

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

**NOVEMBER 1, 2018  
7:00 P.M.  
CITY HALL, HEARING ROOM #1  
ONE FRANK H. OGAWA PLAZA  
OAKLAND, CA**

**AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
  - A. Appeal Hearing in cases:
    - i. T17-0294; Armas v. Noh, et al.
    - ii. T17-0390; Allen v. Casalongue
    - iii. T17-0575; Titcomb v. Vinyard-Ide
5. SCHEDULING AND REPORTS
6. 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](mailto:sshannon@oaklandnet.com) or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [sshannon@oaklandnet.com](mailto: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](mailto:sshannon@oaklandnet.com) 或致電 (510) 238-3715 或 711 California relay service。請避免塗搽香氛產品, 參加者可能對化學成分敏感。

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

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

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

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

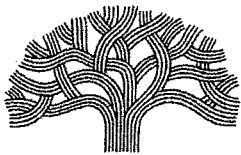
## CHRONOLOGICAL CASE REPORT

Case Nos.: T17-0294  
Case Name: Armas v. Noh et al  
Property Address: 3036 Brook Street, #4, Oakland, CA  
Parties: Irene Noh (Property Owner)  
Robert Armas (Tenant)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 10, 2017
Owner Response filed	September 20, 2017
Hearing Decision mailed	December 27, 2017
Owner Appeal filed	January 16, 2018

T17-0294 MS/BC



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
For date stamp.

2017 MAY 10 AM 11:24

**TENANT PETITION**

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

**Please print legibly**

Your Name <b>ROBERT ARMAS</b>	Rental Address (with zip code) <b>3036 BROOK ST # OAKLAND CA 94611</b>	Telephone: <b>510) 753-4323</b>
		E-mail: <b>rmarmas98@gmail.com</b>
Your Representative's Name <b>ROBERT ARMAS</b>	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) <b>FRENCH-SHIM WOH. KANGHO JOON</b>	Mailing Address (with zip code) <b>3036 BROOK ST OAKLAND CA</b>	Telephone: <b>415) 8299-9951</b>
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 6 units.

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

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

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

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

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

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

Date you moved into the Unit: May 1 - 1995 Initial Rent: \$ 495.00 /month

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

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?	
		From <u>May 2017</u>	To <u>June 2017</u>		Yes	No
<u>May 7 2017</u>	<u>Now</u>	\$ <u>50.00</u>	\$ <u>50.00</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
<u>Oct-2012</u>	<u>N/A</u>	\$ <u>716.00</u>	\$ <u>Now</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes  
 No

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

**III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:**

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

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

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

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

Please attach documentary evidence if available.

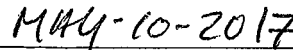
You have the option to have a City inspector come to your unit and inspect for any code violation. To make an appointment, call the City of Oakland, Code of Compliance Unit at (510) 238-3381.

**IV. VERIFICATION:** The tenant must sign:

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



Tenant's Signature



Date

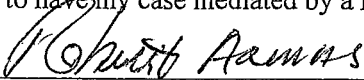
**V. MEDIATION AVAILABLE:** Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

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

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

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

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



Tenant's Signature

MAY - 10 - 2017  
Date

## **VI. IMPORTANT INFORMATION:**

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

### **File Review**

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

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

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

510) 753 4323

MAY 10 - 2017 2017 MAY 10 PM 1:25

NAME: ROBERT ARMAS  
3036 BROOKST 4  
OAKLAND CA 946

TODAY I FILED PETITION:

I AM ADDING ON TO MY PETITION: LIST OF COMPLAINT:

- ① MY CEILING IN MY BED ROOM, OVER MY HEAD IS A CRAKED ACROSS MY HEAD  
FAN DOWN ANY TIME.
- ② SIDE OF MY WALL ALSO IS CRAKED -  
I HAVE DUCT - TAP ON IT - HEALTHY FEELS  
FOR MY DOG - AND ME.
- ③ LIVING ROOM CEILING CRAKED -
- ④ KITCHEN SINK FAUCET LITTLE HOT WATER  
COMING OUT, AND LEAKS
- ⑤ LIGHT FIXTURE ON THE CEILING NEED TO  
BE FIXED, MAY CAUSE A SHORT.



MAY 10, 2017

ROBERT ARMAS

I, ROBERT ARMAS, NEVER RECEIVED A CONTRACT  
OWNER, IRENE NOH - ON KANG HO JOON, NO DOG POLICY  
ANY LEASE OR CONTRACT, HOST OF MY DOG -  
WOULD BE DAMAGING TO ME AND THE DOG -  
COST ME OVER 1,000, DOLLARS A MONTH, ~~UNIT~~ 6 UNIT.  
AT 3036 BROOK ST OAKLAND CA 94611 AND PARKING  
NEVER HAD TO PAY FOR PARKING AT ALL, FREE  
WITH THE UNIT WHEN I MOVE IN,

1. I HAVE NO HEAT IN MY UNIT - 4 - 2007

2. THE OWNER WAS TOLD OF THIS PROBLEM NEVER  
WAS FIXED,

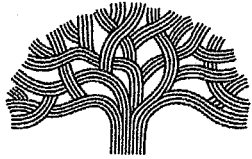
3. INCREASED MY RENT - P.I.E. BY 10% PERCENT  
OWNER WILL NOT DO ANY REPAIRS IN MY UNIT AT ALL

4. KITCHEN SINK, HOT WATER, RECEIVING LITTLE WATER

5. SHOWER IS NO GOOD - WILL NOT REPAIR OR FIX  
IT, VERY OLD - MUST EQUIPMENT, WATER COMING OUT -

Robert Armas

MAY 10, 2017



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp:

RENT ADJUSTMENT PROGRAM

2017 SEP 20 AM 9:05

**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T** - T17-0294

Your Name Irene ZLSim 104 Kang Ho Joon	Complete Address (with zip code) 3036 Brook St #2 Oakland CA 94611	Telephone: 415-299-9951
		Email: KHJCOONP107@hotmail.com
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) Robert Armas	Complete Address (with zip code) 3036 Brook St #4 Oakland CA 94611	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00133835  
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes  No  APN: 009-0103-035-01  
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 10/07/2005

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

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

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

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

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

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

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

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

The tenant moved into the rental unit on 3/01/1995.

The tenant's initial rent including all services provided was: \$ 582.41 / month.

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

Yes  No  I don't know

If yes, on what date was the Notice first given? 2006

Is the tenant current on the rent? Yes  No

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
<u>4/2/2007</u>	<u>5/2/2007</u>	<u>\$ 650</u>	<u>\$ 707.63</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<u>2012</u>	<u>2012</u>	<u>\$ 707.63</u>	<u>\$ 720</u>	<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

### III. EXEMPTION

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

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

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

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

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

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

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

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

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

### IV. DECREASED HOUSING SERVICES

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

### V. VERIFICATION

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

  
\_\_\_\_\_  
Property Owner's Signature

  
\_\_\_\_\_  
Date

**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

**Mediation Program**

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

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

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

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

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

Landlord's position in response to tenant's claim of decrease in housing service.

We have served two letters, in response to tenant's action which may interfere with other tenants' welfare of the property.

Robert Armas, without any notice, brought home a pitbull puppy. Because of the nuisance the dog causes, we have send him a letter to vacate the dog and enforced the No Dog Policy. No other tenant had dog as pet before and all the other tenant has No Pet policy in their lease. Because Robert has been tenant over past two landlords, his lease agreement has never handed down to our family when we took over the ownership. Instead we have Tenant Estoppel Certificate with Robert, which does not state anything about the Pet Policy. However, record of all the other tenants' lease contract, even the one from similar time of Robert's move in date, it all have No Pet, policy. Despite having pet policy or not in the lease, Roberts 100+ pound dog caused a great deal of nuisance and it was necessary for landlord to take an action for the sake of the rest of the tenants living in the building.

Robert and some of the past tenant has had cat as pet. For cats never raised issues like noise, or having to take them outside daily for walking or excrete waste. However, noise of dog running, barking, and not taking owner's responsibility to keep the common area clean from dog's fur or dirt from outside and picking up the waste around the property was not kept very well.

Robert is Claiming that his service is being lost for he is being ask to have no dog when he was able to have cat. We do not believe matter is not about losing the right or service, but it is about dog being direct nuisance to other tenants and Robert is being asked to make consideration for other tenants living in the building together.

