the R-35 Special One-Family Residential Zone.¹

The owner obtained a Building Permit for conversion of a single family residence into two units at 5015 Lawton Avenue on November 28, 1983.² The Permit was "finaled" by City inspectors.³

FINDINGS OF FACT AND CONCLUSIONS OF LAW

New Construction

In order to qualify for an exemption based on new construction section 8.22.030 (5) of the Rent Ordinance states that the dwelling unit must receive a certificate of occupancy on or after January 1, 1983, **and** must be entirely newly constructed or created from space that was formerly entirely non-residential.

The owner provided sufficient documentation that the unit on the first floor at 5015A Lawton Avenue, is new construction built after January 1, 1983, and is exempt from the Rent Ordinance.

The upper unit B on the second floor of the subject building, is not exempt from the Rent Ordinance. It was a pre-existing residential unit and the work performed on this unit did not consist of new construction.

ORDER

1. Petition L17-0120 is granted in part. The ground floor unit at 5015A Lawton Avenue is exempt from the Rent Adjustment Ordinance based on new construction.
2. The upper floor unit at 5015B is not exempt from the Rent Adjustment Ordinance.
3. The Subject building consisting of two units is subject to the Rent Adjustment Program Fee because it is subject to the Eviction Ordinance.
4. A certificate of exemption for 5515A Lawton Avenue shall be issued upon expiration of the appeal period

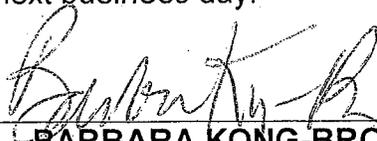
¹ Ex. Nos. 1-4-Application for Major Conditional Use to Convert single family residence into two units

² Ex. No. 5

³ Ex. No. 8-there is no date indicated on the "finaled" permit but it was issued after November 28, 1983

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

Dated: May 8, 2018



BARBARA KONG-BROWN, ESQ.

Senior Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number L17-0120

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 of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included

Hearing Decision

Owner

Roger Bergen
675 Doreen Way
Lafayette, CA 94549

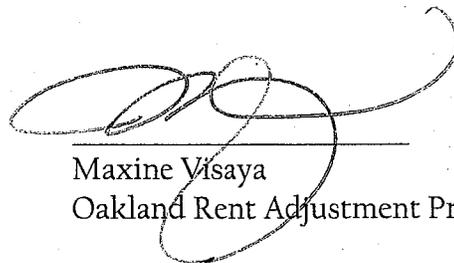
Tenants

Natalie Loftus
5015A Lawton Ave
Oakland, CA 94609

Tay Hoang
5015A Lawton Ave
Oakland, CA 94609

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 May 8, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program



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

For date stamp.

MAY 24 PM 3:40

APPEAL

Appellant's Name Natalie Loftus		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 5015A LANTON AVE, OAKLAND, CA 94609			
Appellant's Mailing Address (For receipt of notices) AS ABOVE		Case Number 217-0120	
		Date of Decision appealed 05/24/18	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

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

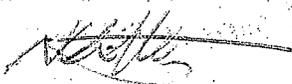
Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.

Number of pages attached: _____

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

I declare under penalty of perjury under the laws of the State of California that on 05/24, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	ROGER BERGEN
<u>Address</u>	675 DOREEN WAY
<u>City, State Zip</u>	LAFAYETTE, CA 94549
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	05/24/2018
---	------------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

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

For more information phone (510) 238-3721.

05/24/18

Hearing Outcome Appeal

Case Number: L17-0120 Bergen V. Tenants

I wish to file an appeal regarding the decision of the hearing on the grounds below;

F) I contested my landlords petition to be exempt from rent control and sent documents by certified mail on 08/10/18 to the City of Oakland Rent adjustment Office.

The reason for contesting, I questioned whether the ground floor unit in a two story duplex was exempt for the reason of 'new construction' based on clause -ord.12537 (part) from 2003, suggesting that the ground floor apartment might be a result of rehabilitation, improvement or conversion of existing space, in an existing structure; and whether the ground floor unit is considered a completely separate structure to the upstairs unit because it houses the upstairs central heating unit.

The top floor unit was an existing single family home which was relocated to the property and raised. The lower ground unit was constructed with separate wiring, electricity meter and plumbing.

At the hearing the judge did not have copy of my documents sent certified mail, contesting the landlord's petition while the landlords had received copy.

The judge queried why I was present at the hearing and I presented my copy of documentation contesting the petition. The judge asked to retain and I surrendered. I also presented photographic imagery of the upstairs central heating system and furnace which is located in the ground floor unit that I reside in, the landlord confirmed correct, and that the furnace for the ground floor unit was installed and located under the house.

The judge dismissed the photographic imagery and proceeded to question the landlord to explain his property conversion project. The landlord offered that the intention had always been for the upstairs unit to accommodate family, while the downstairs unit was intended for rent, as a separate enterprise.

H) The hearing was conducted 08/18/17 and the outcome received 05/08/18

The landlord's property has been granted partial exemption from rent control; the upper unit on the second floor is not exempt, while the ground floor qualifies as 'new construction' according to the evidence submitted.

The question remains that while this decision confirms new construction status of the lower ground unit, the upstairs central heating furnace remains in the ground floor unit, and access can only be granted via the ground floor unit. Therefore one would consider, not an entirely separate construction to the above preexisting unit.

Other considerations, the space that accommodates the ground floor water tank and upstairs heating system could potentially be substantially reduced to accommodate another toilet facility in the three

000024

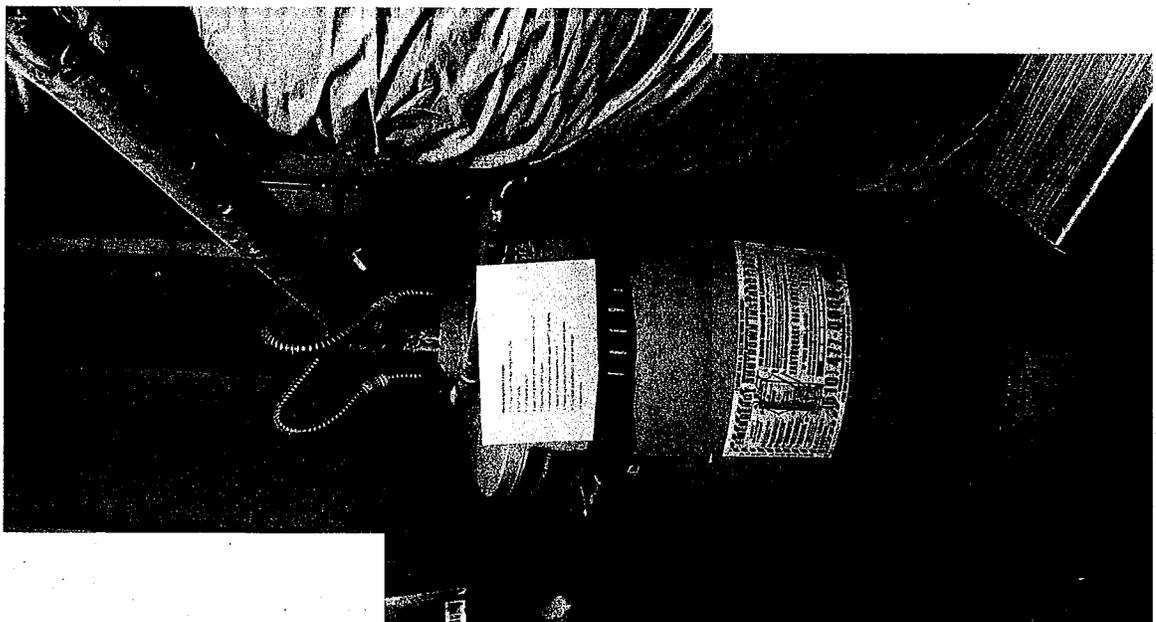
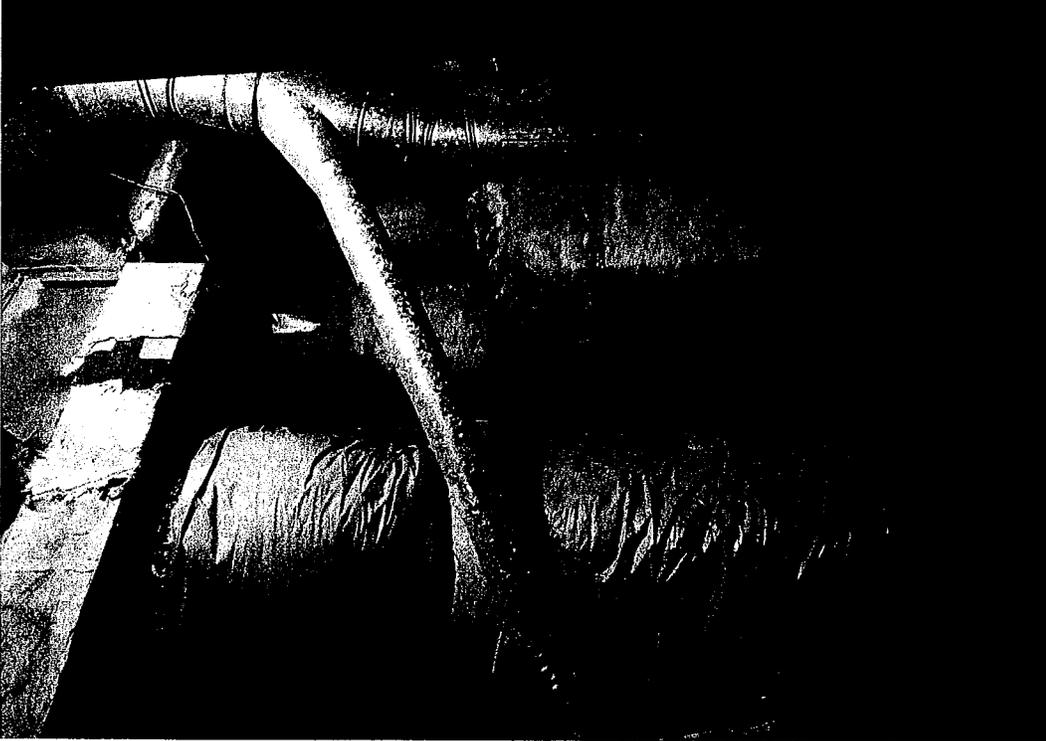
bedroom one bathroom unit. If the lower ground unit is granted exemption and the rent substantially increased, I will need to consider subletting the single room to another sub tenant in order to afford to remain in the property that I have resided in since 2011, while the current facility of only one bathroom is not at all practical. The landlord stipulated historically that the apartment can only accommodate two tenants.

I will appreciate clarification of the 'separate' unit question, whether this has been considered in relation to the new construction status being granted for the lower ground unit.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'Natalie Loftus', with a horizontal line extending to the right.

Natalie Loftus

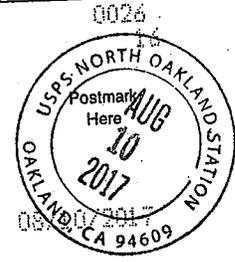


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<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$0.49
Total Postage and Fees	\$6.59



For date stamp. **RECEIVED**
 JUN 05 2017
 RENT ADJUSTMENT PROGRAM
 OAKLAND
LANDLORD PETITION
FOR CERTIFICATE OF EXEMPTION
 (OMC \$8.22.030.B)

Sent To City of Oakland
Rent Adjustment Office PO BOX
Oakland 94612-0243 70243
 PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Caution: Failure to provide needed information may result in denial of this petition. Please attach to this petition copies of the documents that prove the rent is excessive. Please read the Rent Adjustment Ordinance, section 16.10, even if uncontested or irrefutable.

Certified	1	\$3.35
Return Receipt	1	\$2.75
Total		\$6.59
Debit Card Remit'd		\$6.59

(Card Name: Debit Card)
 (Account #: XXXXXX(3723))
 (Approval #:)
 (Transaction #: 948)
 (Receipt #: 014653)
 (Debit Card Purchase: \$6.59)
 (Cash Back: \$0.00)

Complete Address (with zip code) <u>675 DORSEY WAY</u> <u>LAFAYETTE, CA</u> <u>94549</u>	Telephone Day: <u>925-708-3049</u>	
Complete Address (with zip code) <u>SAME</u>	Telephone Day: <u>SAME</u>	
<u>206, OAKLAND, CA</u> <u>94609</u>	Total number of units in bldg or parcel. <u>2</u>	
Family Residence (FR)	Condominium	<u>Apartment</u> or Room (Lower unit of duplex)
Unit sold and property?	Yes	No
<u>8-5</u>		

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of the names and addresses, with unit numbers, of all tenants in the building is exempt.

A Certificate of Exemption may be granted **only** for dwelling units that are subject to the Rent Adjustment Ordinance.

The unit was newly constructed and a certificate of exemption may be granted only if the unit was constructed on or after January 1, 1983.

A certificate of exemption is available only to entire buildings. An owner must have spent a minimum of 10% of the average basic cost for new construction for a rehabilitation project. The percentage of construction is determined using tables issued by the Chief of the Rent Adjustment Program. The certificate is valid for a 12-month period when the Substantial Rehabilitation was completed.

HELP US SERVE YOU BETTER
 TELL US ABOUT YOUR RECENT POSTAL EXPERIENCE

RECEIVED

JUN -5 2018

RENT ADJUSTMENT PROGRAM
OAKLAND

May 31, 2018

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

RE: Case Number L17—0120, Bergen vs. Tenants- Response to Tenant Appeal on Hearing Decision

To whom it may concern:

Background- This letter is in response to our tenant's May 24, 2018 appeal of the Rent Adjustment Program's decision concerning our request for exemption from the Rent Adjustment Ordinance.

We presented our case supporting our request for rent control exemption at a hearing on October 18, 2017 at the Rent Adjustment Program offices. The hearing was presided over by Senior Hearing Officer Barbara Kong-Brown. Our tenant, Natalie Loftus was also in attendance.

We recently received a letter from the City communicating the May 8, 2018 hearing decision. Our petition for exemption from the Rent Adjustment Ordinance was "granted in part". It was determined that the duplex rental unit in question (lower unit (5015A Lawton Ave)) was exempt from the Rent Adjustment Ordinance. The letter went on to clarify that the upper duplex unit (5015 Lawton Ave, referred to as unit 5015B in the hearing decision) was not exempt from the Rent Adjustment Ordinance.

We understand and agree with the May 8, 2018 hearing decision.

Response to Tenant's Appeal to the Hearing Decision- Following are our comments concerning Natalie Loftus' May 24, 2018 Appeal to the May 8, 2018 Hearing Decision.

Section 2 of the Rent Adjustment Program's Appeal form specifies allowable reasons for appealing a hearing decision. Ms. Loftus checked two boxes, boxes f and h:

Box f- this box concerns the appellant's assertion that they were "denied a sufficient opportunity to present my claim or respond to the petitioner's claim." ***This is not the case.*** As noted above, Ms. Loftus fully participated in the October 18, 2017 hearing. She listened to our entire presentation of our case. She was then allowed adequate time to respond to our presentation as well as to questions from the Hearing Officer. Ms. Loftus then presented documentation which she felt supported her position that unit 5015A should not be exempt from rent controls. This included photographs of the lower unit's utility room, heating ducts, etc. Ms. Loftus provided a narrative describing the photographic materials. The Hearing Officer requested these materials be left with her and Ms. Loftus surrendered the materials. Thus these materials were made part of the case file and were available to the Hearing Officer during her consideration of the case and her subsequent decision.

Box h- "Other"- Ms. Loftus questions the hearing officer's determination that lower unit 5015A is new construction. The lower unit was new construction including all infrastructure (plumbing, electrical, interior walls, finish carpentry, cabinets, bathroom fixtures, appliances, etc) as supported by relevant building inspection sign-off documents presented as part of our case documentation. Ms. Loftus goes on to comment how various space in the lower unit could be used to increase the utility of the lower unit and allow her to add a second sub-tenant to

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generate additional income for her. This discussion is moot and not pertinent to our petition nor should it be a basis for appeal.

Based on the above it is our opinion that the tenant has no basis to appeal the May 8, 2018 hearing decision. We recognize formal determination of the appeal lies with the Rent Adjustment Program.

Closing remarks- We wanted to note that we have been responsible landlords and proud of the service we've provided to Oakland residents during the over 30 years we've been renting our duplex. Our objective has always been to provide a comfortable, well-maintained welcoming property with reasonable rents. Specific to Ms. Loftus she has enjoyed extremely low rental increases since she first rented the lower unit in 2011. Her rent has only gone up \$100 (from \$2,000 to \$2,100) of which \$30 is to help offset alarm system costs. That equates to 0.6% annually, well below the rate of inflation. Further we haven't charged her (not reflected in the rent) for any of the significant improvements we've made to the property (including \$20,000 to redo the landscaping, fresh house paint, gardener provided, etc) nor enhancements specific to her flat (installing a deluxe stovetop fan hood at her request, etc).