Second letter asked Robert to pay for the use of parking space if he wants to starting parking cars. Two of the parking space have become available at the time of the notice, due to one of the tenant moving in without a car, and another tenant moving out, taking the car with him. Robert never owned a car to parked in the property, at least past 12 years of our family having been the owner of the property. Robert always rode motorcycle for his commute and parked in the small area in the back by the fence and he never had to pay for his motorcycle parking. Robert parking his motorcycle never conflicted with other tenants' car parking spaces, for Robert only needed small area for motorcycle parking. Robert one day traded his motorcycle with two used cars and parked them in the two parking space without any notice or consent. Both parking spaces were once paid parking space by other tenants'. If it becomes available, priority of who could use the space should be discussed and decided upon agreement through communication. Robert should not just start parking, not only one but two cars, without any notice or agreement. We wrote him a letter to pay for the parking if he wishes to use the spaces. He does not have a lease contract gives him the parking right to reserve those two spaces and he never needed to reserve a space big enough for a car in order to park his motorcycle.

Robert is claiming that his service is being lost for he is being asked to pay for the use of the car parking spaces. Robert's service is not being lost, but Robert is demanding for greater service for free of charge. The two parking spaces, which Robert tries to park his cars, have been reserved for paid tenants in past. Just because they became available temporarily after the tenant moved out, does not mean that Robert can reserve the parking space for his use. The matter should have been discussed and mutually consented.

RECEIVED

SEP 20 2017

RENT ADJUSTMENT PROGRAM  
OAKLAND

To whom it may concern

Case Number T17-0294

Regards; Late Submission of the Property Owner Response.

We have had misunderstanding of the Property Owner Response form and its deadline. After we realized that the form was already late and wanted to find out what needed to be done by visiting the office, we were told to call the analyst, Margaret and ask about the matter. After leaving several voice messages and no answer calls, we did not know what to do or not certain if the Hearing is still valid as the already scheduled Hearing Date as September 28th. The instruction only says to turn in the forms before the deadline date, not explaining what to do if turning in late. The visit to the Rent adjustment program office and phone calls to Margaret, the Analyst, did not gave us the answer whether we should still turn in the Property Owner Response or if there is any other procedure we have to follow. So, here we are, turning in all the documents, which include, 1) Property Owner Response Form, 2) Evidence and background explanation of what led to the hearing.

We will assume that the Hearing is on as scheduled and appear on the Hearing date on Sep. 28th, 2017. 2pm .

We are truly sorry for making mistake and turning in the Property Owner Response late. Please let us know, if there is anything we need to do in order to make things right or Hearing needs to be rescheduled.

Thanks

Sincerely

Kang, Ho Joon & Irene Noh

415-299-9951

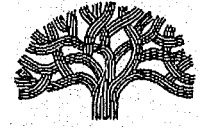
khjoon0107@hotmail.com

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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:** T17-0294, Armas v. Noh, et al  
**PROPERTY ADDRESS:** 3036 Brook Street, #4, Oakland, CA  
**DATE OF HEARING:** November 9, 2017  
**DATE OF INSPECTION:** November 21, 2017  
**DATE OF DECISION:** December 27, 2017  
**APPEARANCES:** Robert Armas, Tenant  
Irene Noh, Owner  
C. Daniel Kim, Interpreter

## SUMMARY OF DECISION

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

## CONTENTIONS OF THE PARTIES

The tenant filed a petition on May 10, 2017, contesting multiple rent increases from on the following grounds:

- The CPI and/or banked rent increase notice was calculated incorrectly;
- The increases exceed the Consumer Price Index (CPI) Adjustment, are unjustified or are greater than 10%; and,

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- He received a rent increase notice before the property owner received approval from the Rent Adjustment Program (RAP) for the increase and the increase exceeds the CPI Adjustment and available banked increase;

Additionally, the tenant claimed that his housing services had decreased and that at present there exists a health, safety, fire or building code violation in the unit. The claims of decreased services involve: the ceiling in his bedroom is cracked; the wall is cracked; the living room ceiling is cracked; the kitchen faucet leaks and does not provide hot water; the light fixture on the ceiling needs to be fixed; there is no heat in his unit; there is a problem in the shower; and, the rent was increased for PG&E service. The tenant also claimed that he was being forced to stop having a dog in his unit and he was being charged for parking.

The owner filed an untimely response to the tenant petition on September 20, 2017, denying the tenant's claims and alleging that the *RAP Notice* was served in 2006.

### **THE ISSUES**

1. Was their good cause for the failure of the owner to file a timely response to the tenant petition? If not, what are the consequences?
2. When, if ever, was the form Notice to Tenants of the Residential Rent Adjustment Program (*RAP Notice*) first served on the tenant?
3. What rent increases is the tenant contesting?
4. Can the owner charge the tenant for parking?
5. Have the tenant's housing services decreased, and if so, by what percentage of total housing services provided to the tenant?
6. What, if any, restitution is owed between the parties, and how does it affect the rent?

### **EVIDENCE**

**Rental History:** The tenant testified that he moved into the subject rental unit in May of 1995, at an initial rent of \$495 a month, inclusive of parking and utilities (*PG&E*, water and garbage). He had an original written lease, but has lost it. At the time he moved in, there were different owners than the people who currently own the unit. The tenant further testified that he did not receive the *RAP Notice* when he moved in, or at any other time since he moved in. He is currently paying \$720 a month in rent.

The tenant further testified that sometime in 2012, he received a rent increase to \$720 a month. He is not contesting that rent increase.<sup>1</sup> However, sometime in May of 2017, the owner told him that he would have to start paying \$50 a month for parking his car on the premises. He has not paid that rent increase.

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<sup>1</sup> The tenant's petition had listed the October 2012 increase and he had checked the "yes" box under the words, "Are you contesting this Increase in this Petition?"

Official Notice is taken of the *Tenant Petition* in case T06-0001, a prior case between the parties. On the petition in that case, which was signed under penalty of perjury, the tenant stated that he first received the *RAP Notice* in July of 2005.

Decreased Housing Services:

1. Bedroom ceiling: The tenant testified that over the years the ceiling in his bedroom started to disintegrate. This was going on for over 7 years. He complained to the owner and she did not make any repairs. After he filed his petition, she had the entire unit painted, and fixed this problem in September of 2017. The tenant did not produce any evidence of this (or any) condition.<sup>2</sup>
2. Bedroom wall: The tenant testified that the bedroom wall was also cracked. This was also ongoing for many years and was repaired in September of 2017.
3. Living room ceiling: The tenant testified that the living room ceiling was similarly cracked. He complained to the owner and no repair was done until he filed his petition.
4. Kitchen faucet: The tenant testified that the kitchen faucet was leaking for two to three years. It was leaking into the sink. He complained about this to the owner two to three years ago. The owner attempted to repair the problem twice before and it continued to leak. It was repaired for good in September of 2017.
5. Light fixture: The tenant testified that the light fixture in the middle of the bedroom ceiling was barely hanging onto the ceiling because it was cracked. This problem had been ongoing for many years. He complained to the prior owner and to Ms. Noh. His complaint to Ms. Noh was more than three years ago. It was not repaired until September of 2017.
6. No heat: The tenant testified that there was no working heat in his unit for many years. When he moved in, there was a gas heater in the unit, but the owner determined it was a fire hazard. Right before the building was sold to Ms. Noh, the prior owner installed an electric wall heater. This heater never worked. In 2005, he informed Ms. Noh that the heater did not work. She took no action to repair it. The tenant bought several electric heaters with his own money. As a result of his petition, the owner repaired the electric wall heater in September of 2017.
7. The shower: The tenant testified that the shower in his unit is very old and that there are problems with the shower. The shower is a converted bathtub, and the shower curtain surrounds the tub. The shower curtain is held up by a metal apparatus that was barely being held up. There are some electric pipes that are adjacent to the shower that concern him because of the proximity to water.

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<sup>2</sup> The tenant had photographs on his phone that he sought to show the Hearing Officer. These were not produced 7 days before the Hearing, as required. This photographs were not referred to during the Hearing.

This Hearing Officer inspected the tenant's unit on November 21, 2017, in the presence of the tenant and the owner, to review this claim only, as all the others had been repaired prior to the Hearing. At the Inspection the shower is a converted tub with metal conduit piping attached to the ceiling around the tub, from which a shower curtain is hanging. There are no electrical pipes or dangerous condition around the shower.<sup>3</sup>

8. *PG&E Service charges*: The tenant testified that when the owner purchased the building she tried to require the tenants to pay for their *PG&E* costs, even though the prior lease stated that utilities were included. The owner had sought to charge for utilities in the past, but at this time is not trying to charge the tenant for utilities.

The owner testified she was not seeking to charge the tenant for utilities.

9. *Dog*: The tenant testified that he did not have a dog at the time he moved in, (although he had other pets) but there were never any rules prohibiting him from owning a dog. He had a dog for several years beginning about 5 years after he moved in, and there was no complaint from the prior owner during that dog's life. About three years ago, the tenant got another dog. There are two other tenants with dogs who live in the building.

In May of 2017, the tenant received a letter from the owner regarding a "no dog policy".<sup>4</sup> This letter was sent to all tenants. The letter states that the new tenants have lease provisions regarding this policy and that this applies to the old tenants as well. Additionally, the letter states that it is "official notice to all tenants that no dog is allowed to raised in any of the unit of 3036 brook street." (Grammatical error in the original). Additionally, the letter specifies that if there is a dog in a tenant's unit that the tenant is required to get rid of the dog by the end of the month.

The tenant has not gotten rid of his dog. However, the owner regularly complains to him about his dog, because she lives below him. She complains about the dog barking and making noise. The tenant denies that the dog makes noise. The tenant believes that he is being harassed because he pays low rent. The two other tenants who have dogs have not been harassed about their dogs and have been allowed to keep them.

Owner Response: The owner testified that she received the *Tenant Petition* in May or early June of 2017. She gave it to her son for safekeeping as soon as she got it. The owner's first language is Korean, but she can communicate in English. Her son speaks English fluently. When she and her son tried to find the petition, her son had misplaced it. At that point, she came down to the RAP to get another copy. She was working very hard during this time, as was her son, so she did not keep track of the documents.

Official Notice is taken of the file in this case. The *Activity Log* shows that on September 13, 2017, the owner contacted the program for a full copy of the file. The *Owner Response* was filed on September 20, 2017.

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<sup>3</sup> At the Inspection the tenant claimed that some repairs were made to the shower since the Hearing.

<sup>4</sup> Exhibit 1. This exhibit was admitted into evidence without objection.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### **Was there good cause for the failure of the owner to file a response to the tenant petition?**

The Rent Adjustment Ordinance requires an owner to file a response to a tenant petition within 35 days after service of a notice by the Rent Adjustment Program (RAP) that a tenant petition was filed.<sup>5</sup> "If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . ."<sup>6</sup> The file in this case shows that the *Tenant Petition* and accompanying documents were served on the owner on May 11, 2017. The owner responded to the petition on September 20, 2017.

The owner acknowledged receiving the *Tenant Petition*. The owner's only explanation for why she did not respond to the petition in a timely fashion is because her son misplaced it and they were both very busy. This does not amount to good cause. Therefore, the owner's participation at the Hearing was limited to cross-examination and providing a summation.<sup>7</sup>

### **When, if ever, was the RAP Notice first served on the tenant?**

The Rent Adjustment Ordinance (Ordinance) requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>8</sup> and together with any notice of rent increase or change in the terms of a tenancy.<sup>9</sup> An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.<sup>10</sup>

The tenant testified that he was never served with a *RAP Notice*. However, in a prior petition between the parties, the tenant acknowledged that he received the *RAP Notice* in July of 2005. It is found that the tenant received the *RAP Notice* in July of 2005.

### **What rent increases are being contested?**

The tenant's petition appears to contest two rent increases. The first is a \$50 increase (for parking) that was noticed on the tenant on May 7, 2017. The second is an increase from October of 2012, increasing the rent to \$716 a month. At the Hearing, the tenant withdrew his claim about the rent increase from October of 2012. He also testified that the rent is \$720 a month. The tenant is contesting the \$50 rent increase for parking.

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<sup>5</sup> O.M.C. § 8.22.090(B)

<sup>6</sup> O.M.C. § 8.22.070(C)(2)

<sup>7</sup> Board Decision in *Santiago v. Vega, HRRRB, T02-0404*.

<sup>8</sup> O.M.C. § 8.22.060(A)

<sup>9</sup> O.M.C. § 8.22.070(H)(1)(A)

<sup>10</sup> O.M.C. § 8.22.060 (C)

### **Can the owner increase the rent for parking?**

The tenant testified that the owner sought to increase the rent by \$50 a month for parking. When he moved into the unit parking was included in the rent. There was no contrary testimony.

The Rent Adjustment Ordinance provides that parking is "housing service." O.M.C. § 8.22.020. The owner cannot charge for a housing service that previously had been provided free of charge.

Since the tenant has not paid the parking charge, there is no money owed to the tenant. The owner cannot charge this tenant for his right to park in the parking lot.

### **Have the tenant's housing services decreased, and if so, by what percentage of total housing services provided to the tenant?**

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>11</sup> and may be corrected by a rent adjustment.<sup>12</sup> However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

In a decreased housing services case a tenant must establish that he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to relief. Additionally, there is a time limit for claiming decreased housing services. When the *RAP Notice* has been given, if the claim is one of a continuing nature, the tenant can file at any time, but is limited to relief for 90 days prior to filing his petition.<sup>13</sup>

In this case, since the *Tenant Petition* was filed on May 10, 2017, the tenant is entitled to seek restitution for claims beginning on February 9, 2017.

Bedroom ceiling: The tenant established that there was an ongoing problem with the bedroom ceiling cracking for many years. However, there were no photographs produced that establish how serious this problem was and the tenant's testimony was vague. The tenant has not met his burden of proof on this issue and this claim is denied.

Bedroom wall: As with the bedroom ceiling, the tenant's vague testimony about this condition was not sufficient to establish a claim without some other evidence. This claim is denied.

Living room ceiling: As with the bedroom ceiling, this claim is denied.

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<sup>11</sup> O.M.C. § 8.22.070(F)

<sup>12</sup> O.M.C. § 8.22.110(E)

<sup>13</sup> O.M.C. § 8.22.090(A)(3)

Kitchen faucet: The tenant established that there was an ongoing problem with the kitchen faucet leaking, about which he complained, for two to three years. Without more specificity as to when it started, the tenant's testimony was sufficient to establish that this was an ongoing problem at least as far back as November of 2015, two years before the Hearing. This was repaired in September of 2017. The tenant is entitled to restitution of overpaid rent for this condition, of 1% of the rent, from February 10, 2017, until it was repaired. See the chart below.

Light fixture: Again, there was no evidence to establish the severity of this condition. Therefore, this claim is denied.

No heat: The tenant established that he had no heat in his unit until September of 2017. Heat is a required amenity. The Oakland Building Maintenance Code provides that heating facilities shall be capable of maintaining a room temperature of 68° and "such facilities shall be installed and maintained in a safe condition and in accordance with the Oakland Building Construction Code..." O.M.C. § 15.08.260. Failure to provide a working heater violates this Code and is a breach of the warranty of habitability.

However, the tenant mitigated his damages by providing his own space heaters. And since the owner was paying for the utility bill, these heaters did not cost the tenant any more money than the cost of the heater itself. Because the tenant was able to provide some heat, his loss is limited to 3% of the monthly rent. The tenant is entitled to restitution of overpaid rent for this condition, beginning on February 10, 2017, until the heater was repaired in September of 2017.

The shower: At the inspection there was nothing wrong with the shower. Additionally, the tenant's testimony about this condition was vague and unclear. Furthermore, no photographs were provided. This claim is denied.

PG&E Service charges: At the Hearing the evidence established that the owner is not trying to pass on the *PG&E* costs to the tenant at this time.

Dog: The tenant established that there were no rules prohibiting him from having any pets when he moved into the unit. He had pets when he moved in, and had a dog near the beginning of his tenancy. The owner cannot now impose a rule prohibiting dogs for this tenant.

However, since the owner has not charged the tenant any fees for this dog, or sought to evict him for having the dog, there is no restitution owed to the tenant for this problem.

**What, if any, restitution is owed between the parties, and how does it affect the rent?**

The tenant is owed restitution for the leaking faucet and failure to provide heat as noted in the chart below. The tenant's base rent is \$720 a month. He has overpaid \$230.40 due to these conditions.

An overpayment of this size is normally adjusted over a period of 6 months.<sup>14</sup> For now \$38.40 a month is subtracted from the base rent of \$720 for a total rent of \$681.60 a month. From January of 2018 through June of 2018, the tenant's rent is \$681.60 a month. The rent reverts to \$720 on July 1, 2018.

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Faucet	9-Feb-17	30-Sep-17	\$720	1%	\$ 7.20	8	\$ 57.60
Heater	9-Feb-17	30-Sep-17	\$720	3%	\$ 21.60	8	\$ 172.80
					\$ -		-
<b>TOTAL LOST SERVICES</b>							<b>\$ 230.40</b>
<b>RESTITUTION</b>							
MONTHLY RENT							\$720
TOTAL TO BE REPAYED TO TENANT							\$ 230.40
TOTAL AS PERCENT OF MONTHLY RENT							32%
AMORTIZED OVER				6	MO. BY REG. IS		\$ 38.40

**If the owner wishes to pay the tenant the restitution in one lump sum, she has the authority to do so.** If the owner pays the tenant restitution, the tenant must stop deducting the restitution from his rent.