We will continue to be reliable landlords responsive to tenant needs in the years to come.

Copy to Appellant- We have provided a copy of this correspondence to Ms. Loftus via U.S. Postal Service First Class Mail, Certified with Return Receipt Requested.

Sincerely,

A handwritten signature in cursive script that reads "Roger Bergen". The signature is written in black ink and is positioned below the word "Sincerely,".

Roger Bergen

06/18/18

5015A Lawton Avenue,
Oakland, CA 94609

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

Case Number; L17-0120, Bergen v. Tenants

Property Address; 5015A Lawton Ave, Oakland CA

Dear Michelle Byrd,

I received your letter dated 06/01/18 regarding the case number listed above, suggesting I filed a second appeal on 05/30/18, which was dismissed because it was not 'seen' in time by your office.

The document's sent certified mail dated 05/25/18 (Tracking # 70180360000119913182) were in fact delivered on 05/29/18 at 11:20am (which was the day after the Memorial day holiday) and left with an 'individual. Please see attached delivery confirmation. Not only was the package delivered in time, I understand because of the public holiday, an extra day extension is automatically granted.

After speaking with Robert Costa to clarify the documents sent were a **follow up to the original appeal** filed and accepted on 05/24/18, and **NOT in addition to**, and sent to amend the incorrect dates submitted in the original appeal, which were highlighted in yellow in the follow up letter dated 05/25/18, and additionally called out in the post it note attached to the document.

Therefore, please confirm the follow up documents highlighting the date amendments are not disqualified as such, and will replace the original in support of my appeal.

I do apologize for any confusion caused in sending the second letter to replace the first filed, if it 'presented' as a second appeal.

Sincerely,



Natalie Loftus

Encl; 1

RECEIVED
JUN 20 2018
RENT ADJUSTMENT PROGRAM
OAKLAND

000030



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29
MAY
2018

by
8:00pm

Status

Delivered

May 29, 2018 at 11:20 am
Delivered, Left with Individual
OAKLAND, CA 94612
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Text & Email Updates

Return Receipt Electronic

Confirmation

Your Proof of Delivery record is complete and will be processed shortly.
Your confirmation will be sent to the following:

natalie@goodsupreme.com

2917 1551 1000 0030 0102

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000031

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Total Postage and Fees	\$5.66	
Return Receipt (hardcopy)	\$1.50	
Return Receipt (electronic)	\$0.00	
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Adult Signature Required	\$0.00	
Adult Signature Restricted Delivery	\$0.00	

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 Street and Apt. No. or PO Box No. **250 FRANK OAKWIL PAZA SUITE 5518**
 City, State, ZIP+4® **OAKLAND CA 94612**

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 SAN FRANCISCO CA SUTTER 37
 05/25/2018

PS Form 3800, April 2015 PSN 7530-02-000-90-27 See Reverse for Instructions

Delivered

CHRONOLOGICAL CASE REPORT

Case No.: L17-0132

Case Name: Freeland Cooper & Foreman, LLP v. Tenants

Property Address: 947 61st Street, Oakland, CA

Parties: Steven Cooper (Owner)
Howard Goldenberg (Owner)
Elizabeth Hart (Owner Representative)
Jennifer Willis (Attorney for Tenants)
Samuel Greenspan (Tenant, Unit 8)
Kathleen Stann (Tenant Unit 5)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	June 15, 2017
Tenants' Responses filed	September 11, 2017 September 13, 2017 September 14, 2017 September 19, 2017
Hearing Decision issued	April 10, 2018
Owner Appeal filed	April 25, 2018

17-0132 Re/BC

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

For date stamp. CI
 RENT ADJUSTMENT PROGRAM
 2017 JUN 15 PM 3:13

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

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

Section 1. Basic Information

Your Name Steven A. Cooper, Esq., as counsel for and agent of the owners of the Property		Complete Address (with zip code) Freeland Cooper & Foreman, LLP 150 Spear Street, Suite 1800 San Francisco, CA 94105		Telephone Day: 415-541-0200 Cell: 415-713-2921	
Your Representative's Name Liz Hart Rent Board Matters		Complete Address (with zip code) 1801 University Ave., Suite 308 Berkeley, CA 94703		Telephone 510-813-5440 Liz@Rentboardmatters.com	
Property Address 947 61st Street, Oakland, CA 94608				Total number of units in bldg or parcel. 15	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	Apartment or Room		
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		N/A	N/A		
Assessor's Parcel No. 015-1346-019-02					

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

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

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

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

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

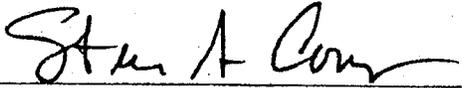
1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building, housing, fire,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

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

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

Section 4. Verification Each petitioner must sign this section.

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



Owner's Signature
Steven A. Cooper, Esq., as attorney for and agent
of the Owners

JUNE 7, 2017

Date

Important Information

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

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

**RECORDING REQUESTED BY AND WHEN RECORDED
MAIL TO:**

FREELAND COOPER & FOREMAN LLP
ATTN: CARLOS RODRIGUEZ
150 SPEAR STREET, SUITE 1800
SAN FRANCISCO, CA 94105



2011202762 07/20/2011 11:34 AM
OFFICIAL RECORDS OF ALAMEDA COUNTY
PATRICK O'CONNELL
RECORDING FEE: 41.00



3 PGS

MAIL TAX STATEMENTS TO:

Advent Properties, Inc.
1600 MacArthur Boulevard
Oakland, California 94602

DOCUMENTARY TRANSFER TAX \$0: EXEMPT- R&TC §11930

SPACE ABOVE THIS LINE FOR RECORDER'S USE

No Consideration.
No Change In Ownership: **Grantors are transferring their interest to
a revocable trust established for their own benefit.**

Steven A. Cooper
Signature of Declarant or Agent determining tax - Firm Name

GRANT DEED

APN: 015-1346-019-02
PROPERTY ADDRESS: 935, 939 and 947 61st Street, Oakland, CA

Grantor(s),
Steven A. Cooper and Elisabeth B. Cooper, as community property

hereby GRANT(S) to
**Steven A. Cooper and Elisabeth B. Cooper, Trustees of
The Cooper Family Living Trust dated June 15, 2011**

Their undivided **Twenty Seven Percent (27%)** interest in the following real property in the City of **Oakland**, County of **Alameda**, State of **California**, commonly known as **935, 939 and 947 61st Street, Oakland, CA**, more particularly described as set forth in **Exhibit A** attached hereto and by this reference incorporated herein.

Dated: 7/14/11

Steven A. Cooper
Steven A. Cooper

Dated: 7/14/11

Elisabeth B. Cooper
Elisabeth B. Cooper

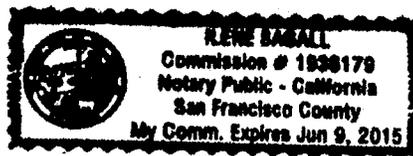
State of California
County of SAN FRANCISCO

On JULY 14, 2011, before me, ILENE SAGALL, a Notary Public, personally appeared **Steven A. Cooper and Elisabeth B. Cooper**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Ilene Sagall
NOTARY SIGNATURE



{00152467-1}

EXHIBIT A

935, 939 and 947 61st Street, Oakland, California
APN: 015-1346-019-02

Legal Description

Those parcels of land in the City of Oakland, County of Alameda, State of California, described as follows:

PARCEL 1:

Lots 1, 2 and 3, Map of Paradise Park, filed November 15, 1877, Map Book 5, page 37, Alameda County Records.

PARCEL 2:

A portion of Lots, 9, 10 and 11, Block 8 and a portion of 61st Street Place, formerly Golden Gate Avenue, (said 61st Street Place was vacated by the City of Oakland, March 1, 1962, Ordinance No. 6539 C.M.S., a certified copy of which was recorded March 14, 1962, Series, No. AT/33930, Reel 536, Image 355, Alameda County Records as said lots, block and avenue are shown on the "Amended Map of the Butler Tract", filed February 2, 1887, Map Book 10, page 3, Alameda County Records, bounded as follows:

Beginning at the point of intersection of the southern line of 61st Street formerly McKee Street, with the eastern line of Lowell Street, as established by Resolution No. 31163 C.M.S. of the City of Oakland made on March 16, 1954, a certified copy thereof was recorded March 24, 1954, Series No. AJ/24380, Book 7279 OR, page 400, Alameda County Records, as said 61st Street and Lowell Street existed March 16, 1954; thence along the said eastern line of Lowell Street, south 7° 52' east 123.50 feet to a point on the center line of said 61st Street Place; thence along the said last mentioned line north 81° 04' east 123.43 feet to a point on the eastern boundary line of the said "Amended Map of the Butler Tract"; thence along the said last mentioned line north 12° 16' 07" West 123.70 feet, more or less to a point on the said southern line of 61st Street, formerly McKee Street, as said street existed March 16, 1954; thence along the said last mentioned line south 81° 04' west 114.09 feet, more or less to the point of beginning.

PARCEL 3:

A portion of Plot No. 46, according to the "Map of the Ranchos of Vicente & Domingo Peralta, filed June 22, 1857, Map Book 17, page 12, Alameda County Records, bounded as follows:

Beginning at the point of intersection of the western line of Occidental Street with the southern line of 61st Street, formerly McKee Street, as said streets are shown on the map of "Paradise Park", filed November 15, 1877, Map Book 5, page 37, Alameda County Records; thence along the said last mentioned line south $81^{\circ} 04'$ west (the bearing south $81^{\circ} 04'$ west being assumed for the purpose of this description) 387.00 feet to a point on the western line of Block "P", as said block is shown on the said last mentioned map, said last mentioned point being the actual point of commencement; thence southerly along the said last mentioned line 135.43 feet, more or less, to the southern line of Lot 1 in Block "P" of said Paradise Park; thence along the direct production westerly of the last mentioned line 15.55 feet, more or less to the eastern line of the amended Map of the Butler Tract, filed February 2, 1887, Map Book 10, page 3, Alameda County Records; thence northerly along the last named line 135.17 feet, more or less to the southern line of 61st Street; thence along said line of 61st street easterly 12.92 feet to the actual point of commencement.

Property Address	Unit	Tenant	Move-in
947 61st St Oakland, CA 94608	01D	[presently vacant]	
947 61st St Oakland, CA 94608	02D	Carson J. French	03/01/16
947 61st St Oakland, CA 94608	03D	Mark Streshinsky	03/01/16
947 61st St Oakland, CA 94608	04D	Jon D. Alcantara	03/01/16
947 61st St Oakland, CA 94608	05D	Kathleen J. Stann	04/01/16
947 61st St Oakland, CA 94608	06D	Danielle Reynolds	02/01/16
947 61st St Oakland, CA 94608	07D	Phillip N. Mcinturff	02/15/16
947 61st St Oakland, CA 94608	08D	Sam Greenspan	02/13/16
947 61st St Oakland, CA 94608	09D	Blair Wagoner	03/01/16
947 61st St Oakland, CA 94608	10D	Julia Ferraz	02/05/16
947 61st St Oakland, CA 94608	11D	Eduardo J. Esquivel	02/06/16
947 61st St Oakland, CA 94608	12D	Kaan A. Senaydin	04/16/17
947 61st St Oakland, CA 94608	13D	Ronit A. Varga	04/28/17
947 61st St Oakland, CA 94608	14D	Andre O. Malcolm	04/01/16
947 61st St Oakland, CA 94608	15D	Brent K. Watson	02/06/16

**Appointment of Agents
California Rent Adjustment Program**

The undersigned, being the owners of 100% of the tenancy-in-common interests of the property located at 947 61st, Oakland, CA, 94608 (the "Owners"), hereby appoint each of Steven A. Cooper, Esq., and Howard Goldenberg, acting individually, to act as agent for the Owners in connection with the preparation and submission to the City of Oakland, California Rent Adjustment Program of a Landlord Petition For Certificate of Exemption, including without limitation the authority to take all actions, and to execute all documents, instruments and agreements, on behalf of the Owners that may be necessary or required, in such agent's judgment, in connection with therewith.

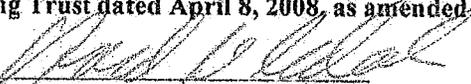
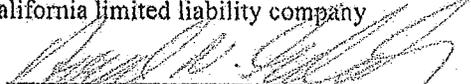
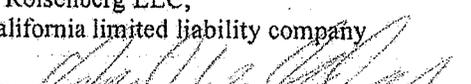
This Appointment of Agents may be executed in counterparts, each of which when taken together shall constitute one and the same document. In Witness Whereof, the Owners have affixed their signatures below as of the 5th day of June, 2017.

<p>The Amended and Restated Goldenberg Roisen Living Trust dated April 8, 2008, as amended</p> <p>By: _____ Howard N. Goldenberg, Manager</p>	<p>Roisenberg LLC, a California limited liability company</p> <p>By: _____ Howard N. Goldenberg, Manager</p>
<p>Goldenberg Roisen Family Limited Partnership, a California limited partnership</p> <p>By: Roisenberg LLC, a California limited liability company</p> <p>By: _____ Howard N. Goldenberg, Manager</p>	<p>The Robyn Muscardini Trust dated October 14, 2011</p> <p>By: <u>Robyn R. Muscardini, Trustee</u> Robyn R. Muscardini, Trustee</p>
<p><u>Francis Collins</u> Francis Collins</p>	<p>The Cooper Family Trust dated June 15, 2011</p> <p>By: <u>Steven A. Cooper</u> Steven A. Cooper, Trustee</p>
<p><u>Catherine Collins</u> Catherine Collins</p>	

**Appointment of Agents
California Rent Adjustment Program**

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<p>Goldenberg Roisen Family Limited Partnership, a California limited partnership</p> <p>By: Roisenberg LLC, a California limited liability company</p> <p>By: <u></u> Howard N. Goldenberg, Manager</p>	<p>The Robyn Muscardini Trust dated October 14, 2011</p> <p>By: _____ Robyn R. Muscardini, Trustee</p>
<p>_____ Francis Collins</p>	<p>The Cooper Family Trust dated June 15, 2011</p> <p>By: _____ Steven A. Cooper, Trustee</p>
<p>_____ Catherine Collins</p>	

Number Pack

ADVENT PROPERTIES INC
1600 MACARTHUR BLVD
OAKLAND, CA 94602

FIRST REPUBLIC BANK
2110 MOUNTAIN BOULEVARD
OAKLAND, CA 94611

11011

11-8166/3210
126
CHECK AMOUNT

02/17/2017

PAY TO THE ORDER OF **CITY OF OAKLAND- REVENUE-BUSINESS TAX**

\$ 14,019.72

**** FOURTEEN THOUSAND NINETEEN AND 72/100 DOLLARS

DOLLARS

City of Oakland- Revenue-Business Tax
250 Frank H. Ogawa Plaza, Ste 1320
Oakland, CA 94612

00006804, 00154591, 00165659, 00168189, 00176389

MEMO 00144483, 00164559, 00166675, 00172016, 00183112

Benjamin J. [Signature]
AUTHORIZED SIGNATURE



Details on Back

Security Features Included

000041

JPMORGANCHASE BK NA	CR TO NMD	
030617	>074909962<	PAYEE ALL
34181163	0101535	RTS RSVD
00854514	049	0000000563311229



CITY OF OAKLAND

Finance Department
Revenue Management Bureau
250 Frank H. Ogawa Plaza Suite 1320 Oakland, CA 94612
(510) 238-3704 TDD (510) 238-3254
www.ltss.oaklandnet.com



ADVENT PROPERTIES, INC.
JELLY BEAN PARTNERS
1600 MACARTHUR BLVD
OAKLAND, CA 94602-1607

BUSINESS ADDRESS:
935 61ST ST
OAKLAND, CA 94608-1365

ACCOUNT NUMBER
00197228
PAYMENT DUE DATE
06/30/2017

June 15, 2017

Dear Business Owner/Operator:

According to our records, your account has a balance of \$8,139.04. This amount was calculated as follows:

Charges	Amount
2014	
RAP Rent Adjustment Program	\$1,904.00
RAP Penalty	\$952.00
RAP Interest	\$1,142.40
2015	
RAP Rent Adjustment Program	\$840.00
RAP Penalty	\$420.00
RAP Interest	\$352.80
2016	
RAP Rent Adjustment Program	\$840.00
RAP Penalty	\$420.00
RAP Interest	\$201.60
2017	
RAP Penalty	\$952.00
RAP Interest	\$114.24
Total Due:	\$8,139.04

The amount due stated on this invoice was calculated using the **Invoice Date** noted at the top of this form. The principal balance may accrue additional penalties and interest per Oakland's Municipal Code.