### ORDER

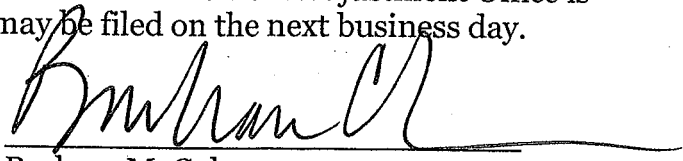
1. Petition T17-0294 is granted in part.
2. The tenant's base rent is \$720 a month.
3. The tenant may not be charged additional rent for parking.
4. The tenant has overpaid rent of \$230.40 for conditions in his unit.
5. From January 2018 through June 2018, the tenant's rent is \$681.60 a month.
6. The rent reverts to the base rent of \$720 a month in July of 2018.
7. The owner may otherwise be entitled to a rent increase under the laws of the Rent Adjustment Program and the State of California.
8. **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

<sup>14</sup> Regulations, Section 8.22.110(F)



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: December 27, 2017

A handwritten signature in black ink, appearing to read "Barbara M. Cohen", written over a horizontal line.

Barbara M. Cohen  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T17-0294**

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

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

**Tenant**

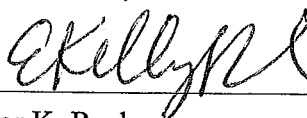
Robert Armas  
3036 Brook St #4  
Oakland, CA 94611

**Owner**

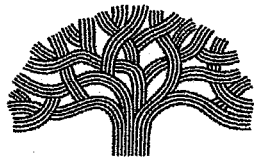
Irene Shimnoh & Kangho Joon  
3036 Brook St  
Oakland, CA 94611

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

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



\_\_\_\_\_  
Esther K. Rush



CITY OF OAKLAND

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

For date stamp.

2018 JAN 16 AM 9:39

**APPEAL**

Appellant's Name <i>Irene Elshin, Noh &amp; Ho Joan Kang</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>3036 Brook Street #4 Oakland CA 94611</i>			
Appellant's Mailing Address (For receipt of notices) <i>3036 Brook Street #2 Oakland CA 94611</i>		Case Number <i>T17-0294</i>	Date of Decision appealed <i>Jan 16<sup>th</sup>, 2018</i>
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

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

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

**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 January 16<sup>th</sup>, 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:

<b>Name</b>	Robert Armas
<b>Address</b>	3036 Brook Street #4
<b>City, State Zip</b>	Oakland CA 94611
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

	January 16 <sup>th</sup> 2018
<b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b>	<b>DATE</b>

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.**

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## **The Response to the Hearing Decision and Explanation on why appealing**

### **Background Information**

Irene Noh has been the owner of the property 3036 Brook street since October of 2005. According to the Tenant Estoppel Certificate, Robert Armas has been tenant of the property at unit #4 since March of 1995.

Irene never received the original lease contract of Robert Armas from the prior landlord who sold the property to Irene.

The Tenant Estoppel Certificate is only form of contract Irene has. The information in the Tenant Estoppel Certificate is simple and somewhat limited. It does not mention anything about Tenant's rights to have pets or parking space. Irene asked Robert if he has a copy of his original lease and he was not able to provide one.

Irene took care of the property with TLC after she became the owner.

Irene solved conflicts between tenants through communicating and mediating as best as she can. Over ten years without any major issues or legal cases being filed, Irene proves to have maintained a good relationship with the tenants as her neighbors, providing services necessary.

In past, whenever there was any need of repair or maintenance, Robert expressed the need to Irene and Irene provided the services as requested. Robert and all of the tenants have had no problem expressing the issues about repairs or maintenances, and Irene responded promptly.

During the 12 years of Irene being the owner of the property, things went relatively peaceful and neighbors got along in harmony by communicating the issues or conflicts. Irene provided the services or mediated whatever necessary to solve the problems.

On top of keeping the routine maintenances like repairing damaged fixtures and appliances, Irene did what she can to improve the housing condition such as new paint, improving plumbing, taking care of the roofing, and so on. Also, together with the tenants' help, Irene grew community garden with vegetables to eat and share, chicken coop to raise chicken and share fresh eggs everyday.

Irene kept a good harmonized and balanced relationship with her tenants as her neighbors. Irene despite making many upgrades and improvements to the properties, has not made capital improvement rent increase to any tenants, during her ownership of the property.

### **Conflicts leading to the fling of the Hearing by Robert Armas**

Early in year 2017, Robert, without any notice or agreement with Irene, brought home a puppy pitbull, saying that Robert was pet sitting for his daughter's dog for several days. However, Robert did not bring the dog back to his daughter or vacated the dog out of his apartment, despite the fact that Irene was mentioning him that no dog should be allowed at the property.

Several months later, other tenant also started to ask Irene if she can have the dog raised at home, despite the fact that there is no pet policy in their lease agreement. Irene asked Robert and other tenants by verbally to have the pets removed and having pet is not allowed. However, tenants did not responded to Irene's request and Irene served a written notice to all tenants in May of 2017, asking to vacate the dogs out of the property. Robert began with a lie to bring the dog home, which complicated the problem by initiating other tenants to bring dogs to the building. Robert has petitioned for Hearing in response to the letter received.

Also, in Early May, Robert brought two vehicle, one truck and one compact car and parked in the parking space of the property without any notice or consent. After few days, on the same day the "no dog letter" was served, Irene wrote a letter asking Robert that he needs to park his vehicle with mutual agreement and with fee of \$50 per space to do so. Robert has petitioned for Hearing in response to the letter received.

In the spring of 2017, Robert mentioned about some of issues he had with his unit, needing repair. Robert and Irene did agreed to look into the problem and both agreed that nothing was urgent or emergency and could looked into the problem whenever there was chance. Irene had hard time scheduling handyman for repair because Robert worked graveyard shift and did not wants to be bothered during day time for him to catch up with his sleep. Because of such reason the repairs have not been done upon notice immediately, but was on schedule to be done with mutual understanding. Robert has petitioned for Hearing for decrease of housing service. Irene believes that filing of decrease of service by Robert is an unjust, deserting, and cowardly reaction to Irene's letters.

Because Robert never asked for consent to bring the dog or park the cars, Irene had the right to ask to have them moved or out of the property. Robert compiled by moving the cars out of the parking space. However, he never vacated the dog out of the apartment.

### **Hearing decision**

The hearing decision was made without considering Irene side of the story for Irene submitted the owner response form passed the deadline date. Irene is appealing for the Hearing decision for 1) The decision raises a new policy issue that has not been decided by the Board, 2) The decision is not supported by substantial evidence, 3) Irene was denied a sufficient opportunity to present her claim or respond to the petitioner's claim, 4) The decision denies the Irene a fair return on her investment.

Out of 4 decisions 1) right to use the parking space, 2) right to own a dog, 3) lost service for kitchen faucet, 4) lost service for heater, made against Irene, Irene is appealing for 1) decision about the right to use the parking space, 2) decision about right to have a dog as a pet. Although Irene believes decisions made on Kitchen Water Faucet and Heater were not



supported by substantial evidence, Irene is willing to make compromise and only appealing on things that matter the most.

**The decision is not supported by substantial evidence.**

- 1) Robert has given false statement about how long he had the dog raised in his unit - Early in year 2017, Robert, without any notice or agreement with Irene, brought home a puppy pitbull, saying that Robert was only pet sitting for his daughter's dog for several days. In the Hearing, Roberts claim that he had the dog for 3 years. That is not a true statement.
- 2) Robert never had a dog in past - Since Irene became the owner of the property, Robert never had a dog. Robert had a cat and birds in past and it never was a concern for Irene or neighbors for it did not cause any nuisances to the neighbors. In the Hearing, Robert claimed that he had dog in past. That is a false statement or a statement without any evidence.
- 3) Robert was never harassed or treated unfairly - In the Hearing, Robert claimed that "he was being harassed" for his dog "for he pays low rent." and "two other tenants with dogs are not being harassed." This statement is absolutely false! Robert started with a lie, saying that he was only dog sitting for his daughter and Irene was asking when he will return the dog. After Irene figured out that Robert's intention was to raise the dog at the premises, Irene then started to informing that the dog should not be allowed for the reason that there never was not any consents and possible conflicts with other tenants. Robert was never harassed but informed, asked and told about the concerns, which Robert has initiated. Also, Robert having the dog in the building initiated other tenants to bring dogs in their units. Two other tenants did not have the dog prior to Robert bringing his dog. After Robert brought a dog home, other tenants found it as excuse to bring dogs to their unit despite the fact that they are not contracted to do so. A document asking all tenants to keep the dog out of the building was served to all tenants. Irene wrote letter to everyone to have the dogs vacated from the property because 1) It was breach of rental agreement, 2) dogs were causing nuisance to neighbors, 3) responsibility of owning dogs, such as making mess in carpeted common area and picking up dogs litters were not performed. Irene addressed the issues to all tenants by writing and asked all tenants to respond the same way. Robert's claim of harassment is not true. Robert has never been asked to do something different because he pays low rent.
- 4) Robert states that he had the right to own a dog by his contract. However, he does not have a contract to prove it - Although Robert's original contract is missing, Irene was able to find the contract of Barbara Tall, who was a tenant about the similar time Robert first became the tenant. Same property owner at that time signed both Robert and Barbara in to become the tenant. In Barbara's contract, it clearly states that there is "no pet" policy unless with written consent. Missing contract does not automatically gives the

right to do whatever tenant wants. Just because Robert does not have the contract, Robert does not have right to be exempt from the no pet policy agreement that everyone else in the building has. Even without the contract, Robert should first ask for consent to have the dog and came up with an reasonable approach to gain an acceptance from the landlord, not cheating and lying about it. Robert do not have the right to have the dog by practice nor by contract. (\*Evidence of Barbara's lease contract attached)

- 5) No one in the building had dog prior to Robert - In the Hearing, Robert made it sounds like already there were other tenants who raised dogs in their units and it is not fair for him to be treated any different. However, there were no one during Irene's ownership of the property for past 12 years had dogs in their units prior to Robert. There was one tenant who had to pet sit his friend's dog once in a while and brought home the dog prior to Robert bringing the dog to his unit. However, that was never an issue because dog was well trained small size dog and did not cause any nuisance to the neighbors and the tenant took very good and clean care of dogs visit by vacuuming the hallway and stair carpet area if any dirt or hairs were fallen. That tenant asked Irene for permission to do so when he had to dog sit his friend's dog. Irene agreed to allowed the temporary visit only if there was no issues with neighbors or nuisances and the tenant took very good responsibility of the dog when visited the property. That tenant never raised the dog in his unit as his own pet, plus there was never a complaint from neighbors or nuisances which Irene noticed. Since Irene's ownership of the property, there never was any tenant allowed to raise dog in their unit. Robert was the first one to raise the dog as his own pet. Not only he did it without any agreement, Robert cause nuisance to other neighbors by creating mess in the common area, leaving Irene to clean up the mess regularly. After Robert brought home his dog as pet and ignored Irene's complaints and requests to have the dog out of the building, other tenants started to bring dogs to home, using Robert as an excuse or sample case.
- 6) Robert never owned a car - Robert never owned a car which parked in the parking space of the property. Robert always had his motorcycle and had no problem parking his motorcycle for free in the designated space next to the building by the fence. There was never a problem with Robert parking his motorcycle Nor Robert raised any issues about him using the space to park his motorcycle. Beside the space which Robert parks his motorcycle, there are 4 available parking spaces which were all once occupied by other tenants. Other tenants parking their cars have written agreements to do so. Robert claiming that he had a car which parked in any of the parking space in past is false, at least during Irene's ownership of the property. Robert never raised any issue with Irene renting out the parking space to others. Robert Always had his own space designated for his motorcycle parking and he was never asked to paid to park his motorcycle and still parks his motorcycle for free.
- 7) Robert has history of lying to Irene about parking other people's car in the parking space - Robert has history of giving permission to park his friends car, neighbor who do not live

in the property, or cars that does not belong to his ownership. When Irene first bought the property, there was an old abandoned car parked in the parking space, which actually belong to Dan, the man who owns the mechanic shop across the street. Robert told Irene that it was his car and defended his right to park. Irene sent letter asking to show a proof of the ownership of the car or car will be towed, then Robert was not able to show the proof of the ownership to Irene and Dan across the street removed the car. Robert was riding motorcycle during that time and had no problem with parking his motorcycle for free. Robert gave permission to neighbors to park their cars to the parking space which he did not own or had right to give away the permission to.

- 8) Robert has history of letting other people to park the car in the property - There was another time a car was parked in the parking space for several weeks. Robert without any notice or asking for any permission gave someone the right to park the car in the parking space. Robert told Irene that the car belong to his daughter and it was just for one weekend. However, the car was parked for several weeks and Irene had to ask Robert to remove the car regularly throughout the time car was parked. Robert only replied by saying car will be moved soon, not giving Irene exact answer on when he will move the car and how long he had planned to park the car. Also, Robert in past had visitor, who came regularly and parked the car in the property parking space, which conflicted with rights of the residents' parking. In May 2107, Robert brought 2 cars and parked in the property parking space, once again without any notice or asking for any permission. Robert claimed that both cars were his. However, once again lacked the evidence of ownership. When asked to move the cars or pay to park in the space, Robert removed the cars and did not pay any fee for parking. In the history of Irene's ownership, Robert has been riding motorcycle and always parked his motorcycle in the property parking space. Robert never showed any proof of ownership of his own cars yet gave permissions for other people who do not live in the property to park their cars. Irene throughout her ownership of the property rented all 4 available parking space to other tenants based on demand and Robert had no conflict with parking his motorcycle. Robert does not reserve the parking right for he never owned a car in past and for his parking space for car was never reserved for his use. Robert has never and still does not have any problem parking his motorcycle for free without conflicting with 4 available car parking spaces.

**The decision raises a new policy issue that has not been decided by the Board.**

- 1) By allowing Robert to have the dog, Irene can not enforce the no dog policy to other tenants - All the other tenants have "no pet policy" clause in their lease. Robert petitioning for the Hearing, situated Irene in a gray area where she can not enforce the regulation or make compromising solution with the tenants before the hearing decision

was made. Now the hearing decision is made, Irene can not allow Robert to have the dog and tell others not to or discuss the possibilities in making reasonable amendments in the lease agreement. Making exemption just for Robert and not for everyone else is not fair and raises many potential issues in tenant landlord relationship in future.

- 2) Parking space should be reserved for tenants who are residents of the property only - Robert should not be able to have a reserved parking space for cars that he does not own or for his visitors. It would raise an issue of unfairness for other tenants who pay for their parking and who respect other people's parking rights. Robert, in future, if buys a car and needs a parking, should ask for permission to park his vehicle and should pay for the parking to keep the fairness of all the other tenants. Since all 4 parking spaces have been rented to other tenants with agreements Robert should do the same if he needs a parking space for a car when he buys a car in future. Robert never owned a car, therefore his case with right to have the parking space for any car does not apply. Just because he lived here for long time, does not give him the right to park his friends cars for free. It would not be fair for anyone if other tenants start to park their friends' car in the property parking spaces without any notice, permission or agreement. Irene took the most reasonable action when Robert, without any notice or asking for permission, parked two cars in the property parking space. Robert should not ask for parking space to be reserved her his use, unless he owns a car. Robert should ask for permission to park his car when he buys a car.

#### **The decision denies the Owner a fair return on owner's investment**

- 1) If Robert is allow to reserve a parking space for a car even when he does not own a car, it prevents Irene from leasing out 1 of the parking space to the potential tenant who could use or would need the space. At the moment, there is 1 space that is not being used because one of the new tenant does not own a car. However, in past that space has been rented out for fee giving Irene a source of income from the rental of the parking space. In past, Robert has had no problem parking his motorcycle without any conflicts with other cars being parked in all 4 spaces by other. Why should there be a space reserve for Roberts' guests or friends preventing Irene from potential income by renting the space to tenant who could appreciate it.
- 2) Irene now has to clean more often for the dogs' mess like dirt and hair in the common area. Irene's son and daughter in law, who usually help with many home management, can not help with such chore because they have allergy to dogs, leaving Irene as only person who regularly have to clean. Such extra work needed to perform and possible damages to carpets, floors, walls, doors, windows, screens, tiles and so on have to be considered for repair or replacement in future, requiring Irene for greater expenses than she has forecasted. Irene can not allow dog to be accepted as pet unless reasonable agreement is established with tenants. It is not fair for Irene to provide extra service without any mutual agreements and it is not fair for Irene to be responsible for any damages that dog can make in future.