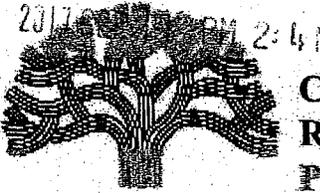
YOU CAN NOW PAY YOUR INVOICE ONLINE!
LOG ONTO WWW.LTSS.OAKLANDNET.COM
ACCOUNT #: 00197228 PIN: 810157

**COMPLETE AND RETURN
WITH YOUR PAYMENT TO:**

City of Oakland
250 Frank H. Ogawa Plaza Suite 1320
Oakland, CA 94612-2011
Phone: (510) 238-3704

YAD

000043



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

2017 SEP 14 AM 2:42

CASE NUMBER L17-0132

**TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION**

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

Your Name Sara Hamza Brent Watson	Complete Address (with Zip Code) 947 61st Street #15 Oakland, CA 94608	Telephone 615-584-1357
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

15

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

2/6/16

Date you moved into this unit:

2/6/16

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

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

Exemption Contested

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

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

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

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

Although our property manager dissuaded us from participating in this process, we now have reason to believe that the owners may not be able to satisfy the burden of proof for exempting this building from RAP. The owners have already raised our rent more than is allowable per RAP in 2017. Additional documentation will be submitted.

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

2017 SEP 11 PM 2:42

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
1/23/17	3/2017	\$ 2495	\$ 2611	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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

Sana Hamza
 Tenant's Signature

9/11/17
 Date

Brent Watson
 Tenant's Signature

9-11-17
 Date

Important Information

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

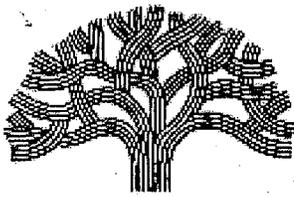
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RENT ADJUSTMENT PROGRAM
2017 SEP 11 PM 2:42

CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name André Malcolm	Complete Address (with Zip Code) 947 61ST Street 14 D 94608	Telephone 718 2902892
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

15

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

4.1.16

Date you moved into this unit:

4.1.16

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

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

Exemption Contested

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

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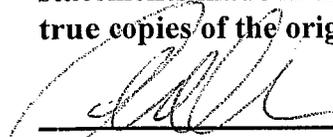
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Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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 Tenant's Signature

9.11.2017

 Date

 Tenant's Signature

 Date

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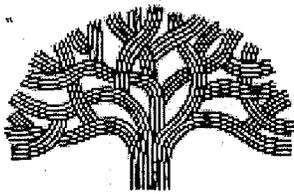
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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RENT ADJUSTMENT PROGRAM
2017 SEP 11 PM 2:47

CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Danielle Reynolds Cyril Thavrin	Complete Address (with Zip Code) 947 61st street Apt 6 Oakland CA 94608	Telephone 415 583 5139
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is:
a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

Exemption Contested

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

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

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

Although our property manager dissuaded us from participating in this process, we now have reason to believe that the owners may not be able to satisfy the burden of proof for exempting this building from RAP. Additionally, the owners have already raised our rent more than is allowable per RAP in 2017. Additional documentation will be submitted.

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
01/26/2017	02/01/2017	\$ 2335.00	\$ 2405.05	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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

[Signature]
 Tenant's Signature

09/10/2017
 Date

[Signature]
 Tenant's Signature

09/10/2017
 Date

Important Information

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

File Review

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ADVENT PROPERTIES, INC.

BUY · SELL · PROPERTY MANAGEMENT

January 26, 2017

947 61st Street 6D
Oakland CA 94608

RE: Rent increase correction

Dear Danielle Reynolds, Cyril Thauvin,

Please disregard the rent increase notice dated 01-23-2017 as there was an error in percentage increase. The correct increase is 3%, for an increase of \$70.05. The effective date remains the same at 03-01-2017.

If you have any questions, feel free to ask.

Sincerely,

Tommy Suh
Advent Properties, Inc.
1600 MacArthur Blvd.
Oakland, CA 94602
pm3@adventpropertiesinc.com
Direct: 510-488-4104
Office: 510-250-7918

THIRTY DAY NOTICE OF CHANGE TO MONTHLY RENT

TO: Danielle Reynolds, Cyril Thauvin

of the premises located at:

947 61st St 6D, Oakland, CA 94608

You are hereby notified, in accordance with Civil Code Section 827, that 30 days after service upon you of this Notice, or 03/01/2017, whichever is later, your monthly rent which is payable in advance on or before the first day of each month, will be the sum of \$2,405.05, instead of \$2,335.00, the current monthly rent. The percentage rate this year is 3.00%, which is a \$70.05 increase. The total percentage increase including "banked" increases is 3.00%, which is a \$70.05 increase. 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.

Darryl Adams

01/26/2017

Date

Owner/Agent

Proof of Service

To be filled out by Server AFTER service on Resident is complete

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this a true copy, on the 26 day of January 2017, on the above-mentioned resident(s) in possession, in the manner indicated below.

- 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 residents; AND MAILING by first class mail on the same day 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.
- 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. (NOTE: SERVICE BY MAIL IS AVAILBLE FOR NOTICE OF CHANGE OF MONTHLY RENT ONLY.)

Place of mailing: 1600 MacArthur Blvd, Oakland CA 94602

Date of Mailing: 01/26/2017

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.

Exected this 26 day of January 2017 in Oakland California

Tommy Suh

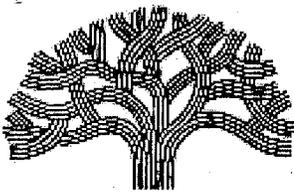
Name of Declarant

[Signature]

Signature of Declarant

*** PLEASE SEE RESIDENTIAL RENT ADJUSTMENT PROGRAM NOTICE ON REVERSE SIDE ***

000051



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RENT ADJUSTMENT PROGRAM
2017 SEP 11 PM 2:47

CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Rouit April VARGA	Complete Address (with Zip Code) 947 61st St #13 Oak, CA 94608	Telephone 415-516-3497
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is:
 a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

Exemption Contested

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

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

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

Although our property manager dissuad us from participating in this process, we now have reason to believe that the owners may not be able to satisfy the burden of proof for exempting this building from RAP.

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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

Frank A. Vayge
 Tenant's Signature

9/10/17
 Date

 Tenant's Signature

 Date

Important Information

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

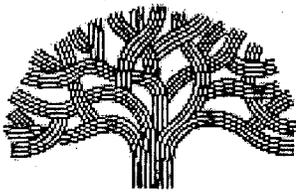
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RENT ADJUSTMENT PROGRAM
2017 SEP 11 PM 2:42

CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Sam Greenspan</i>	Complete Address (with Zip Code) <i>947 61st St #8 Oakland, CA 94608</i>	Telephone <i>510-239-3826</i>
Your Representative's Name <i>(Self)</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is: a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

Exemption Contested

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

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

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

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

Although our property manager dissuaded us from participating in this process, we now have reason to believe that the owners may not be able to satisfy the burden of proof for exempting this building from RAP. Additionally, the owners have already raised our rent more than is allowable per RAP in 2017. Additional documentation will be submitted.

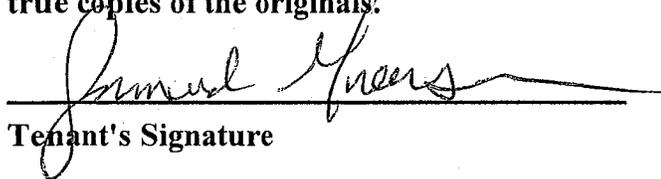
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
1/23/16	3/1/16	\$ 2535	\$ 2611	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$ \nearrow	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$ (3% increase	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$ is above RAP of 2.0%	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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



 Tenant's Signature

9/10/17

 Date

 Tenant's Signature

 Date

Important Information

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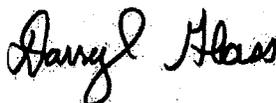
THIRTY DAY NOTICE OF CHANGE TO MONTHLY RENT

TO: Sam Greenspan

of the premises located at:

947 61st St 8D, Oakland, CA 94608

You are hereby notified, in accordance with Civil Code Section 827, that 30 days after service upon you of this Notice, or **03/01/2017**, whichever is later, your monthly rent which is payable in advance on or before the **first** day of each month, will be the sum of **\$2,611.05**, instead of **\$2,535.00**, the current monthly rent. The percentage rate this year is **3.00%**, which is a **\$76.05** increase. The total percentage increase including "banked" increases is **3.00%**, which is a **\$76.05** increase. 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.



01/26/2017

Date

Owner/Agent

Proof of Service

To be filled out by Server AFTER service on Resident is complete

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this a true copy, on the **26** day of **January** **2017**, on the above-mentioned resident(s) in possession, in the manner indicated below.

- ___ **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 residents:
AND MAILING by first class mail on the same day 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.
- ★ **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. (NOTE: SERVICE BY MAIL IS AVAILBLE FOR NOTICE OF CHANGE OF MONTHLY RENT ONLY.)

Place of mailing: 1600 MacArthur Blvd, Oakland CA 94602

Date of Mailing: 01/26/2017

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.

Exectued this **26** day of **January** **2017** in Oakland California

Tommy Suh

Name of Declarant



Signature of Declarant

*** PLEASE SEE RESIDENTIAL RENT ADJUSTMENT PROGRAM NOTICE ON REVERSE SIDE ***

000056

THIRTY DAY NOTICE OF CHANGE TO MONTHLY RENT

TO: Sam Greenspan

of the premises located at:

947 61st St 8D, Oakland, CA 94608

You are hereby notified, in accordance with Civil Code Section 827, that 30 days after service upon you of this Notice, or **03/01/2017**, whichever is later, your monthly rent which is payable in advance on or before the **first** day of each month, will be the sum of **\$2,636.40**, instead of **\$2,535.00**, the current monthly rent. The percentage rate this year is **4.00%**, which is a **\$101.40** increase. The total percentage increase including "banked" increases is **4.00%**, which is a **\$101.40** increase. 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.



01/23/2017

Date

Owner/Agent

Proof of Service

To be filled out by Server AFTER service on Resident is complete

I, the undersigned, being at least 18 years of age, declare that I served this notice, of which this a true copy, on the **23** day of **January** **2017**, on the above-mentioned resident(s) in possession, in the manner indicated below.

- **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 residents:
AND MAILING by first class mail on the same day 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.
- ★ **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.
(NOTE: SERVICE BY MAIL IS AVAILBLE FOR NOTICE OF CHANGE OF MONTHLY RENT ONLY.)

Place of mailing: 1600 MacArthur Blvd, Oakland CA 94602

Date of Mailing: **01/23/2017**

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.

Exectued this **23** day of **January** **2017** in Oakland California

Tommy Suh

Name of Declarant


Signature of Declarant

*** PLEASE SEE RESIDENTIAL RENT ADJUSTMENT PROGRAM NOTICE ON REVERSE SIDE ***

000057



ADVENT

PROPERTIES, INC.

BUY | SELL | PROPERTY MANAGEMENT

January 26, 2017

947 61st Street 8D
Oakland CA 94608

RE: Rent increase correction

Dear Sam Greenspan,

Please disregard the rent increase notice dated 01-23-2017 as there was an error in percentage increase. The correct increase is 3%, for an increase of \$76.05. The effective date remains the same at 03-01-2017.

If you have any questions, feel free to ask.

Sincerely,

Tommy Suh
Advent Properties, Inc.
1600 MacArthur Blvd.
Oakland, CA 94602
pm3@adventpropertiesinc.com
Direct: 510-488-4104
Office: 510-250-7918



ADVENT PROPERTIES, INC.

BUY | SELL | PROPERTY MANAGEMENT

RENT ADJUSTMENT PROGRAM

2017 SEP 11 PM 3:50

August 23, 2017

947 61st St
Oakland, CA 94608

To our tenants at 947 61st Street, Jelly Bean Court

Re: Petition for exemption

We are writing regarding a notice you will receive (or may already have received) from the City of Oakland regarding a Petition that the Jelly Bean Court owners filed to confirm the exemption from rent control of the 947 61st Street Jelly Bean units. Some background will help you understand why this Petition was filed and what this is all about.

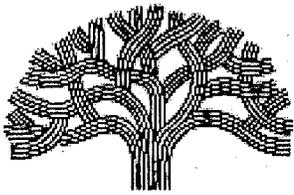
Oakland enacted a new ordinance around the end of 2016 that provided that a landlord had to file a Petition with the Rent Adjustment Board to confirm an exemption from rent control. If the landlord failed to make this filing by June 30, 2017, the landlord would be precluded forever from claiming an exemption from rent control. As you may know, your units were essentially rebuilt and completed around January 2016, and thus the landlord filed its Petition to formally confirm the exemption provided for units that have been substantially rehabilitated.

We wanted to make sure that you did not think that the filing of the Petition would in some way lead to immediate rent increases, evictions or a change in how Jelly Bean Court is being operated. Operations will not change; the Petition was filed only because it had to be filed. We hope this will allay any anxiety that might have arisen due to receipt of the notice from the City.

We and the Jelly Bean owners are delighted that it appears that a close community has formed at Jelly Bean Court and we appreciate all you are doing to keep it a safe and enjoyable place to live.

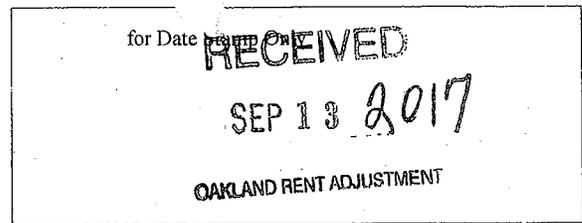
Sincerely,

Darryl Glass, CCRM
Advent Properties, Inc.
1600 MacArthur Blvd.
Oakland, CA 94602
Phone: 510-250-7918



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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



CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>KATHLEEN J. STANN</i>	Complete Address (with Zip Code) <i>947 61st St. #5D OAKLAND, CA 94608</i>	Telephone <i>510/295-9685</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

Exemption Contested

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

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

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

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

Although our property manager dissuaded us from participating in this process, we now have reason to believe that the owners may not be able to satisfy the burden of proof for exempting this building from RAP. Additionally, the owners have already raised our rent more than is allowable per RAP in 2017. Additional documentation will be submitted.

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
1/26/2017	4/1/2017	\$ 2,335.00	\$ 2,405.05	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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

Kathleen J. Stava
 Tenant's Signature

9/10/2017
 Date

 Tenant's Signature

 Date

Important Information

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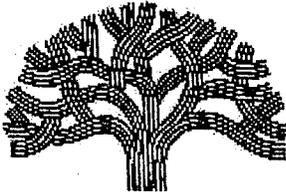
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

RENT ADJUSTMENT PROGRAM

For Date Stamp Only
2017 SEP 14 17:12:39

CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Mark Streshinsky Francisco Carranza	Complete Address (with Zip Code) 947 61st St. Oakland CA 94608	Telephone 510-909-3830
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

15

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

2/22/16
2/22/16

Date you moved into this unit:

3.7.16

Are you current on your rent? Yes No

Lawfully Withholding Rent

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

Exemption Contested

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

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

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

Although our property manager dissuaded us from participating in this process we now have reason to believe that the owners may not be able to satisfy the burden of proof for exempting this building from RAP. Additionally, the owners have already raised our rent more than is allowable per RAP in 2017. Additional documentation will be submitted.

Rev 5/23/16

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
8.31.16	2.7.16	\$ 2295	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.2.17	3.4.17	\$ 2295	\$ 2358	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
1.23.17	3.1.17	\$ 2235	\$ 2302.5	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

(3% increase)

Verification

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

Travis Carringer

Tenant's Signature

9.14.17
Date

Mark J. Ludwig

Tenant's Signature

9.14.17
Date

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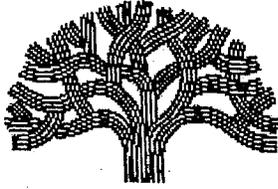
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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RECEIVED
SEP 19 2017
OAKLAND RENT ADJUSTMENT

CASE NUMBER L17-0132

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Jason V. Cuenco Jon D. Alcantara</i>	Complete Address (with Zip Code) <i>947 61st St. Apt 4 Oakland, CA 94608</i>	Telephone <i>(925) 550-2099</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

Exemption Contested

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

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

Landlord raised rent by 3%, claiming that our building was already exempt from rent adjustment regulation. This is not the case as application for exemption is/was still in process at the time of the rent increase.

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
02/01/17	3/01/17	\$ 2235	\$ 2302	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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

John V. Carr
 Tenant's Signature

9/11/17
 Date

Janet
 Tenant's Signature

9/11/17
 Date

Important Information

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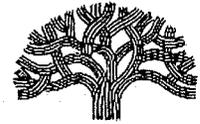
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CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: L17-0132, Freeland Cooper and Foreman, LLP v. Tenants

PROPERTY ADDRESS: 947 61st Street, Oakland, CA

DATE OF HEARING: January 16, 2018

DATE OF DECISION: April 6, 2018

APPEARANCES: Steven Cooper, Owner
Howard Goldenberg, Owner
Elizabeth Hart, Owner Representative
Jennifer Willis, Attorney for Tenants
Samuel Greenspan, Tenant Unit 8
Kathleen Stann, Tenant Unit 5

SUMMARY OF DECISION

The owner's petition is denied. The units are not exempt from the Rent Adjustment Ordinance.

CONTENTIONS OF THE PARTIES

The owner filed a petition on June 15, 2017, claiming that the 15 units in the building located at 947 61st Street, are exempt from the Rent Adjustment Ordinance (Ordinance) on the grounds of substantial rehabilitation.

At the Hearing, the tenants claimed that the units have not been substantially rehabilitated because of ongoing problems in the units and because the owners did not produce sufficient evidence to support their claim for exemption. Additionally, the

tenants contended that since the owner had not paid its RAP fees prior to filing its petition, the exemption could not be granted.

The owner contended that since it paid its 2017 RAP fees before filing its petition, its petition should be granted and that all required fees were paid for on the day of the Hearing and that it had provided sufficient proof to be entitled to an exemption for substantial rehabilitation.

THE ISSUES

1. Was the owner required to pay all owed rent program service fees prior to filing its petition and how does the moratorium on substantial rehabilitation cases impact this case?
2. Is the tenants testimony about problems in their units and/or fraudulent communication relevant to this claim?
3. Does the building qualify for the substantial rehabilitation exemption?

EVIDENCE

Ownership History: Steven Cooper testified that he and three other entities/individuals are joint owners of the property as tenants in common. They have owned the property since the mid-1980's. Before the rehabilitation the building was used as a commercial enterprise and the ownership rented units to multiple artists and other individuals and companies. The ownership had no knowledge of anyone living on the premises before the rehabilitation took place. There were no kitchens in the units prior to the rehabilitation. The owner could not remember whether there had been bathrooms in the units prior to the work being done.

Cooper also testified that *Advent Properties* was the property management firm managing the property for the ownership group.

Tenant Testimony: Tenant Greenspan and Stann testified about problems in their units and that they were lied to by the owner and managers regarding the repeated assertion that the units were exempt from the Rent Adjustment Program (RAP). This testimony is not discussed in detail as it is not relevant to the owner's petition. (See below.)

RAP Fees: The owner's initial submission of their *Landlord Petition For Certificate of Exemption* was filed on June 15, 2017. This document was filed along with a *Grant Deed*, a list of tenants in the building and their move in dates, an *Appointment of Agents, California Rent Adjustment Program*, a check made payable to the *City of Oakland Revenue Business Tax* for \$14,019.72, dated February 17, 2017, and a letter from the *City of Oakland* to *Advent Properties* and *Jelly Bean Partners* dated June 15, 2017, stating that there were unpaid RAP Service fees due of \$8,139.04. This document specifies that the unpaid RAP fees for 2014 were \$3,998.40 inclusive of penalties and interest, the unpaid RAP fees for 2015 were \$1,612.80 inclusive of penalties and interest and that the unpaid RAP fees for 2016 were \$1,461.60, inclusive of penalties and interest.

The tenant move in dates filed with the owner petition show that tenants moved into the building as early as February of 2016.¹

On December 15, 2017, the owner's filed their evidence for the Hearing and an *Evidence Index*. The owner's proof of payment of the 2017 RAP fees was included in this documentation as Exhibit F, and was admitted into evidence at the Hearing as Exhibit 15. This document shows that on June 15, 2017, the owners paid \$1,904, for their 2017 RAP fees.

At the Hearing, the tenants provided a copy of the *City of Oakland* letter mentioned above, dated June 15, 2017, which shows that there was a balance due on the payment of RAP fees of \$8,139.04 which included the 2016 calendar year.² The payment due date was listed as June 30, 2017.

The owners were questioned about whether or not this account balance due had been paid, and were given an opportunity to contact *Advent Properties* to determine whether a payment had been made, or the opportunity to contact the *Business Tax* division to determine if there was a balance due. After the break, at the Hearing, Mr. Cooper testified that he paid the balance due on his RAP fee account during the break. He paid a total of \$10,486. He was unable to provide information about why the amount paid was larger than the balance due amount shown on the June 15, 2017, invoice.³ The owner was asked to provide proof of this payment by one week after the Hearing date and to get a receipt from the City of Oakland showing the amount paid.

On January 29, 2018, an email was sent to the Hearing Officer from Elizabeth Hart, owner representative, in which she attached an email from Steven Cooper. The email from Cooper states "below is all the City of Oakland would give me to confirm payment of rap fees." Attached to that email was an email from noreplyhdl@oaklandnet.com which states "RAP Renewal Accepted." And states "The RAP renewal for JELLY BEAN PARTNERS, Account # 00197228, has been accepted. No further action is required." This email is dated January 17, 2018. The payment amount is not listed on the document.

Square Footage: The owner testified that the current square footage of the building is 14,360 square feet. The plans produced to the City of Oakland show that the "total revenue area" is 14,360 square feet but that the "gross construction area" not including the interior courtyard is 14,888 square feet.⁴ The "total revenue area" appears to be simply the square footage of the units themselves, while the "gross construction area" also includes the lobby, exit passageways and laundry facility.

The owner further testified that before the construction, it was a one story building.

¹ Additionally, the tenant lease for Sam Greenspan (Exhibit 4) has a move in date of February 13, 2016.

² Exhibit 8

³ It is likely that the balance due amount was greater than the invoice amount due to further accrual of penalties and interest related to the failure to timely pay the bill.

⁴ See Exhibit 11, p 39 of 151

The plans show that the building is a type V, or wood frame, construction.⁵

The Rehabilitation: The owners took out a permit from the *City of Oakland* on July 23, 2014, to “renovate and change use from commercial building to 15 live-work units.”⁶ This permit was finalized on January 25, 2016. An additional permit was taken out to “repair/replace sewer lateral.”⁷ This permit was finalized on June 22, 2015.

The owners testified that they hired *Thomas Dolan* as the architect on the project. No invoice or contract for *Dolan* was provided. The owner produced checks made payable to *Dolan* for \$29,268.26, \$13,275.50, \$14,044.02, \$43,276.12, \$42,882.02, \$3,008.20, \$15,037.54, \$2,495.79, \$2,250.85, \$2,687.50, \$4,837.34, \$2,993.50, \$6,160.65, \$6,250, and \$7,558.96, for a total cumulative payment of \$196,026.50.⁸ The plans provided by the owner (See Exhibit 11) show that the plans were drawn by *Thomas Dolan*.

The owners also hired *Smith Engineering* to do the structural engineering work on the project. No invoice or contract from *Smith Engineering* was produced. The owner produced checks made payable to *Smith Engineering* for \$19,043, \$15,481, \$4,934, \$3,479, \$3,769, \$4,623, \$3,029, \$2,751, \$6,056, \$1,098, and \$26 for a total cumulative payment of \$64,289.⁹

The ownership hired *ICR Builders* as the contractor for the project. *ICR Builders (ICR)* and *Jelly Bean Partners* signed a *Prime Building Contract* for the work that was done on the premises.¹⁰ Additionally, there were several change orders to the contract. The contract provides that the “work” to be done included:

“construction of 15 live-work units, a landscaped courtyard, site-work and street improvements as shown on the Contract Documents described below.”

The owners testified that in the process of the rehabilitation the center portion of the roof was lifted; an interior courtyard was built; the interior of the building was totally demolished; two story units were built; each with decks that look out onto the interior courtyard; the western side of the building was demolished and rebuilt; new sidewalks were installed; new landscaping was installed; bike racks were installed; and new windows were installed throughout.

The original agreed upon contract price with *ICR* was \$1,572,673.14. The owners testified they spent a total of \$2,399.012 on the project, including payments to *ICR*, *Smith Engineering*, *Dolan* and others. The cost was greater than the contract price because of change orders that came up during the construction project.

⁵ Exhibit 11, page 1.

⁶ Exhibit 12, page 1

⁷ Exhibit 12, page 5

⁸ The checks are found in Exhibit 13

⁹ See Exhibit 13

¹⁰ Exhibit 10

The *Outline Specification (Outline)* for the contract sets forth the specifications for the work to be performed. This includes detailed specifications for the mechanical, plumbing, toilet and bath, closet, kitchen cabinets, acoustical considerations, painting, doors, skylights, windows, etc. This *Outline* specifies that the landscaped interior courtyard was 835 square feet and there was a total of 800 square feet of second floor decks.¹¹ The plans show that the square footage of the decks was 940 square feet.¹²

The *Outline* includes a section entitled “concrete paving” which sets forth that a new concrete courtyard would be installed; that the work would include the repair, replacement and construction of a new sidewalk; that a new sidewalk, gutter and curb would be installed on the Lowell Street side of the building; and that an accessible ramp would be installed. (See Exhibit 10, page 8).

The *Outline* also includes a section entitled “storm drains” which sets forth that the contract included the installation of leaders and downspouts to conduct storm water to storm drains and street gutters. In a section entitled “bicycle racks” the *Outline* sets forth that bicycle racks would be installed. The plans also show the bicycle racks.¹³

In a section entitled “landscape planting” the *Outline* sets forth that the contractor would furnish and install plant material, plant four trees, provide manufactured planters and install 24” box street trees. The plans show that a total of 35 trees, shrubs and plantings were planned for the site.¹⁴ Additionally, a section on “Landscape planting soil” sets forth that the contractor was to furnish soil for in ground and planter boxes and prepare the soil.

In the section on “concrete slabs on grade” the *Outline* sets forth that the contractor was to “form and pour concrete slabs, courtyard, ramps, stairs and walkways ...(and) form and pour concrete sidewalks, curbs, and gutters.” In the section on “Misc. Metals” the *Outline* specifies that the contractor is to “provide and install metal handrails and guardrails as needed at 61st Street entry/ramp as shown on the drawings and as required by code.” The plans show that the ramp and handrails are outside the building footprint.¹⁵

Appliances: The *ICR* contract refers to each unit being provided with appliances including a gas range, a range hood, a garbage disposal and a refrigerator.¹⁶ A *Change Order* was added to the contract also requiring that dishwashers be included. The *Outline* (at page 19), sets forth that the cost of the appliances, before the addition of dishwashers, was \$16,500. The dishwashers were added at an additional cost of \$16,500. (See *Summary of ICR/Jelly Bean Contract Reflecting Agreement Reached at Meeting on October 25, 2015*, page 35 of Exhibit 10.)

¹¹ Exhibit 10, page 7

¹² Exhibit 11, p. 3

¹³ Exhibit 11, page 11

¹⁴ Exhibit 11, page 11

¹⁵ Exhibit 10, page 2

¹⁶ See page 16 of Exhibit 10

Landscaping: The owner testified that certain landscaping (as noted in part above) was a part of the contracted job. This included work done on the interior courtyard which was originally expected to be excavated to a particular depth and that cost was part of the original contract (and not specified with particularity.)

While the work was being done, at some point a decision was made by the architects to excavate the courtyard to 8", a deeper excavation than previously planned, which was 5". A *Change Order* was issued to excavate the court yard by 8" per architect direction and to install pavers at the Court Yard. This document specifies the credits being provided to the owner for the work previously agreed upon (remove existing 5" concrete slab and pour new 5" slab concrete) for which the owner was given a \$15,255 credit. An additional credit of \$4,000 was given for eliminating a planter box and a \$1,375 credit was given for eliminating a 25" handrail at main entry.¹⁷

This *Change Order* also specified the cost for the excavation of the courtyard. The owners were charged \$14,410 for the excavation, \$22,800 for the installation of pavers, and \$7,500 for the pavers themselves, for a charge of \$44,710.¹⁸ This *Change Order* also discusses costs added to install 5" of new concrete slab between lines E&F at a cost of \$9,400 and the cost to install 5" of new concrete slab between lines G&H at a cost of \$3,900.

The owner testified that 8 trees and some bushes were planted as part of the contract to the exterior of the building. When asked how the costs for the landscaping could be discerned, the owner responded that these costs were detailed on a spreadsheet that had not been provided for the Hearing. He further testified that all the payments made for the landscaping work was paid directly to *ICR*. Planter boxes were also installed on the exterior. The owner could not point to any documentation in the contract or the *Change Orders* that specified these landscaping costs.

Additionally, the installation of teak benches was a part of the original contract. (See page 17 of 38 to Exhibit 10). There is no indication in the contract that sets out the costs of these benches. There is also an indication in the plans of a planting strip in the interior courtyard section.¹⁹

Sidewalk: The owners testified that a sidewalk was installed on the west side of the building on the Lowell Street side of the property. The sidewalk was 6' in width and approximately 120' in length.²⁰

New Meters: The owners testified that they paid *PG&E* to provide new meters for the units. No invoices from *PG&E* were provided. The owners testified that they paid *PG&E* \$1,125 for two applications for 15 meters in April of 2015. The owners produced proof of payment to *PG&E* for \$4,000, \$450, \$675, for a total cumulative payment of \$5,125.

¹⁷ Exhibit 10, page 28

¹⁸ Exhibit 10, p. 28

¹⁹ Exhibit 11, p. 2

²⁰ This is confirmed by a review of the plans which show on Page 50 of Exhibit 11 (also marked as Section B, 12 of 21) shows that the installed sidewalk was 121'20".

ICR Payments: The owners produced checks to *ICR* or *ICR* and a supplier like Ashby Lumber or Bayshore Supply, in the sums of \$78,633.66, \$125,813.84, \$31,453.46, \$78,633.66, \$12,467.00, \$98,292.07, \$100,000.00, \$14,018.80, \$105,843.19, \$109,390.70, \$102,636.67, \$116,330.13, \$81,954.24, \$150,000.00, \$45,776.27, \$80,000.00, \$35,035.48, \$50,000.00, \$8,889.70, \$71,592.71, \$73,608.40, \$41,865.33, \$67,013.32, \$9,800.00, \$17,500.00, \$45,000.00, \$25,099.08, \$20,009.70, \$18,045.76, \$8,855.29, \$28,488.86, \$13,474.53, \$43,631.03, \$26,123.20, \$4,223.73, \$9,964.52, \$16,110.30, \$18,407.29, \$10,112.14, \$2,986.68, \$17,536.31, \$3,022.53, and \$372.35 for a total cumulative payment of \$2,018,011.93.

Ogden Contract Interiors: The owners testified that *Ogden Contract Interiors* were the vendor from whom they purchased the carpets for the units. No invoice was provided. The owners produced two checks to *Ogden* each for \$11,243.50 for a total cumulative payment of \$22,487.

EBMUD: The owners testified that there was a hook up fee paid to EBMUD for hooking up the water main. The cost was \$93,073 and proof of payment was provided.²¹ No invoice was provided.

Cross-examination of Owner: On cross-examination, Mr. Cooper testified that the contract provided for roofing work was part of the *ICR* contract at page 11 of Exhibit 10 (§07620). He was unable to testify as to the amount spent on the roof as it was not laid out separately in the contract.

The owner testified that when they were going to commence the rehabilitation work, the parties who were renting the spaces prior to the rehabilitation were notified that their leases would not be renewed because the building was being renovated. These prior tenants were told that the owners would welcome their applications to move back into the units after the rehabilitation was complete.

At the Hearing, the tenant's attorney, sought to admit a text message from Kai, a prior tenant, that was not sworn under penalty of perjury, regarding the circumstances of his prior relationship with the owners and the circumstances of the offer for him to move back into the building. This document was not admitted into evidence.

The owner testified that prior to the Hearing he had prepared a spreadsheet to take out certain costs that he believed were not a part of what could be included in a substantial rehabilitation analysis. He did not provide that spreadsheet to the RAP. The costs that he determined were necessary to subtract from the owners' expenses were the costs of interior/exterior landscaping of \$20,000, \$10,000 for asphalt and \$33,000 for appliances. The amount for the appliances was gleaned from the contract and change orders. The amount for the interior courtyard was also gleaned from the contract and

²¹ This check was paid on Howard Goldenberg's personal account because EBMUD was demanding payment that day.

change orders. However, he did not have any indication in the records provided of the cost of building the sidewalk or exterior landscaping.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Was the owner required to pay all RAP fees prior to filing its petition and what is the impact of the moratorium on substantial rehabilitation cases?