### What Irene proposes and asks to accomplish

- 1) Pet Addendum to be agreed and signed by all tenants for allowing to have the dog as pet. Because the Hearing prevented Irene to share thoughts and ideas with Robert, Irene was not able to discuss much with Robert. However, Irene has done much research and shared ideas with other tenants and sources of advice and have concluded that it would be a good idea to propose an addendum for pets for all of the tenants.
- 2) Robert should not have the parking space reserved for his use because he does not own a car or has never owned a car.
- 3) Robert may continue to park his motorcycle for free at any of the open space as long as it does not conflict with other spaces for car parking or conflict with other tenants' enjoyment of the property. If Robert wishes to park his motorcycle at a different space other than where he has been parking in past, he must ask for permission to do so. Robert may not park his motorcycle anywhere he likes or at a space that will conflict with other car parking.
- 4) Robert should not give permission to park cars, which belong to his friends, family members, visitors or anyone who do not legally live in the Robert's unit or describes in his rental agreement.
- 5) If Robert needs the use of parking space for any reason, he must ask for permission to do so. Any car parked without agreement shall be towed upon the expenses of the vehicle owner. If Robert needs a car parking space in future, it would be honored only, 1) if the car is under Robert's ownership, 2) For a reasonable fee comparable to other parking space fee at the time of inquiry.

### Evidences being submitted

- 1) Tenant Estoppel Certificate for Robert Armas, signed in June 9th, 2004 - pg 8
- 2) Lease agreement of Barbara Tall - An old tenant, who signed the contract similar time to - pg 9, 10 Robert, shows in her contract No animal policy in clause #6
- 3) Lease copies of other tenants also stating No Pet policy - pg ~~11~~ 11~16
- 4) Letter of complaint about the dog, received from neighboring property owner. - pg 157
- 5) Letter of complaint about Robert, received from other tenant to show the evidence that - pg 18 Robert often had been the source of nuisances in past.
- 6) Letters written to tenants leading to the Hearing - pg 19 - 23
- 7) Pet Addendum, propose to all tenants - pg ~~24~~ 24, 25



Tenant: ROBERT AMMAS  
 Premises: 3036 BUOBT ST #4  
ORCLAND, CA 94611

To whom it may concern:

1. The undersigned is the Tenant of the above premises under the following Lease:  
 If checked) A copy of the Lease is attached hereto.  
 Date of the Lease: 3/1/95  
 Name of the original Landlord: \_\_\_\_\_  
 Name of the current Landlord (if not the same as above): \_\_\_\_\_  
 Name of the original Tenant: ROBERT AMMAS  
 Name of the current Tenant (if not the same as above): \_\_\_\_\_  
 Name of any other original occupants: \_\_\_\_\_  
 Current monthly base rent: \$ 551.00 paid through: 5/30/01  
 Security deposit: \$ 600 Other deposits: \$ \_\_\_\_\_  
 Expiration date of current term: \_\_\_\_\_  
 Number and length of remaining options to renew or extend, if any: \_\_\_\_\_

2. The Tenant represents that the original Lease remains in full force and effect and constitutes the entire agreement between Tenant and Landlord, except for the following modifications, amendments, addendums, assignments, extensions, and/or preferential rights or options to purchase/lease:  
 \_\_\_\_\_  
 \_\_\_\_\_

There are no verbal or written agreements or understandings between Landlord and Tenant with respect to the Premises, except as set forth above.

3. Tenant is the actual occupant and is in possession of the Leased Premises. Tenant has not assigned, transferred or hypothecated its interest under the Lease. Any construction, build-out, improvements, alterations, or additions to the Premises required under the Lease have been fully completed in accordance with the plans and specifications described in the Lease.
4. All obligations of Landlord under the Lease have been fully performed and Landlord is not in default under any term of the Lease. Tenant has no defenses, off-sets or counterclaims to the payment of rent or other amounts due from Tenant to Landlord under the Lease.
5. Tenant has not been given any free rent, partial rent, rebates, rent abatements, or rent concessions of any kind, except as follows:  
 \_\_\_\_\_
6. Tenant has not filed and is not the subject of any filing for bankruptcy or reorganization under federal bankruptcy laws or similar state laws.
7. Tenant represents that Tenant: (a) is not in default of the performance of any obligations under the Lease; (b) has not committed any breach of the Lease; and (c) has not received any notice of default under the Lease, which has not been cured.
8. The correct address for notices to Tenant is the Premises above unless otherwise shown below.
9. The person signing below represents that he/she is duly authorized by Tenant to execute this Statement in Tenant's behalf.
10. Tenant understands that: (a) a lender may make a loan secured in whole or part by the Premises, and that if Lender does so, Lender's action will be in material reliance on this Estoppel Certificate; and/or (b) a buyer may acquire the Premises or the building in which the Premises is located, and if buyer completes the purchase, buyer will do so in material reliance on this Estoppel Certificate.

Date: 6/9/04  
 Tenant: Robert Ammas  
 By: [Signature] Title: Property Mgr.  
 Landlord of Manager: \_\_\_\_\_  
 By: \_\_\_\_\_ Title: \_\_\_\_\_

Receipt Acknowledged: [Signature]  
 Date: 6/9/04

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Reviewed by \_\_\_\_\_ Date \_\_\_\_\_  
 Broker or Designee \_\_\_\_\_







- 10. **DEFAULT:** If Tenant fails to pay rent when due, or perform any provision of this Agreement, after not less than three (3) days written notice of such default given in the manner required by law, the Owner, at his/her option, may terminate all rights of Tenant, unless Tenant, within said time, cures such default. If Tenant abandons or vacates the property while in default of the payment of rent, Owner may consider any property left on the premises to be abandoned and may dispose of the same in any manner allowed by law. In the event the Owner reasonably believes that such abandoned property has no value, it may be discarded. All property on the premises will be subject to a lien for the benefit of Owner securing the payment of all sums due, in the maximum extent allowed by law.
- In the event of a default by Tenant, Owner may elect to (a) continue the lease in effect and enforce all his rights and remedies, including the right to recover the rent as it becomes due, provided that Owner's consent to assignment or subletting by the Tenant will not be unreasonably withheld; or (b) at any time, terminate all of Tenant's rights and recover from Tenant all damages he/she may incur by reason of the breach of this lease, including the cost of recovering the premises, and including the worth of the time of such termination, or of the time of an award if suit be instituted to enforce this provision, of the amount by which the unpaid rent for the balance of the term exceeds the amount of such rental loss which the Tenant proves could be reasonably avoided.
- 11. **SECURITY:** The security deposit will secure the performance of Tenant's obligations. Owner may, but will not be obligated to, apply all portions of said deposit on account of Tenant's obligations. Any balance remaining upon termination will be returned to Tenant. Tenant will not have the right to apply the security deposit in payment of the last month's rent. Security deposit held at The Prudential Landmark R.E.
- 12. **DEPOSIT REFUND:** The balance of all deposits will be refunded within three weeks (or as otherwise required by law), from date possession is delivered to Owner or his/her Authorized Agent, together with a statement showing any charges made against such deposits.
- 13. **WAIVER:** Failure of Owner to enforce any provision of this Agreement will not be deemed a waiver. The acceptance of rent by Owner will not waive his/her right to enforce any provision of this Agreement.
- 14. **NOTICES:** Unless otherwise provided, any notice which either party may give or is required to give, may be given personally or by mailing the same, postage prepaid, certified to Tenant or to Owner at the address shown in the signature block or at such other place as may be designated by the parties from time to time. Notice will be deemed effective five (5) days after mailing, or on personal delivery, or when receipt is acknowledged in writing.
- 15. **HOLDING OVER:** Any holding over after expiration of this Agreement, with the consent of Owner, will be a month-to-month tenancy at a monthly rent of \$ 716 payable in advance and otherwise subject to the terms of this Agreement, as applicable, until either party terminates the same by giving the other party thirty (30) days written notice.
- 16. **TIME:** Time is of the essence of this Agreement.
- 17. **ATTORNEY'S FEES:** In any action or proceeding involving a dispute between Owner and Tenant arising out of this Agreement, the prevailing party will be entitled to reasonable attorney fees.
- 18. **FAIR HOUSING:** Owner and Tenant understand that the state and federal housing laws prohibit discrimination in the sale, rental, appraisal, financing or advertising of housing on the basis of race, religion, color, sex, familial status, sexual preference, handicap, or national origin.
- 19. **ADDITIONAL TERMS AND CONDITIONS:** Personal Property: Stove and Refrigerator.

Rent Payments should be made to and mailed or delivered to:  
THE PRUDENTIAL LANDMARK REAL ESTATE  
3460 Grand Ave., Suite 5, Oakland, CA 94610

- 20.  This unit is subject to rent control and the agency responsible to adjudicate claims is:
- 21. **ENTIRE AGREEMENT:** The foregoing constitutes the entire agreement between the parties and may be modified only in writing signed by all parties. The following exhibits, if any, have been made a part of this Agreement before the parties' execution:  
 Exhibit A: \_\_\_\_\_  
 Exhibit B: \_\_\_\_\_  
 Exhibit C: \_\_\_\_\_

The Tenant hereby acknowledges receipt of a copy of this Agreement.