The Rent Adjustment Program Regulations state that:

“An Owner’s petition or response to a petition is not considered filed until the following has been submitted:

- a. Evidence that the Owner has paid his or her City of Oakland Business License Tax;
- b. Evidence that the Owner has paid his or her Rent Program Service Fee...” Regulations § 8.22.090 (C).

In this case when the owner filed its petition, it produced proof of paying its Business License tax but only produced a bill from the City of Oakland showing that it had a balance due with respect to its RAP fees. This is not evidence of having paid the Rent Program Service fee, but instead it is evidence of not having paid the fee.

The question then is what happens when an owner does not provide the requisite proof with the filed Petition. The language of the Regulations is clear: “the petition is not considered filed.”

The owner argued that the Ordinance itself states that the rule requiring proof of the Rent Program Service fee only applies to Owner Responses and to Owner petitions seeking rent increases. See O.M.C. § 8.22.090(B)(1). While this is what the Ordinance says, the purpose of an agency’s regulations is to flesh out the rules set forth in the Ordinance. The different language in the Ordinance and the Regulations establish that the HRRRB (who authors the Regulations) wanted the rule about providing proof of payment of the Rent Program Service fees to apply to petitions for exemption in addition to Owner Petitions seeking rent increases.

This case is complicated by the fact that on October 21, 2017, the City Council passed an Ordinance imposing a moratorium on substantial rehabilitation cases. This Ordinance states:

“Petitions for exemption based on substantial rehabilitation filed on or after October 20, 2017 shall be considered new exemption requests and not be accepted for filing, unless or until after the moratorium is lifted or expires, or the City Council authorizes new substantial rehabilitation petitions, and under such modifications to this exemption that the City Council should enact. Petitions for exemption based on substantial rehabilitation for projects for residential buildings (1) that have received certificates of occupancy or final permits for the work, (2) that meet all requirements of O.M.C section 8.22.030B.2. and Rent

Adjustment Regulations section 8.22.030B.3, and (3) that are fully completed and filed before October 20, 2017 are not subject to this moratorium.” Ordinance Number 13465 C.M.S.

In this case, the owner submitted proof of payment of its 2017 RAP fees when it filed its evidence on December 15, 2017.²² Additionally, it was not until January 16, 2018, the Hearing date, that the owner paid the balance due for the fees owed from 2014-2016. While it may be true that some of these fees might not have been owed if the prior building was not residential, it is clear that from at least February of 2016, the owner was renting units in this building to tenants and was not paying the RAP fee. The 2016 RAP fees due totaled \$1,461.60.

In the absence of the moratorium it could be feasible to make a determination about this *Owner Petition* by saying that once the owner provides proof of payment, the *Owner Petition* is considered filed. But the moratorium specifies that where the file is not fully completed and filed before October 20, 2017, then the *Owner Petition* is subject to the moratorium. For these reasons, the *Owner Petition* is denied.

Since this is a matter of first impression, this Hearing Decision is certified for appeal to the HRRRB on this issue. Additionally, the Decision determines the merits of the *Owner Petition* below.

Is the tenants’ testimony regarding alleged problems with their units and/or fraudulent communication relevant to the owner petition?

At the Hearing, the tenants testified regarding ongoing issues with their units in an attempt to argue that since there were ongoing problems with the building, the building could not have been “substantially rehabilitated.” The tenants’ testimony is irrelevant to the *Owner Petition* and is not discussed above.

The determination of whether or not a unit has been substantially rehabilitated is based on a financial analysis, described at length below. There is no place for a determination of the quality of the construction, or an analysis of whether or not the owners got their money’s worth. As such, the tenants’ testimony is not relevant to this case.

Additionally, the tenants argued that the owner fraudulently informed them that the building was exempt from the RAP on multiple occasions. In this case regarding an *Owner Petition*, the RAP has no jurisdiction over any fraudulent communication between the parties.

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²² See Exhibit 15

Has the owner satisfied its burden of proof that the unit is exempt from the Rent Adjustment because it was substantially rehabilitated?

1. The Ordinance and Legal Analysis:

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

- a. “In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project and performed substantial work on each of the units in the building.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.
- c. An Owner seeking to exempt a property on the basis of substantial rehabilitation must first obtain a certificate of exemption after completion of all work and obtaining a certificate of occupancy. If no certificate of occupancy was required to be issued for the property, in lieu of the certificate of occupancy an owner may provide the last finalized permit. For any property that has a certificate of occupancy issued on or before the date of enactment of this subparagraph O.M.C. 8.22.30B.2.c. for which an Owner claims exemption as substantially rehabilitated, the Owner must apply for such exemption not later than June 30, 2017 or such exemption will be deemed vacated.”²³

Subparagraph (c) to the Ordinance was enacted on February 7, 2017. Other than that addition, the Ordinance enacted on February 7, 2017, is not different than the previous version of the Ordinance. The owner filed its petition in this case on February 1, 2017.

Both the 2017 and the 2014 versions of the Rent Adjustment Regulations relevant to substantial rehabilitation state:

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

(b) For the substantial rehabilitation exemption, the entire building must qualify for the exemption and not just individual units.” O.M.C. Regulations § 8.22.030(B)(3).

²³ O.M.C. § 8.22.030(B)(2)(a-c)

Here, the owner is seeking an exemption from the City of Oakland's Rent Adjustment Ordinance. The general rule of law about exemptions is that they are to be "strictly construed." See *DaVinci v. San Francisco Residential Rent Board*, (1992) 5 Cal. App. 4th 24, 27. In *DaVinci* the Court cited *Barnes v. Chamberlain* (1983) 147 Cal. App. 3rd 762 in stating that:

"In interpreting exceptions to the general statute courts include only those circumstances which are within the words and reason of the exception. ... One seeking to be excluded from the sweep of the general statute must establish that the exception applies."

Additionally, the Court in *DaVinci* stated that the rules regarding the interpretation of a municipal ordinance are the same rules as those that govern the construction of statutes. *DaVinci* at 27, citing *City of Los Angeles v. Los Olivos Mobile Home Park* (1989) 213 Cal. App. 3d 1427, 1433. In other words, an owner has the burden to prove an exemption, and any attempt to exempt a property from the Ordinance must be strictly construed.

In order to do the necessary mathematical calculation, it is necessary to look at the tables issued by the Building Services agency which refer to a dollar amount per square foot for new construction of a building. (Exhibit "A" attached). The available *Construction Valuation* table dated closest to the permit completion date is the correct table to use. The *Construction Valuation* table for May 1, 2015, shows that the square footage cost of new construction of a greater than 2 unit building of wood frame construction was \$145.07 in the requisite time period.

2. Square Footage:

At the hearing, the owner representative presented the plans that showed that the square footage of the residential units was 14,360 square feet. However, the plans show that the "gross construction area" which excludes the interior courtyard but includes the lobby, exit passageways and laundry facility, was 14,888 square feet. In this case it is property to use the 14,888 square feet as work was done on the lobby, the exit passageways and the laundry facility and as such, they are part of the analysis. The cost of new construction of a type V apartment building greater than 2 units, is \$145.07 a square foot.

In addition to the square footage of the "gross construction area", the work also included the construction of 940 square feet of decks. Deck costs are an additional \$44.14 a square foot.

In this case in order to qualify for the substantial rehabilitation exemption the owner must establish that it has expended costs in excess of \$1,100,646.88 (14,888 x \$145.07 ÷ 2 plus \$44.14 x 940 ÷ 2).

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3. The owner did not meet satisfy its burden to prove that the allowable costs exceed the requirement that it spend 50% of the basic cost of new construction.

While the owner's petition is denied on the basis of the RAP fee not being paid prior to its filing its petition, the owner has not provided evidence to establish the requisite funds were expended.

a. What expenses can be considered?

In a precedent decision, the Housing, Residential, Rent and Relocation Board held that:

“[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction”²⁴

The applicable rules of evidence are stated in Government Code § 11513²⁵:

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs . . .

The California Evidence Code states: “If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust.”²⁶

In order to establish an allowable expense, the owner must produce the actual invoices, proposals, or estimates along with a proof of payment. An invoice alone is not sufficient evidence of an expense. Similarly, proof of payment alone is not sufficient; a corresponding invoice must be provided.

The reasons that invoices or contracts are required is because these documents explain the work done. Since the work must be to the building (and not to landscaping or driveways) and must be for permanent installations (and not impermanent appliances), it is imperative to view and analyze the proper documentation. Furthermore, the invoices allow analysis as to whether or not the cost in question was expended on the property in question.

The reason that proof of payment is required is because evidence of invoices alone do not establish that a bill has been paid. It is common knowledge that many invoices are

²⁴ *HRRRB Decision, T04-0158, Ulman v. Breen & Orton*

²⁵ Regulations, § 8.22.110(E)(4)

²⁶ Evidence Code, § 412

renegotiated after work is done. Without evidence of both an invoice and proof of payment, the costs are not credited here.

In this case the only contract or invoice produced was the *ICR* contract. *ICR* was the general contractor on the job. No invoices were produced for the architect Christopher Dolan, the structural engineer, *PG&E*, *EBMUD* or *Ogden Contract Interiors*. Therefore, these expenses are not considered in the analysis.

In this case the owner spent money for work that was done to rehabilitate the residential building and for work that was done outside the square footage of the building. For example, the work for the installation of the sidewalk is exterior to the building and is not allowed. Neither is the cost of any landscaping, the planting of trees and shrubs, of providing dirt, teak benches and planter boxes, the bicycle racks or the construction of the interior courtyard, sidewalks, curbs and gutters, the accessible ramp, storm drains, and other non-allowable expenses to any part of the site not included in the square footage of the building. In order for a cost to be eligible as a substantial rehabilitation cost it must be for work done on the structure of the building. This is especially true because the calculation is based on the square footage of the building and does not include the square footage of the landscaped area, the sidewalk or the interior courtyard.

The same is true for appliances. Since the analysis of a substantial rehabilitation claim is based on a square footage calculation, every calculation must exclude the cost of appliances. This is true because the City bases its *Construction Valuation* table on a *Marshall and Swift* calculation that does not include the cost of appliances. Appliances are not included in those tables because it is never known whether a particular building with 15,000 square feet has 5, 10 or 20 kitchens. Since these facts are not known, the City excludes appliances from the square footage calculation. In this case, the owner established that the appliances cost them \$33,000.

The owner established that it paid \$2,018,011.93 to *ICR* for the work done on the building. The problem is that this work included a substantial amount of work that, as noted above, cannot be credited here. It included the cost of an installed sidewalk, of all the work done on the interior courtyard (which includes the demolition of the part of the building that was then created into the courtyard), of the planting of trees and shrubs, of providing dirt, teak benches and planter boxes, of the cost of bicycle racks, accessible ramps and other non-allowable expenses. While the costs of the appliances (\$33,000) can be discerned from reading the contract and the *Change Orders*, this cost is only a small part of the non-allowable expenses that are part of the overall *ICR* contract. Additionally, it is possible to discern that some portion of the interior courtyard work cost \$44,710, it is not clear that the *Change Order* includes all costs of the courtyard work.

Furthermore, there is no statement anywhere within the contract or *Change Orders* provided that specifies any of the landscaping costs, the sidewalk expenses, the cost of benches and bicycle racks, the accessible ramp, and other non-allowable expenses.

The owner argued that since its expenses so far exceeded the required expense, that it could not possibly have cost over one million dollars to do the excluded work. However, the owner has the burden of proof and it is not possible to discern from the documents provided what the costs were to create the sidewalk, to install all the landscaping and other accoutrements and work to the site noted above. If this evidence was not available by written documentation, it was the owner's obligation to provide a witness who could testify as to the non-allowable costs. It is not possible to simply assume that these costs could not have exceeded \$917,365.05 (which is the amount paid to ICR minus the \$1,100,646.88 required expenditure.)

Therefore, the owner did not meet its burden of proof and the owner request for an exemption is denied.

ORDER

1. Petition T17- 0132 is denied.
2. The owner's petition was not filed pursuant to the Regulations requiring that the owner provide proof of payment of the RAP fee when it filed its petition. Because the owner did not provide such proof until after the substantial rehabilitation moratorium went into effect, the owner's petition was not complete at the time the moratorium went into effect.
3. Even if the moratorium does not apply to this case, the owner has not met its burden of proof to establish that it paid at least 50% of the cost of new construction for the allowable expenses.
4. This decision is Certified for Appeal on the issue of whether the Owner Petition should be denied based on the failure to provide proof of payment of the RAP fee until after the moratorium went into effect.
5. **Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: April 6, 2018



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

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

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

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

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

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

³ Remodel Function of New Construction is a 0.52 multiplier.

⁴ Separate structures or occupancies valued separately.

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

Exhibit 'A'

000080

PROOF OF SERVICE

Case Number L17-0132

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 of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included

Hearing Decision

Owner

Freeland Cooper & Foreman, LLP
150 Spear St #1800
San Francisco, CA 94105

Owner Representative

Rent Board Matters/Liz Hart
1801 University Ave #308
Berkeley, CA 94703

Tenants

Andre Malcolm
947 61st St #14D
Oakland, CA 94608

Blair Wagoner
947 61st St #9D
Oakland, CA 94608

Brent Watson
947 61st St #15D
Oakland, CA 94608

Carson French
947 61st St #2D
Oakland, CA 94608

Danielle Reynolds
947 61st St #6D
Oakland, CA 94608

Eduardo J. Esquivel
947 61st St #11D
Oakland, CA 94608

Jason Cuencio
947 61st St 4
Oakland, CA 94608

Jon Alcantara
947 61st St 4D
Oakland, CA 94608

000081

Julia Ferraz
947 61st St #10D
Oakland, CA 94608

Kaan Senaydin
947 61st St #12D
Oakland, CA 94608

Kathleen Stann
947 61st St #5D
Oakland, CA 94608

Mark Streshinsky
947 61st St #3D
Oakland, CA 94608

Phillip McInturff
947 61st St #7D
Oakland, CA 94608

Resident
947 61st St #1D
Oakland, CA 94608

Ronit Varga
947 61st St #13D
Oakland, CA 94608

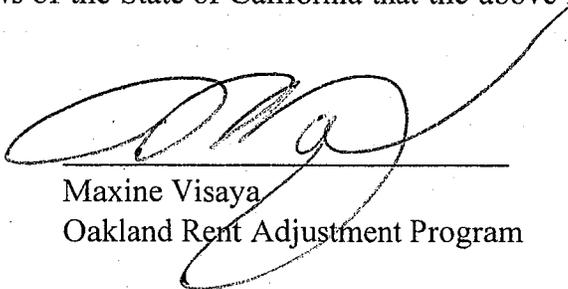
Sam Greenspan
947 61st St #8D
Oakland, CA 94608

Tenant Representative

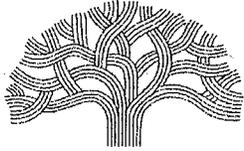
Jennifer Willis
505 14th St #900
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
Executed on Apr 10, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program



CITY OF OAKLAND

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

For date stamp
RECEIVED
APR 25 2018
RENT ADJUSTMENT PROGRAM
OAKLAND
APPEAL

Appellant's Name Freeland Cooper & Foreman LLP		<input checked="" type="checkbox"/> Owner** <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 947 61st Street, Oakland, CA			
Appellant's Mailing Address (For receipt of notices) Freeland Cooper & Foreman LLP, 150 Spear Street, Suite 1800, San Francisco, CA 94105 ATTN.: Steven Cooper		Case Number L17-0132	Date of Decision appealed April 6, 2018
Name of Representative (if any) Rent Board Matters/Liz Hart		Representative's Mailing Address (For notices) 1801 University Avenue, #308 Berkeley, CA 94703	

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.)*

** As set forth in the Landlord Petition for Certificate of Exemption, Freeland Cooper & Foreman LLP is not the owner of the subject building but serves solely as the mailing address for the Landlord Petition.
For more information phone (510) 238-3721.

Rev. 6/22/17

000083

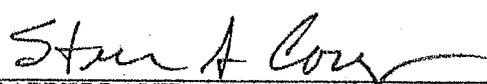
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 15.

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

I declare under penalty of perjury under the laws of the State of California that on April 24, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	SEE ATTACHED SERVICE LIST
<u>Address</u>	
<u>City, State Zip</u>	
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	4/24/18
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

Attachment to Appeal in the Matter of

Case Number L17-0132 Freeland Cooper and Foreman LLP v. Tenants¹

Property Address: 947 61st Street, Oakland, CA

Explanation related to Hearing Officer's determination that (i) Owner failed to pay the Rental Program Service Fee ("RAP Fee") for the units subject to the Landlord Petition when the Landlord Petition was filed, and (ii) Landlord's Petition was not fully completed and filed before October 20, 2017, the date the City Council enacted a moratorium on substantial rehabilitation exemption cases. (Appeal bases 2)(a), (c), (e) and (h)).