Tenant: [Signature] Date 7/1/96 Owner Agent: [Signature] Date 7/1/96  
 Tenant: \_\_\_\_\_ Date \_\_\_\_\_ Owner's Address: 3460 Grand Ave., Suite 5  
Oakland, CA 94610

Receipt for deposit acknowledged by [Signature] Date 7/1/96

**COMMISSION AGREEMENT ON LEASE**

**NOTICE:** The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the owner and broker.

The Owner agrees to pay to \_\_\_\_\_ the Broker in this transaction, the sum of \$ \_\_\_\_\_ for services rendered and authorizes Broker to deduct said sum from the deposit received from Tenant.

In the event the Lease is extended for a definite period of time or on a month-to-month basis after expiration of the original term, Owner will pay to Broker an additional commission of \_\_\_\_\_ % of the total rental for the extended period. This commission will be due and payable at the commencement of the extended period if for a fixed term, or if on a month-to-month basis, at the termination of Tenant's occupancy or one year, whichever is earlier.

In any action for commission, the prevailing party will be entitled to reasonable attorney fees.

Owner \_\_\_\_\_ Date \_\_\_\_\_

**COMMISSION AGREEMENT ON SALE**

**NOTICE:** The amount or rate of real estate commissions is not fixed by law. They are set by each broker individually and may be negotiable between the owner and broker.

If a sale or exchange of the real property subject to this lease is made to the Tenant or any member of Tenant's family during the term of the lease or within 180 days after termination of occupancy, Owner agrees to pay Broker named above a commission of \_\_\_\_\_ % of the sale price or exchange value. This Agreement will not limit the rights of the Broker provided for in any listing or other agreement which may be in effect between Owner and Broker.

In any action for commission, the prevailing party will be entitled to reasonable attorney fees.

Owner \_\_\_\_\_ Date \_\_\_\_\_

Rev. by \_\_\_\_\_  
 Date \_\_\_\_\_





RESIDENTIAL LEASE/RENTAL AGREEMENT  
(For use in the State of California)

PARTIES: LANDLORD Inene Noh/Kang, Hojoon Kwack, Kejin

TENANT(S) Maggie Lee

PROPERTY ADDRESS: 3036 Brook st #1  
Oakland CA 94611

1. RENTAL AMOUNT: Commencing Nov. 19th, 2016 TENANT agrees to pay LANDLORD the sum of \$ [REDACTED] per month in advance on the 1 day of each calendar month. Said rental payment shall be delivered by TENANT to LANDLORD or his designated agent to the following location:

Rent must be actually received by LANDLORD, or designated agent, in order to be considered in compliance with the terms of this agreement.

2. TERM: The premises are leased on the following lease term: (please check one item only)     month to month (OR)  until Nov. 19th, 2017.

3. SECURITY DEPOSITS: TENANT shall deposit with landlord the sum of \$ [REDACTED] as a security deposit to secure TENANT'S faithful performance of the terms of this lease. The security deposit shall not exceed two times the monthly rent. After all the TENANTS have vacated, leaving the premises vacant, the LANDLORD may use the security deposit for the cleaning of the premises, any unusual wear and tear to the premises or common areas, and any rent or other amounts owed pursuant to the lease agreement or pursuant to Civil Code Section 1950.5.

TENANT may not use said deposit for rent owed during the term of the lease. Within 21 days of the TENANT vacating the premises, LANDLORD shall furnish TENANT a written statement indicating any amounts deducted from the security deposit and returning the balance to the TENANT. If TENANT fails to furnish a forwarding address to LANDLORD, then LANDLORD shall send said statement and any security deposit refund to the leased premises.

4. INITIAL PAYMENT: TENANT shall pay the first month rent of \$ [REDACTED] + rent from 11/19 - 11/30 \$ [REDACTED] and the security deposit in the amount of \$ [REDACTED] for a total of \$ [REDACTED]. Said payment shall be made in the form of cash or cashier's check and is all due prior to occupancy.

5. OCCUPANTS: The premises shall not be occupied by any person other than those designated above as TENANT with the exception of the

→ [REDACTED] of Deposits paid on 10/26th 16.  
[REDACTED] of rent 11/19 - 12/31. → paid on 11/19/16

(Next rent due on Jan. 1st of 2017)

15. PETS: No dog, cat, bird, fish or other domestic pet or animal of any kind may be kept on or about the premises without LANDLORD'S written consent.

16. FURNISHINGS: No liquid filled furniture of any kind may be kept on the premises. If the structure was built in 1973 or later TENANT may possess a waterbed if he maintains waterbed insurance valued at \$100,000

or more. TENANT must furnish LANDLORD with proof of said insurance. TENANT must use bedding that complies with the load capacity of the manufacturer. In addition, TENANT must also be in full compliance with Civil Code Section 1940.5. TENANT shall not install or use any washer, dryer, or dishwasher that was not already furnished with the unit.

17. INSURANCE: TENANT may maintain a personal property insurance policy to cover any losses sustained to TENANT'S personal property or vehicle. It is acknowledged that LANDLORD does not maintain this insurance to cover personal property damage or loss caused by fire, theft, rain, water overflow/leakage, acts of GOD, and/or any other causes.

It is acknowledged that LANDLORD is not liable for these occurrences. It

is acknowledged that TENANT'S insurance policy shall solely indemnify TENANT for any losses sustained. TENANT'S failure to maintain said policy shall be a complete waiver of TENANT'S right to seek damages against LANDLORD for the above stated losses. The parties acknowledge that the premises are not to be considered a security building which would hold LANDLORD to a higher degree of care.

18. TERMINATION OF LEASE/RENTAL AGREEMENT: If this lease is based on a fixed term, pursuant to paragraph 2, then at the expiration of said fixed term this lease shall become a month to month tenancy upon the approval of LANDLORD.

Where said term is a month to month tenancy, either party may terminate this tenancy by the serving of a 30 day written notice.

19. POSSESSION: If premises cannot be delivered to TENANT on the agreed date due to loss, total or partial destruction of the premises, or failure of previous TENANT to vacate, either party may terminate this agreement upon written notice to the other party at their last known address. It is acknowledged that either party shall have no liability to each other except that all sums paid to LANDLORD will be immediately refunded to TENANT.

20. ABANDONMENT: It shall be deemed a reasonable belief by the LANDLORD that an abandonment of the premises has occurred where the, within the meaning of Civil Code Section 1951.2, where rent has been unpaid for 14 consecutive days and the TENANT has been absent from unit for 14 consecutive days. In that event, LANDLORD may serve written notice pursuant to Civil Code Section 1951.2. If TENANT does not comply with the requirements of said notice in 18 days, the premises shall be deemed abandoned.



CALIFORNIA  
ASSOCIATION  
OF REALTORS®

**RESIDENTIAL LEASE OR  
MONTH-TO-MONTH RENTAL AGREEMENT**  
(C.A.R. Form LR, Revised 12/15)

Date 05/18/2017

Hojoon Kang

("Landlord") and

Brenda Vega

("Tenant") agree as follows:

**1. PROPERTY:**

- A. Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: 3036 Brook St unit 3, Oakland, CA 94611-5748 ("Premises").
- B. The Premises are for the sole use as a personal residence by the following named person(s) only: Brenda Vega
- C. The following personal property, maintained pursuant to paragraph 11, is included: \_\_\_\_\_ or  (if checked) the personal property on the attached addendum.
- D. The Premises may be subject to a local rent control ordinance \_\_\_\_\_

**2. TERM:** The term begins on (date) May 21, 2017 ("Commencement Date"), (Check A or B):

- A. **Month-to-Month:** and continues as a month-to-month tenancy. Tenant may terminate the tenancy by giving written notice at least 30 days prior to the intended termination date. Landlord may terminate the tenancy by giving written notice as provided by law. Such notices may be given on any date.
- B. **Lease:** and shall terminate on (date) May 31, 2018 at 7:00  AM/  PM. Tenant shall vacate the Premises upon termination of the Agreement, unless: (i) Landlord and Tenant have extended this Agreement in writing or signed a new agreement; (ii) mandated by local rent control law; or (iii) Landlord accepts Rent from Tenant (other than past due Rent), in which case a month-to-month tenancy shall be created which either party may terminate as specified in paragraph 2A. Rent shall be at a rate agreed to by Landlord and Tenant, or as allowed by law. All other terms and conditions of this Agreement shall remain in full force and effect.