1. **All RAP Fees For The 947 61st Street Building and Its Units Were Fully Paid.**

The Hearing Officer determined that "...the owner submitted proof of payment of its 2017 RAP fees when it filed its evidence on December 15, 2017." (emphasis added) and that "it was not until January 16, 2018, the Hearing date, that the owner paid the balance due for the fees owed from 2014-2016"². These determinations are not based on the facts and evidence applicable to the Covered Units that are subject of the Landlord Petition and are inconsistent with the Rent Board Regulations. The Landlord Petition specifically identifies and seeks an exemption solely for the Substantial Rehabilitation exemption of 15 units located in the building at 947 61st Street, Oakland, CA (the "**15 Units**")³; no other building or units are the subject of the Landlord Petition. Located adjacent to the 15 Units are 13 other commercial units in separate buildings (the "**Adjacent Units**") that are not the subject of the Landlord Petition. As

¹ As set forth in the Landlord Petition for Certificate of Exemption, Freeland Cooper and Foreman, LLP is not the owner of the subject building but serves solely as the mailing address for the Landlord Petition.

² Hearing Decision, pages 8-9.

³ See Landlord Petition.

set forth below, on the date of filing of the Landlord Petition, the only RAP Fee due and payable for the 15 Units in the building at 947 61st Street was the 2017 calendar year RAP Fee, which was paid in full by the Landlord's check, dated June 6, 2017, in the amount of \$1,904⁴.

(A) **Periods Prior to the 2016 Calendar Year.** As noted by the Hearing Officer, prior to the Landlord commencing rehabilitation, the 15 Units in the building that is the subject of the Landlord Petition were leased under commercial leases⁵ and thus were not "Covered Units" under the Rent Adjustment Program Regulations⁶. To commence rehabilitation, the commercial tenants were notified that their leases would not be renewed⁷ and during the rehabilitation of the 15 Units, there was no occupancy by tenants nor were any rents received. Thus, prior to completion of the substantial rehabilitation of the 15 Units in the 947 61st Street building and the receipt of rent that commenced in February 2016, in accordance with the provisions of the Ordinance and the Regulations the 15 Units in this building were not Covered Units and no RAP Fees could be imposed or were payable.

(B) **The 2016 Calendar Year.** Tenants moved in to the 15 Units as early as February 2016⁸. With respect to the 2016 calendar year, under the then applicable Rent Adjustment Ordinance, no RAP Fee could be imposed if the 15 Units were exempt⁹. Under the then applicable Rent Adjustment Ordinance, "Substantially rehabilitated buildings" were exempt¹⁰ and were not Covered Units. Prior to the amendment of the currently effective Rent Adjustment

⁴ In order to pay the 2017 RAP Fees for the 15 Units, the RAP Fee Application Form does not provide a fee exemption for commercial units on the same parcel number, and thus required that the RAP Fee paid, \$1,904, be based on all 28 units on the parcel (28 x \$68 = \$1,904).

⁵ Hearing Decision, page 2, "Evidence". As noted on page 4 of the Hearing Decision, the building permit obtained was to "renovate and change use from commercial building to 15 live-work units."

⁶ "Covered Unit" means any dwelling unit, including joint living and work quarters, and all Housing Services located in Oakland and used or occupied in consideration of payment of Rent with the exception of those units designated in OMC 8.22.030 A as exempt". (emphasis added).

⁷ Hearing Decision, page 7 "Cross-Examination of Owner."

⁸ Hearing Decision, pages 2-3 "RAP Fees".

⁹ Ordinance Section 8.22.020: The definition of "Covered Units" excludes those that are "designated in Section 8.22.030A as exempt".

¹⁰ Ordinance Section 8.22.030 A.6.

Ordinance and the publication of the Notice of Changes To The Rent Adjustment Ordinance, effective February 1, 2017, an owner could "obtain a certificate of exemption by claiming and proving an exemption in response to a tenant petition or by petitioning the Rent Adjustment Program".¹¹ Neither the Ordinance nor the Regulations required that an owner file an exemption petition and, instead, an owner was permitted to respond to any tenant petition filed to contest the status of a unit as exempt. No tenant petition contesting the status of the 15 Units in the 947 61st Street building as exempt units was ever filed prior to the tenant's response to the Landlord Petition that is the subject of the Hearing. As set forth on page 10 of the Hearing Decision, prior to February 7, 2017, clauses (a) and (b) of the then applicable Ordinance set forth the requirement for an exemption for substantial rehabilitation¹². As set forth in Section 2 of this Attachment, each of the requirements of clauses (a) and (b) were satisfied by the Landlord. Sections 8.22.030(B)(3) of the then applicable Regulations required that the rehabilitation work be completed within a two year period and that the entire building must qualify for the exemption. The Landlord Petition submitted evidence confirming that each of these two requirements were satisfied and this was not contested at the Hearing. Thus, the 15 Units in this building were exempt under the Ordinance and Regulations applicable during the 2016 calendar year.

(C) **The 2017 Calendar Year.** The new Ordinance enacted in 2017 required that an owner affirmatively file a petition to confirm the substantial rehabilitation exemption for a building. For the first time, a RAP fee became payable if an exemption had not been confirmed previously pursuant to an owner petition for exemption or in response to a tenant petition. Importantly, the new Ordinance provided that "...the owner must apply for such exemption not

¹¹ Ordinance Section 8.22.030 B.(1)(a.).

¹² Clause (a) addressed the 50% spending requirement and clause (b) referenced the average basic cost to be used in this calculation.

later than June 30, 2017 or such exemption will be deemed vacated" (emphasis added)¹³. This language confirms that the owner's failure to file an exemption application would eliminate an existing exemption. This is specifically the case with respect to the 15 Units. Until the adoption of the new Ordinance, with respect to periods prior to 2017 the owner met all of the exemption requirements and was entitled to the substantial rehabilitation exemption for the 947 61st Street building. With respect to 2017 and subsequent periods, the owner properly and timely filed its Landlord Petition to avoid vacation of this exemption.

2. The Landlord Petition Was Fully Completed and Filed Prior to June 30, 2017 and Is Not Subject to the Moratorium.

The Hearing Officer denied the Landlord Petition because (i) it was not "...fully completed and filed before October 20, 2017..." and (ii) "the Owner Petition is subject to the moratorium."¹⁴ The Hearing Officer's denial was based on two separate and incorrect factual conclusions: (i) that it was not until January 16, 2018 that "the owner paid the balance due for fees owed from 2014-2016" and (ii) that "it is clear that from at least February of 2016, the owner was renting units in this building to tenants and was not paying the RAP fee."¹⁵ Each of these conclusions is not supported by the facts and evidence presented.

(A) The Owner Paid All RAP Fees For The 15 Units Prior to January 16, 2018; No RAP Fees For The 15 Units Were Payable From February 2016 Until The 2017 Calendar Year .

As detailed above in Section 1 of this Attachment, no RAP Fees for 2014-2016 for the 947 61st Street building that is the subject of the Landlord Petition were unpaid at the time of filing of the Landlord Petition or at the time of the Hearing. The RAP Fees referred to in the

¹³ Ordinance Section 8.22.030 B.(2)(c).

¹⁴ Hearing Decision, page 9, second paragraph.

¹⁵ Hearing Decision, page 9, first paragraph.

Hearing Decision¹⁶ that were unpaid at the time of the Hearing were those imposed on the Adjacent Units in separate buildings not subject to the Landlord Petition and located at 935 61st Street, Oakland, CA. The June 15, 2017 City of Oakland letter referenced in the Hearing Decision¹⁷ (attached as Exhibit 1 hereto) with respect to unpaid RAP Fees references the "Business Address" as "935 61st St Oakland, CA", the location of the Adjacent Units. The Landlord Petition solely relates to the 15 Units located at 947 61st Street, a separate building with a different address. Thus, the Adjacent Units and buildings are not subject to the Landlord Petition and in no way affect whether the Landlord Petition was fully completed and filed. The Hearing Officer's incorrect determination arises because the Adjacent Units and the 15 Units are located on the same parcel number.¹⁸ The Ordinance and Regulations clearly require that an exemption for substantial rehabilitation be considered on a building by building basis,¹⁹ and not on a parcel by parcel basis. The Hearing Officer's attempt to join units in separate buildings to the Landlord Petition, which expressly covers only the 15 Units, is not supported by any factual or legal basis, nor on the evidence presented, and is contrary to the express provisions of the Ordinance and Regulations. Thus, it is incorrect as a matter of fact and of law and cannot stand as a basis for denial of the Landlord Petition.

(B) The Landlord Petition Was Fully Completed and Filed Before October 20, 2017 and Is Not Subject To The Moratorium.

¹⁶ Hearing Decision, pages 2-3 "RAP Fees".

¹⁷ Hearing Decision, page 3, third paragraph, "RAP Fees".

¹⁸ Parcel No. 15-1346-19-2, which is a matter of public record.

¹⁹ Ordinance Section 8.22.030 Exemptions, Section (B):.

"2. Exemptions for Substantially Rehabilitated Buildings.

a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project and performed substantial work on each of the units in the building." (emphasis added)

Regulations Section 8.22.030(B)(3)(b): "For the substantial rehabilitation exemption, the entire building must qualify for the exemption and not just individual units." (emphasis added)

Because all RAP Fees with respect to the 15 Units were paid in full prior to June 30, 2017, and all other requirements for the substantial rehabilitation exemption petition were completed before October 20, 2017, the Landlord Petition cannot be subject to the Moratorium Ordinance. Section 2 of the Moratorium Ordinance provides that petitions that (i) satisfy the dollar spending requirements, (ii) obtain a certificate of occupancy, (iii) complete the rehabilitation work within two years, and (iv) rehabilitate the entire building "are not subject to this moratorium". The final requirement for a petition to not be subject to the moratorium is that the petition be fully completed and filed before October 20, 2017. As set forth above, the Hearing Officer attempts to join separate buildings to the Landlord Petition as a basis for a determination that the Landlord Petition was not fully completed and filed. As this fails for the reasons stated above, the Landlord Petition was fully completed and filed as required prior to October 20, 2017 (and in fact prior to June 30, 2017) and all other requirements for exemption from the moratorium have been fulfilled by the Landlord.

Explanation related to Hearing Officer's determination that the Owner failed to meet its burden to prove that the allowable costs exceed the requirement that it spend 50% of the basic cost of new construction. (Appeal bases 2)(a), (c), (e) and (h)).

1. The Owner Met Its Burden That It Spent The Required 50% of The Basic Cost of New Construction.

A fundamental requirement for the substantial rehabilitation exemption is that the owner spend a minimum of fifty (50) percent of the average basic cost for new construction for a

rehabilitation project.²⁰ The Hearing Officer determined that this minimum expenditure totaled \$1,100,646.88.²¹ The submitted evidence demonstrated that the owner's original contract price with its general contractor, ICR, was \$1,572,673.14²², approximately 43% more than the required minimum new construction costs before subsequent increases due to change orders and exclusions required by the Ordinance and Regulations. The testimony at the Hearing and evidence submitted by the owner established that a total of \$2,399,012 was spent on the rehabilitation, \$2,018,011.93 to ICR,²³ and the balance principally to the owner's architect and structural engineer.²⁴ Thus, the total costs expended by the owner exceeded the minimum required construction costs by \$1,268,365. Yet the Hearing Officer determined that the owner did not prove that the allowable costs exceeded the minimum requirement. This determination ignores, and seeks to twist, the facts presented and defies logic; no reasonable person would support the Hearing Officer's conclusion.

(A) **Exclusion of Architect and Structural Engineer Fees.** The Hearing Officer excluded in full architectural fees of \$196,026.50 paid to Thomas Dolan Architecture ("TDA") and engineering fees of \$64,289 paid to Smith Engineering ("Smith"). The architectural plans, submitted as evidence, on page 1 identify TDA and Smith as the architects and structural engineers for the rehabilitation project for the 947 61st Street building, and they are also identified as such on page 1 of the ICR Contract. Each Change Order to the ICR Contract was approved and signed by TDA and the owner submitted copies of all checks (back and front) paid

²⁰ Ordinance Section 8.22.030 Exemptions, Section (B):

"2. Exemptions for Substantially Rehabilitated Buildings.

a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project and performed substantial work on each of the units in the building."

²¹ Hearing Decision, page 11, final paragraph.

²² Hearing Decision, page 4, final paragraph.

²³ Hearing Decision, page 13, fourth paragraph.

²⁴ Hearing Decision, page 4, final paragraph.

to TDA and Smith. Although neither TDA nor Smith had been engaged for any other project by the owner, the Hearing Officer excluded these fees because invoices were not submitted as evidence.

To bolster her decision, the Hearing Officer refers to provisions of the California Government Code ("any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs...") and the California Evidence Code ("If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence should be viewed with distrust"). Yet those very Code provisions support the inclusion of the amounts paid to TDA and Smith. The strongest evidence of whether the costs in question were incurred are cancelled checks payable to independent third parties. Based on the specific identification of TDA and Smith as the architect and engineer in the project plans for the 947 61st Street building, the ICR Contract, the Change Orders and the cancelled checks, as well as the testimony at the Hearing, any reasonable person would conclude that these amounts were paid to TDA and Smith for the rehabilitation project of the 15 Units. The Hearing Officer did not suggest that any of the payments to TDA or Smith were paid for some other project; nor was any evidence presented, written or oral, that in any way would lead any reasonable person to view these payments "with distrust", i.e., that the owner was seeking to perpetuate a fraud upon the Hearing Officer by including as rehabilitation project costs payments made to TDA and/or Smith for some other unrelated project. Accordingly, the evidence fully supports inclusion of the payments to TDA and Smith as costs for the 15 Unit rehabilitation project and there was no evidence presented to rebut this logical conclusion.

(B) **Exclusion of \$917,365.05 of Construction Costs.** In its submission and as required by the Regulations, the owner excluded (i) appliance costs of \$33,000, (ii) courtyard and exterior landscape work of \$20,000, (iii) asphalt \$10,000, and (iv) carpeting of \$22,487. As described below, certain of these costs had to be estimated by the owner. Notwithstanding these exclusions, the Hearing Officer concluded that "It is not possible to simply assume that these costs²⁵ [that is , the costs required to be excluded] could not have exceeded \$917,365.05 (which is the amount paid to ICR minus the \$1,100,646.88 required expenditure.)"²⁶ Note that this \$917,365.05 amount excludes the aggregate \$260,315 in architectural and engineering fees described above. When these fees are properly added back, the owner's total expenditures exceeded the minimum requirement by \$1,170,680 (\$917,365.05 + \$260,315).

The ICR Contract called for an initial lump sum to be paid for the rehabilitation project, which included installation of a sidewalk,²⁷ an interior courtyard, an accessible ramp, curbs and gutters and bicycle racks. Due to the lump sum nature of the ICR Contract, it is not possible for the owner to derive from the ICR Contract a specific dollar amount for non-allowable costs. As noted above, the owner made a reasonable effort to do so to comply with the requirements of the Ordinance and Regulations. Importantly, there was no evidence presented, at the Hearing or otherwise, to rebut the owner's submission that it satisfied the minimum expenditures required to qualify for the substantial rehabilitation exemption. However, the Hearing Officer determined that "this work included a substantial amount of work that, as noted above, cannot be credited here"²⁸ and excluded the entire amount of the owner's expenditures in excess of the \$1,170,680 minimum requirement. Essentially, the Hearing Officer determined that the costs of

²⁵ The Hearing Officer, at page 13, second paragraph, references non-allowable expenses, such as trees, landscaping, dirt, benches, bicycle racks, sidewalks, an accessible ramp, interior courtyard and storm drains.

²⁶ Hearing Decision, page 14, first paragraph.

²⁷ Confirmed by the Hearing Officer to be 121 feet in length. Hearing Decision, page 6.

²⁸ Hearing Decision, page 13, last full paragraph.

landscaping, building a 121 foot sidewalk, the costs of benches and bicycle racks, an accessible ramp and other minor non-allowable costs must have exceeded \$917,365.05 (or \$1,170,680 when the architect and engineer costs are properly accounted for). That is almost as much as the entire renovation cost, exclusive of these items! The Hearing Officer made no reference to any evidence, submitted at the Hearing or otherwise publicly available, to support this conclusion.

2. Conclusion With Respect To Construction Costs.

The Ordinance and Regulations require minimum construction costs to be expended to qualify for a substantial rehabilitation exemption, so that minor modifications are not used as a basis to make an end run around Oakland's rent control laws. It is abundantly clear in this case, from the construction plans submitted and other evidence presented, that the rehabilitation of the 947 61st Street building was exactly the opposite- a complete demolition of the building's interior and new construction of units therein. No other conclusion can be reached; that the purpose of this portion of the exemption regulations has been satisfied by the owner's expenditure of more than two times the minimum amount required for this building's rehabilitation.

SUMMARY

1. The Owner timely paid all RAP Fees owed for the fifteen 947 61st Street units subject to the Landlord Petition when the Landlord Petition was filed;
2. The Landlord's Petition was fully completed and filed before October 20, 2017 and is not subject to the moratorium on substantial rehabilitation exemption cases; and
3. The Landlord, as owner, met its burden to prove that the allowable costs expended for the fifteen 947 61st Street units exceeded the requirement that it spend 50% of the basic cost of new construction.

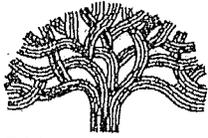
Accordingly, the determination of the Hearing Officer should be reversed and the Landlord's Petition for exemption should be granted.

EXHIBITS

1. June 15, 2017 City of Oakland letter

EXHIBIT 1

000096



CITY OF OAKLAND

CITY OF OAKLAND

Finance Department
Revenue Management Bureau
250 Frank H. Ogawa Plaza Suite 1320 Oakland, CA 94612
(510) 238-3704 TDD (510) 238-3254
www.ltss.oaklandnet.com

Rent Adjustment Program Invoice



ADVENT PROPERTIES, INC.
JELLY BEAN PARTNERS
1600 MACARTHUR BLVD
OAKLAND, CA 94602-1607

BUSINESS ADDRESS:
935 61ST ST
OAKLAND, CA 94608-1365

ACCOUNT NUMBER
00197228
PAYMENT DUE DATE
06/26/2017

June 15, 2017

Dear Business Owner/Operator:

According to our records, your account has a balance of \$10,043.04. This amount was calculated as follows:

Charges	Amount
2014	
RAP Rent Adjustment Program	\$1,904.00
RAP Penalty	\$952.00
RAP Interest	\$1,142.40
2015	
RAP Rent Adjustment Program	\$840.00
RAP Penalty	\$420.00
RAP Interest	\$352.80
2016	
RAP Rent Adjustment Program	\$840.00
RAP Penalty	\$420.00
RAP Interest	\$201.60
2017	
RAP Rent Adjustment Program	\$1,904.00
RAP Penalty	\$952.00
RAP Interest	\$114.24

Total Due: \$10,043.04



CITY OF OAKLAND

Finance Department
Revenue Management Bureau
250 Frank H. Ogawa Plaza Suite 1320 Oakland, CA 94612
(510) 238-3704 TDD (510) 238-3254
www.ltss.oaklandnet.com

The amount due stated on this invoice was calculated using the Invoice Date noted at the top of this form. The principal balance may accrue additional penalties and interest per Oakland's Municipal Code.

YOU CAN NOW PAY YOUR INVOICE ONLINE!
LOG ONTO WWW.LTSS.OAKLANDNET.COM
ACCOUNT #: 00197228 PIN: 810157

**COMPLETE AND RETURN
WITH YOUR PAYMENT TO:**

City of Oakland
250 Frank H. Ogawa Plaza Suite 1320
Oakland, CA 94612-2011
Phone: (510) 238-3704

000098

SERVICE LIST
Case No. L17-0132
Appeal

Owner: Freeland Cooper & Foreman, LLP 150 Spear Suite 1800 San Francisco, CA 94105	Owner Representative: Rent Board Matters/Liz Hart 1801 University Ave, #308 Berkeley, CA 94703
Tenants:	Tenants:
Andre Malcolm 947 61st St., 414D Oakland, CA 94608	Kaan Senaydin 947 61st St #12D Oakland, CA 94608
Blair Wagoner 947 61st St #9D Oakland, CA 94608	Kathleen Stann 947 61st St #5D Oakland, CA 94608
Brent Watson 947 61st St #15 Oakland, CA 94608	Julia Ferraz 947 61st St #10D Oakland, CA 94608
Carson French 947 61st St #2D Oakland, CA 94608	Mark Streshinsky 947 61st St #3D Oakland, CA 94608
Danielle Reynolds 947 61st St #6D Oakland, CA 94608	Phillip McInturff 947 61st St #7D Oakland, CA 94608
Eduardo J. Esquivel 947 61st St 411D Oakland, CA 94608	Resident 947 61st St #1D Oakland, CA 94608
Jason Cuencio 947 61st St 4 Oakland, CA 94608	Ronit Varga 947 61st St #13D Oakland, CA 94608
Jon Alcantara 947 61st St 4D Oakland, CA 94608	Sam Greenspan 947 61st St #8D Oakland, CA 94608
	Tenant Representative Jennifer Willis 505 14th St #900 Oakland, CA 94612

Costa, Robert

From: TrackingUpdates@fedex.com
Sent: Wednesday, April 25, 2018 2:10 PM
To: Jennifer Ryan
Subject: FedEx Shipment 780664843693 Delivered

2018 APR 30 PM 1:41

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

Your package has been delivered

Tracking # 780664843693

Ship date:
Tue, 4/24/2018
Jennifer Ryan
San Francisco, CA 94105
US

Delivery date:
Wed, 4/25/2018 2:05
pm

RENT ADJUSTMENT
PROGRAM

RENT ADJUSTMENT
PROGRAM

250 Frank Ogawa Plaza
Suite 5313
OAKLAND, CA 94612
US



Shipment Facts

Our records indicate that the following package has been delivered.

Tracking number:	<u>780664843693</u>
Status:	Delivered: 04/25/2018 2:05 PM Signed for By: F.DESK
Reference:	2257.1
Signed for by:	F.DESK
Delivery location:	OAKLAND, CA
Delivered to:	Receptionist/Front Desk
Service type:	FedEx Standard Overnight
Packaging type:	FedEx Envelope
Number of pieces:	1
Weight:	0.50 lb.
Special handling/Services:	Deliver Weekday
Standard transit:	4/25/2018 by 3:00 pm

 Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 4:10 PM CDT on 04/25/2018.

All weights are estimated.

To track the latest status of your shipment, click on the tracking number above.

Standard transit is the date and time the package is scheduled to be delivered by, based on the selected service, destination and ship date. Limitations and exceptions may apply. Please see the FedEx Service Guide for terms and conditions of service, including the FedEx Money-Back Guarantee, or contact your FedEx Customer Support representative.

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Thank you for your business.

Costa, Robert

From: Jennifer Ryan <ryan@freelandlaw.com>
Sent: Monday, April 30, 2018 12:00 PM
To: Costa, Robert
Cc: Cohen, Barbara; Steven Cooper
Subject: Case No. L17-0132 - Appeal - Submission Deadline April 30, 2018
Attachments: FedEx Shipment 780664843693 Delivered; Appeal - submitted 4-24-18.pdf

Roberto,

Pursuant to our telephone discussion this morning, and at your direction, I am emailing to you a .pdf of the Appeal we sent to the City of Oakland Rent Adjustment Program last week. I am also copying the hearing officer on this email at your direction. We FedEx'd this Appeal to: Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, CA 94612 and it was delivered on April 25, 2018 at 2:05 p.m. and signed for at that time by the Receptionist at the Front Desk. A copy of our FedEx confirmation is attached for your information. Because you have not yet received the Appeal from your mail room, you asked me to send you this email with the Appeal, and that you will date stamp it as having been received prior to the submission deadline. I would appreciate your emailing me back to confirm this has been done.

Thank you very much for your assistance in this matter.

Jennifer Ryan
Assistant to Steven A. Cooper

Jennifer J. Ryan | FREELAND COOPER & FOREMAN LLP
Legal Support Specialist | Paralegal
150 Spear Street, Suite 1800 | San Francisco, CA 94105
Main: 415.541.0200 | Fax: 415.495.4332
ryan@freelandlaw.com | www.freelandlaw.com

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RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2018 APR 30 PM 3:23

CHRONOLOGICAL CASE REPORT

Case No.: L17-0165
Case Name: Kuhner v. Tenants
Property Address: 1083-1085 55th Street, Oakland, CA
Parties: Peter Kuhner (Owner)
Jill Broadhurst (Owner Representative)
Nelson Reynolds (Tenant)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	June 30, 2017
Tenant Responses filed	September 26, 2017 September 28, 2017
Hearing Decision issued	February 28, 2018
Owner Appeal filed	March 19, 2018

47-0165 MS/BKB

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721</p>	<p>For date stamp. CI RENT ADJUSTMENT PROGRAM</p> <p>17 JUN 30 AM 11:17</p> <p><u>LANDLORD PETITION</u> <u>FOR CERTIFICATE OF EXEMPTION</u> (OMC §8.22.030.B)</p>
--	--

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

Section 1. Basic Information

Your Name Kathleen Kuhner	Complete Address (with zip code) 3250 Helen St Oakland, CA 94608	Telephone Day: 510-847-2387 415-531-8658	
Your Representative's Name	Complete Address (with zip code)	Telephone Day:	
Property Address 1083-1085 55th St Oakland, CA 94608		Total number of units in bldg or parcel. 2	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	<input checked="" type="radio"/> Apartment or Room
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No

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

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

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

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

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

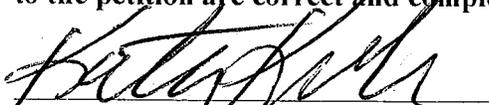
1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building, housing, fire,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

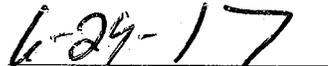
I (We) petition for exemption on the following grounds (Check all that apply):

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

Section 4. Verification Each petitioner must sign this section.

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


Owner's Signature


Date

Owner's Signature

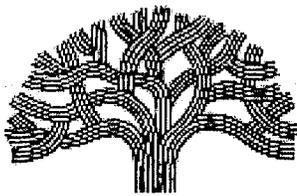
Date

Important Information

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

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

1083-1085 55th St, Oakland CA 94608	
Tenant List	
Address	Tenant Name
1083 55th St, Oakland, CA 94608	James Shapiro, Nelson Reynolds and Celeste Middleton
1085 55th St, Oakland, CA 94608	Riva Bruenn & Emily Moon



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
2017 SEP 26 PM 4:00

CASE NUMBER L17-0165

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Celeste Middleton James Shapiro Nelson Reynolds	Complete Address (with Zip Code) 1083 55th St. Oakland CA 94609	Telephone 512-653-1871
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is: a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

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

JS:
NR: 8/1/13

Exemption Contested

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

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

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

No attachments filed to date - have not been informed about this petition except thru City/RAP. We do not have any evidence to support the claim & would like to learn more

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): Aug 23 2017

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
12/23/16	2/1/17	\$ 3100	\$ 3300	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	8/1/15	\$ 3000	\$ 3100	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	8/1/14	\$ 2900	\$ 3000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	8/1/13	\$ 2700	\$ 2900	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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

Celeste Middleton

Tenant's Signature

[Handwritten Signature]

9/20/17

Date

9/24/17

Tenant's Signature *[Handwritten Signature]*

Date

9/25/17

Important Information

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

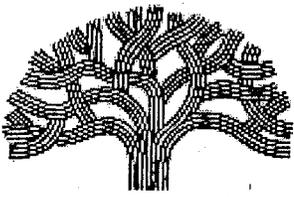
You cannot get an extension of time to file your Response by telephone.

File Review

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

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

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



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2017 SEP 28 AM 8:41

CASE NUMBER L17-0165

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Riva Brulann & Emily Moon	Complete Address (with Zip Code) 1085 55 th street Oakland, CA 94608	Telephone (716) 998-9726
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

2

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

May 24, 2016

Date you moved into this unit:

June 2, 2016

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

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

Exemption Contested

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

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

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

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

When we signed our rental contract we signed a document acknowledging that the unit was exempt from rent control as a substantially rehabilitated building. Now we have received this information about an application for exemption. we are confused by this discrepancy and nothing substantial has changed about the building since we moved in.

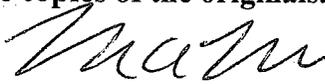
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
6/14/17	8/1/17	\$ 2500	\$ 2700	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

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



Tenant's Signature



Tenant's Signature

9/26/17

Date

9/26/17

Date

Important Information

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

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

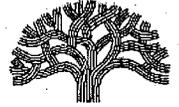
File Review

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

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

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

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA , SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510)238-7629

HEARING DECISION

CASE NO. L17-0165 **Kuhner v. Tenants**

PROPERTY ADDRESS: **1083-1085 55th Street, Oakland, CA**

DATE OF HEARING: **December 4, 2017**

DATE OF DECISION: **February 27, 2018**

APPEARANCES:

Peter Kuhner	Owner
Jill Broadhurst	Owner Representative
Nelson Reynolds	Tenant

SUMMARY OF DECISION

The owner's petition is DENIED.

INTRODUCTION

The owner filed a petition on June 30, 2017, requesting an exemption from the Rent Adjustment Ordinance based on substantial rehabilitation. A copy of the owner petition and notice of hearing was sent to all tenants in the subject building on August 25, 2017.

Tenants Celeste Middleton, James Shapiro and Nelson Reynolds filed a Tenant Response to Claim of Permanent Exemption.

The owner representative contends that the owner expended \$151,829.13

THE ISSUE

Is the subject unit exempt from the Rent Adjustment Program on the basis of substantial rehabilitation?

EVIDENCE

The owner testified that the subject building consists of two units with a square footage of 1,944 square feet and provided supporting documentation of this square footage from Chicago Title Company.¹ The construction work consisted of framing and tile work, fencing, electrical, plumbing, roofing, painting and drywall, garage doors, and installation of cabinets, foundation stucco, and concrete, which totaled \$151,829.13.²

Building Permit Number RB1600238, was issued on February 18, 2009, for replacement of windows, remodel kitchen, bathroom and closet and add rear deck³ Additional permits were issued for plumbing, electrical and mechanical work. The work was "finaled" on July 21, 2009.⁴

The owner testified and provided documentation that the subject building is Type V, wood frame construction on level ground, and that each of the expenses contained in an itemized summary report was paid.⁵

The following documentary evidence of expenses in support of the owner's claim of exemption based on substantial rehabilitation was submitted and received into evidence:

1. Receipts, invoices and cancelled checks for the following vendors

Vendor	Description	Cost	Payment	Date
1. City of Oakland	Permits	\$4,377.81 ⁶	Visa	2-18-09- 7-22-09
2. Ikea	Hardware/cabinets	\$5,148.44 ⁷	Visa	5-20-09- 7-13-09
3. Maciel Roofing	Roofing	\$10,000 ⁸	163	6-11-09
4. Santiago Painting/ Drywall	Painting/Drywall	\$ 9,721.28 ⁹	127,137 136,145 151,152	5-13-09- 6-11-09

¹ Ex. No. EE

² Ex. A

³ Ex. No. DD

⁴ Ex. No. DD

⁵ Ex. No., A

⁶ The owner also submitted permit fees totaling \$4553.25 but it is for 1075 55th Street, not 1083-85 55th St.

⁷ Includes \$79.00 delivery charge

⁸ Ex. No. C

⁹ Ex. No. D- This bill excludes a charge of \$441.22, which was paid prior to the issuance of the building permit (4/29/08)

Vendor	Description	Cost	Payment	Date
5. Peter Kuhner ¹⁰	Fence/Driveway	\$8,397	103,143 162	3-11-09- 6-11-09
6. Economy Lumber ¹¹	Materials	\$7,182.98	113,191	3-29-09+ 8-4-09
7. Ramon Concrete ¹²	Pour Concrete	\$14,229	109,142, 154,158 165,178	3-12-09- 6-19-09 6-11-09- 6-19-09
8. CS Development ¹³	Foundation/ Interior Trim Framing/ Stucco	\$11,850	104,112 132,177	3-9-09 6-19-09
9. Rubenstein ¹⁴	Pluming	\$3,096	141	5-15-09
10. JR Construction ¹⁵	Garage	\$2,500		
11. BND Electric ¹⁶	Electrical	\$6,895	134	5-13-09
12. Tri-County Insulation ¹⁷	Insulation	\$2,703	138	5-15-09
13. BOJ Constn ¹⁸	Windows/ Siding	\$2,175	167,179	6-11-09- 7-2-09
14. Tony Amaral ¹⁹	Landscaping	\$4,991.08	176, visa	6-12-09- 6-19-09
15. Dan Braudrick ²⁰	Debris	\$5,295.50	invoice pd	12-08-7- 7-21

¹⁰ Ex. No. E-The invoice has no vendor and it is for a driveway and fence

¹¹ Ex. No. G

¹² This includes \$1,500 for a fence, \$952 for a driveway, \$875 for landscaping costs and \$2,000 (estimate) for 2 garage floors, totaling \$5,327

¹³ Ex. No. J

¹⁴ Ex. No. K

¹⁵ Ex. No. L-This is an estimate for garage work

¹⁶ Ex. No. M

¹⁷ Ex. No. N

¹⁸ Ex. No. O-Invoice for \$5,475-includes \$3,300 for side garage

¹⁹ Ex. No. P-Invoice is for landscape and plants

²⁰ Ex. No. R

Vendor	Description	Cost	Payment	Date
16. Matt Novak ²¹	Cabinets	\$11,039,72	155,161 190	5-29-09- 8-4-09
17. Seng Song Marble Granite ²²	Tiles	\$8,751.56		
18. Frank Han ²³	Flooring	\$4,862.00		
19. Continental Plumbing ²⁴	Plumbing	\$5,580.00	116,174	4-10-09- 6-16-09
20. Dogtown Dev. ²⁵	Construction	\$13,187.12	102,175	3-5-09- 6-16-09
Payroll	Labor	\$15,529		12-25-08-
21. Chandler Garage Door Service ²⁶	Garage	\$1,950	114	3-18-09 3-21-09
22. Peter Wong Electrical ²⁷	Garage Wiring	\$1,600		
23. Chris Keiser ²⁸	Heater	\$2,000		

Total \$163,058

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicable Law: O.M.C. 8.22.030(A) (6) states that dwelling units located in "substantially rehabilitated buildings" are not "covered units" under the Rent Ordinance.

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

b. The average basic cost for new construction shall be determined using tables issued by the chief

²¹ There is no invoice for these charges

²² Ex. No. T-No proof of payment

²³ Ex. No. U-No proof of payment

²⁴ Ex. No. T

²⁵ Ex. No. V

²⁶ Ex. No. Y

²⁷ Ex. No. W-No proof of payment

²⁸ Ex. No. X-No proof of payment

building inspector applicable for the time period when the substantial rehabilitation was completed.²⁹

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

The Calculation: Table "A" lists square foot construction costs, effective August 1, 2009.

These tables are used as follows: (1) On Table "B," determine the number for the year of construction, geographical district, and type of construction; The resulting percentage is then multiplied by the number derived when the square foot cost shown on Table "A" is multiplied by the number of square feet in the building.

The square footage of the subject building is 1,944 square feet. The appropriate cost table is for level ground renovation construction costs. Construction costs in 2009 are stated below as follows:

The owner testified that the subject building is of wood frame construction. The table issued by the City of Oakland entitled "City of Oakland Building Services Construction Valuation for Building Permits", states if the renovation work were done in 2009 the square foot cost would be \$174.69. (Apartment R2; Category V-wood frame).³⁰This amount multiplied by 1,944 equals \$339,597.36. 50% of that amount is \$169,798.68. Therefore, if the owner expended \$169,798.68 on the construction project, the building is exempt from the Rent Ordinance.

The owner has substantiated allowable expenses of \$ 98,525 which does not exceed the 50% threshold of \$169,798.68 for new construction.

The following costs were disallowed, which totals \$64,533:

- \$4,553.25 of the permit costs is for a different building
- \$441.22 for Santiago Painting was paid prior to the issuance of the building permit
- \$5,327 of the bill from Ramon Concrete is for a fence, driveway, landscaping, and garage floors, which is not included in the square footage of the building. Of the \$14,229 billed, \$8,902 is allowed.

²⁹ O.M.C. Section 8.22.030(B)(2)

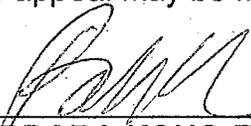
- The costs for Seng Song Marble Granite, Frank Han, Peter Wong Electrical, Chris Keiser, JR Construction and Matt Novak are disallowed because there is no proof of payment. This amount totals \$26,652.
- The costs for landscaping, fence, driveway, and garage are disallowed because it is not part of the subject building and is not included in the square footage of the subject building. The vendors are Tony Amaral, Peter Kushner, Chandler Garage, and this amount totals \$27,560.

Therefore, the building has not been "substantially rehabilitated." The rental units in the subject building are exempt from the Rent Ordinance.

ORDER

1. The owner's petition is denied.
2. The subject building is not a "substantially rehabilitated" building and not exempt from the Rent Adjustment Ordinance.
3. **Right to Appeal:** **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of this decision. The date of service is shown on the attached Proof of Service. If the last day to file is a weekend or holiday, the appeal may be filed on the next business day.

Dated: February 27, 2018



BARBARA KONG-BROWN, ESQ.
Senior Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number L17-0165

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 of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included

Hearing Decision

Owner

Kathleen Kuhner
3250 Helen St
Oakland, CA 94608

Owner Representative

Jill Broadhurst, BIG CITY Property Grp.
PO Box 13122
Oakland, CA 94661

Tenants

Celeste Middleton
1083 55th St
Oakland, CA 94608

James Shapiro
1083 55th St
Oakland, CA 94608

Nelson Reynolds
1083 55th St
Oakland, CA 94608

Riva Bruenn & Emily Moon
1085 55th St
Oakland, CA 94608

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 Feb 28, 2018 in Oakland, CA.

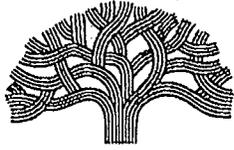


Maxine Visaya
Oakland Rent Adjustment Program

000117

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2018 MAR 19 PM 2:12
Public Stamp



CITY OF OAKLAND

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

APPEAL

Appellant's Name Kathleen Kuhner/ Pete Kuhner		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1083-1085 55th Street Oakland, CA			
Appellant's Mailing Address (For receipt of notices) 3250 Helen St Oakland Ca 94608		Case Number L17-0165	Date of Decision appealed 2/27/18
Name of Representative (if any) Jill Broadhurst BIG CITY Property Group		Representative's Mailing Address (For notices) PO Box 13122 Oakland CA 94661	

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

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

For more information phone (510) 238-3721.

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

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

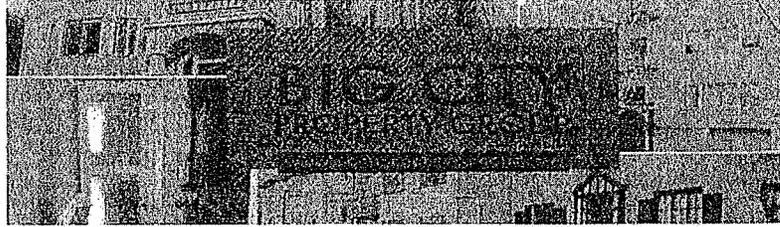
You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on 3/16, 2018, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Nelson Reynolds / Celeste Middleton / James Shapiro
<u>Address</u>	1083 55th St
<u>City, State Zip</u>	Oakland Ca 94608
<u>Name</u>	Riva Bruenn & Emily Moon
<u>Address</u>	1085 55th St
<u>City, State Zip</u>	Oakland CA 94608

	3/14/18
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.



P.O. Box 13122

Oakland, CA 94661

510-838-0655

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2018 MAR 19 PM 2:13

March 16, 2018

To: Rent Adjustment Program

Re: Petition #: L17-0165, Kathleen Kuhner

Good afternoon,

I am the representative for the owner, Kathleen and Pete Kuhner, requesting an appeal for Petition Decision L17-0165. The subject property address is: 1083-1085 55th Street

Reasons for the appeal are:

2009 Square Foot Calculation: The subject property is a Duplex.

Hearing Officer used \$174.69/sqft for "Apartment (>2 units)" is incorrect.

Correct price is \$144.46/sqft for "Single Family & Duplex" (Subject property is a duplex)

See the attached 2009 Construction Valuation table.

Correct calculation for minimum spend:	$(\$144.46 \times 1,944) / 2 =$	\$140,415.12
Hearing Officer calculation for minimum spend:	$(\$174.69 \times 1,944) / 2 =$	\$169,798.68
Difference in calculation for minimum spend:		\$ 29,383.56

Ordinance Language: Ordinance language states under, "2. Exemptions Substantially Rehabilitated Buildings a. In order to obtain an exemption based in substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project and performed substantial work on each of the units in the building." (See attached)

The ordinance does not state that all work must be performed inside the walls of the physical property, as the Hearing Officer states. Rather, substantial work should have been performed in the units as well as OTHER work to substantially rehabilitate the property (parcel). The Hearing Officer's interpretation leads to significant investment omissions and is not consistent with the rent ordinance definition. Pictures, the type of work performed, and the costs associated with this project would satisfy meeting the "substantial work" criteria.

Costs which should be included but were omitted: *These costs were omitted in the Hearing Decision. All expenses were submitted with invoices and proof payments.*

Tony Amaral, Pete Kuhner, and Chandler Garage: \$27,560.00
 Matt Novak (Dogtown Development employee): \$11,039.72
 Dogtown Development (Labor) Payroll: \$23,038.83
 Other Dogtown Development totaling: \$13,187.12
 Ramon Concrete: \$ 5,327.00
 Continental Plumbing: \$ 5,580.00

Vendors that were omitted despite the invoice and proof of payment, and need to be added back in to the total calculation are:

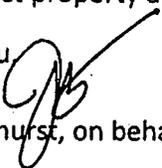
IKEA total is short by: \$10.00
 BOJ Construction total is short by: \$660.00

This omissions and miscalculations total \$85,732.67. Once this amount is added back in, the total dollar spent equals \$184,257.67. This \$184,257.67 is before taking into account the square foot price error on behalf of the hearing officer.

Hearing Officer	Owner
Price Per Square Foot Exemption Total for Building 3 units and above, Minimum ($\$174.69 \times 1944$) / 2 = \$169,798.68	Price Per Square Foot Exemption Total for Duplex, Minimum ($\$144.46 \times 1944$) / 2 = \$140,415.12
Spend Total = \$98,525.00	Spend Total(submitted) = \$195,740.42
Omitted Expenses= \$85,732.67	
Correct Total: $\\$98,525 + 85,732.67 = \\$184,257.67$	

We ask that the exemption be granted. Should the hearing officer have any further questions regarding the subject property an on-site visit can be scheduled with the owner as soon as possible.

Thank you,



Jill Broadhurst, on behalf of Pete and Kathleen Kuhner

City of Oakland
Building Services
Construction Valuation¹
For Building Permits⁴
Effective Aug. 1, 2009

Community Economic Development Agency
 Dalziel Administration Building
 250 Frank Ogawa Plaza - 2nd Floor
 Oakland, CA 94612
 510-238-3891

Tim Low

Occ.	Description ³	Construction Type	Level Ground ²		Hillside Construction		Marshall & Swift 3Q '09 Section pg (Class/type)
			New	Remodel	New	Remodel	
R01	One-Family Residence	V	\$207.93	\$107.92	\$269.79	\$140.29	Section 12 pg 25 (B/c)
R02	Single-Family Duplex	V	\$224.46	\$151.2	\$374.80	\$197.66	Section 12 pg 25 (C/g)
R03	Factory/Manufacturing	V	\$49.60	\$22.62	\$56.65	\$29.71	Section 12 pg 26 (D/g)
R04	Finished Habitable Basement Conversion	V	\$98.74	\$50.74	\$125.05	\$65.18	Section 12 pg 25 (S/a)
R05	Unfinished Habitable Basement	V	N/A	\$48.50	N/A	\$56.58	Section 12 pg 26 (D/g)
R06	Red Interior Walls	V	N/A	\$16.79	N/A	\$21.08	Section 12 pg 2 (C/a)
R07	Red Interior Walls (1/2")	V	\$105.37	N/A	\$126.98	N/A	Section 15 pg 2 (R24X2)
R08	Paint/Finish Floors	V	\$24.70	\$12.84	\$32.11	\$16.70	Section 16 pg 2 (V/C/a)
R09	Ground Level Deck	V	\$60.49	\$15.66	\$89.64	\$20.61	Section 16 pg 2 (D/g)
R10	Elevated Deck & Balcony	V	\$21.66	\$21.40	\$53.51	\$27.82	Section 16 pg 2 (D/g)
R11	Garage	V	\$38.42	\$19.98	\$49.95	\$26.97	Section 12 pg 35 (C/a)
R12	Garage	V	\$24.70	\$12.84	\$32.11	\$16.70	Section 12 pg 35 (D/a)
R13	Reinforced Wall (1/2")	V	\$32.96	N/A	\$42.85	N/A	Section 15 pg 3 (D/rein)
R14	Apartment (2 Units)	V	\$174.99	\$90.84	\$227.10	\$118.09	Section 11 pg 18 (B/g)
R15		V	\$156.91	\$81.59	\$208.98	\$106.07	Section 11 pg 18 (D/g)
R16		V	\$127.00	\$66.04	\$165.10	\$85.85	Section 11 pg 18 (D/g)
Non-Residential Occupancy							
A	Church/Auditorium	I & II	\$247.07	\$128.48	\$321.19	\$167.02	Section 16 pg 9 (B/g)
		III	\$182.01	\$94.65	\$236.61	\$123.04	Section 16 pg 9 (B/a)
		V	\$175.93	\$91.48	\$228.71	\$118.93	Section 16 pg 9 (S/g)
A	Restaurant	I & II	\$221.82	\$115.35	\$288.37	\$149.95	Section 13 pg 14 (A-B/g)
		III	\$174.20	\$90.58	\$226.46	\$117.76	Section 13 pg 14 (C/g)
		V	\$166.80	\$86.74	\$216.84	\$112.76	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	\$145.24	\$75.52	\$188.81	\$98.18	Section 13 pg 17 (C/a)
B	Bank	I & II	\$223.46	\$116.20	\$290.50	\$151.06	Section 15 pg 21 (B/a)
		III	\$182.01	\$94.65	\$236.61	\$123.04	Section 15 pg 21 (C/a)
		V	\$173.02	\$89.97	\$224.93	\$116.96	Section 15 pg 21 (D/a)
B	Medical Office	I & II	\$249.76	\$129.88	\$324.69	\$168.84	Section 15 pg 22 (A/g)
		III	\$243.19	\$126.46	\$316.15	\$164.40	Section 15 pg 22 (B/g)
		V	\$200.73	\$104.38	\$260.95	\$135.69	Section 15 pg 22 (C/g)
B	Office	I & II	\$165.41	\$86.01	\$215.03	\$111.82	Section 15 pg 17 (B/a)
		III	\$120.77	\$62.80	\$157.00	\$81.64	Section 15 pg 17 (C/a)
		V	\$115.34	\$59.98	\$149.94	\$77.97	Section 15 pg 17 (D/a)
E	School	I & II	\$239.11	\$124.34	\$310.84	\$161.64	Section 18 pg 14 (A-B/g)
		III	\$181.96	\$94.62	\$236.55	\$123.00	Section 18 pg 14 (C/g)
		V	\$171.94	\$89.41	\$223.52	\$116.23	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	\$186.25	\$96.85	\$242.13	\$125.91	Section 14 pg 33 (MSG 527C/e)
		III	\$180.70	\$93.96	\$234.91	\$122.15	Section 14 pg 33 (MLG 423C/e)
		V	\$175.14	\$91.07	\$227.68	\$118.39	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	\$186.04	\$96.74	\$241.85	\$125.76	Section 15 pg 22 (B/a)
		III	\$152.09	\$79.09	\$197.72	\$102.81	Section 15 pg 22 (C/a)
		V	\$146.52	\$76.19	\$190.48	\$99.05	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	\$143.82	\$74.79	\$186.97	\$97.22	Section 13 pg 26 (A/g)
		III	\$117.10	\$60.89	\$162.23	\$79.16	Section 13 pg 26 (C/g)
		V	\$113.19	\$58.86	\$147.15	\$76.52	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	\$157.34	\$81.82	\$204.54	\$106.36	Section 14 pg 15 (B/a)
		III	\$134.38	\$69.88	\$174.69	\$90.84	Section 14 pg 15 (C/a)
		V	\$111.93	\$58.20	\$145.51	\$75.66	Section 14 pg 15 (D/a)
S	Warehouse	I & II	\$96.28	\$50.07	\$125.16	\$65.09	Section 14 pg 26 (A/g)
		III	\$91.77	\$47.72	\$119.30	\$62.04	Section 14 pg 26 (B/g)
		V	\$90.79	\$47.21	\$118.03	\$61.37	Section 14 pg 26 (C/ml/g)
S	Parking Garage	I & II	\$76.31	\$39.68	\$99.20	\$51.59	Section 14 pg 34 (A/g)

¹ Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); Includes 1.3 regional multiplier (see Sec. 99 pg 6 July 2009 Marshall & Swift)
² Hillside construction = slope >20%; multiply by additional 1.3 multiplier
³ Remodel Function of New Construction is a 0.52 multiplier.
⁴ Separate structures or occupancies valued separately.
⁵ Separate fees assessed for E/P/M permits, R.O.W. Improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.