**3. RENT:** "Rent" shall mean all monetary obligations of Tenant to Landlord under the terms of the Agreement, except security deposit.

- A. Tenant agrees to pay \$ \_\_\_\_\_ per month for the term of the Agreement.
- B. Rent is payable in advance on the 1st (or  ) day of each calendar month, and is delinquent on the next day.
- C. If Commencement Date falls on any day other than the day Rent is payable under paragraph 3B, and Tenant has paid one full month's Rent in advance of Commencement Date, Rent for the second calendar month shall be prorated and Tenant shall pay 1/30th of the monthly rent per day for each day remaining in prorated second month.
- D. **PAYMENT:** Rent shall be paid by  personal check,  money order,  cashier's check, or  other \_\_\_\_\_, to (name) Hojoon Kang (phone) (415)299-9951 at (address) 403 37th St. Unit #2 Oakland, CA 94609 (or at any other location subsequently specified by Landlord in writing to Tenant) (and  if checked, rent may be paid personally, between the hours of \_\_\_\_\_ and \_\_\_\_\_ on the following days \_\_\_\_\_). If any payment is returned for non-sufficient funds ("NSF") or because tenant stops payment, then, after that: (i) Landlord may, in writing, require Tenant to pay Rent in cash for three months and (ii) all future Rent shall be paid by  money order, or  cashier's check.
- E. Rent payments received by Landlord shall be applied to the earliest amount(s) due or past due.

**4. SECURITY DEPOSIT:**

- A. Tenant agrees to pay \$ \_\_\_\_\_ as a security deposit. Security deposit will be  transferred to and held by the Owner of the Premises, or  held in Owner's Broker's trust account.
- B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent (which includes Late Charges, NSF fees or other sums due); (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) clean Premises, if necessary, upon termination of the tenancy; and (iv) replace or return personal property or appurtenances. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during the tenancy, Tenant agrees to reinstate the total security deposit within five days after written notice is delivered to Tenant. Within 21 days after Tenant vacates the Premises, Landlord shall: (1) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition and supporting documentation as required by California Civil Code § 1950.5(g); and (2) return any remaining portion of the security deposit to Tenant.
- C. Security deposit will not be returned until all Tenants have vacated the Premises and all keys returned. Any security deposit returned by check shall be made out to all Tenants named on this Agreement, or as subsequently modified.
- D. No interest will be paid on security deposit unless required by local law.
- E. If the security deposit is held by Owner, Tenant agrees not to hold Broker responsible for its return. If the security deposit is held in Owner's Broker's trust account, and Broker's authority is terminated before expiration of this Agreement, and security deposit is released to someone other than Tenant, then Broker shall notify Tenant, in writing, where and to whom security deposit has been released. Once Tenant has been provided such notice, Tenant agrees not to hold Broker responsible for the security deposit.

**5. MOVE-IN COSTS RECEIVED/DUE:** Move-in funds made payable to Hojoon Kang shall be paid by  personal check,  money order, or  cashier's check.

Category	Total Due	Payment Received	Balance Due	Date Due
Rent from <u>05/21/2017</u> to <u>05/31/2017</u> (date)				<u>05/20/2017</u>
*Security Deposit				<u>05/20/2017</u>
Other <u>June Rent</u>				<u>06/01/2017</u>
Other				
<b>Total</b>				

\*The maximum amount Landlord may receive as security deposit, however designated, cannot exceed two months' Rent for unfurnished premises, or three months' Rent for furnished premises.

Tenant's Initials ( BL ) ( \_\_\_\_\_ )

Landlord's Initials ( KH ) ( \_\_\_\_\_ )

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LR REVISED 12/15 (PAGE 1 OF 6)

**RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 1 OF 6)**



RE/MAX Accord, 5950 Stoneridge Drive Pleasanton, CA 94588  
Young Park

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Phone: (925)808-1222

Fax: (925)847-8999

rental

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12. **NEIGHBORHOOD CONDITIONS:** Tenant is advised to satisfy him or herself as to neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.
13. **PETS:** Unless otherwise provided in California Civil Code §54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent,  except as agreed to in the attached Pet Addendum (C.A.R. Form PET).
14.  (If checked) **NO SMOKING:** No smoking of any substance is allowed on the Premises or common areas. If smoking does occur on the Premises or common areas, (i) Tenant is responsible for all damage caused by the smoking including, but not limited to stains, burns, odors and removal of debris; (ii) Tenant is in breach of this Agreement; (iii) Tenant, guests, and all others may be required to leave the Premises; and (iv) Tenant acknowledges that in order to remove odor caused by smoking, Landlord may need to replace carpet and drapes and paint the entire premises regardless of when these items were last cleaned, replaced, or repainted. Such actions and other necessary steps will impact the return of any security deposit. The Premises or common areas may be subject to a local non-smoking ordinance.
15. **RULES/REGULATIONS:**  
 A. Tenant agrees to comply with all Landlord rules and regulations that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.  
 B. (If applicable, check one)  
 1. Landlord shall provide Tenant with a copy of the rules and regulations within \_\_\_\_\_ days or \_\_\_\_\_  
 2. Tenant has been provided with, and acknowledges receipt of, a copy of the rules and regulations.
16.  (If checked) **CONDOMINIUM; PLANNED UNIT DEVELOPMENT:**  
 A. The Premises are a unit in a condominium, planned unit development, common interest subdivision or other development governed by a homeowners' association ("HOA"). The name of the HOA is \_\_\_\_\_. Tenant agrees to comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions ("HOA Rules"). Landlord shall provide Tenant copies of HOA Rules, if any. Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant.  
 B. (Check one)  
 1. Landlord shall provide Tenant with a copy of the HOA Rules within \_\_\_\_\_ days or \_\_\_\_\_  
 2. Tenant has been provided with, and acknowledges receipt of, a copy of the HOA Rules.
17. **ALTERATIONS; REPAIRS:** Unless otherwise specified by law or paragraph 29C, without Landlord's prior written consent, (i) Tenant shall not make any repairs, alterations or improvements in or about the Premises including: painting, wallpapering, adding or changing locks, installing antenna or satellite dish(es), placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials; (ii) Landlord shall not be responsible for the costs of alterations or repairs made by Tenant; (iii) Tenant shall not deduct from Rent the costs of any repairs, alterations or improvements; and (iv) any deduction made by Tenant shall be considered unpaid Rent.
18. **KEYS; LOCKS:**  
 A. Tenant acknowledges receipt of (or Tenant will receive  prior to the Commencement Date, or  \_\_\_\_\_):  
 \_\_\_\_\_ key(s) to Premises,  \_\_\_\_\_ remote control device(s) for garage door/gate opener(s),  
 \_\_\_\_\_ key(s) to mailbox, \_\_\_\_\_  
 \_\_\_\_\_ key(s) to common area(s), \_\_\_\_\_  
 B. Tenant acknowledges that locks to the Premises  have,  have not, been re-keyed.  
 C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or opening devices. Tenant may not remove locks, even if installed by Tenant.
19. **ENTRY:**  
 A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs, (including, but not limited to, installing, repairing, testing, and maintaining smoke detectors and carbon monoxide devices, and bracing, anchoring or strapping water heaters), decorations, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors.  
 B. Landlord and Tenant agree that 24-hour written notice shall be reasonable and sufficient notice, except as follows: (1) 48-hour written notice is required to conduct an inspection of the Premises prior to the Tenant moving out, unless the Tenant waives the right to such notice. (2) If Landlord has in writing informed Tenant that the Premises are for sale and that Tenant will be notified orally to show the premises (C.A.R. Form NSE), then, for the next 120 days following the delivery of the NSE, notice may be given orally to show the Premises to actual or prospective purchasers. (3) No written notice is required if Landlord and Tenant orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement. (4) No notice is required: (i) to enter in case of an emergency; (ii) if the Tenant is present and consents at the time of entry; or (iii) if the Tenant has abandoned or surrendered the Premises.  
 C.  (If checked) Tenant authorizes the use of a keysafe/lockbox to allow entry into the Premises and agrees to sign a keysafe/lockbox addendum (C.A.R. Form KLA).
20. **SIGNS:** Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.
21. **ASSIGNMENT; SUBLETTING:** Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent. Unless such consent is obtained, any assignment, transfer or subletting of Premises or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall, at the option of Landlord, terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement.

Tenant's Initials ( BL ) ( \_\_\_\_\_ )

Landlord's Initials ( KH ) ( \_\_\_\_\_ )





12. NEIGHBORHOOD CONDITIONS: Tenant is advised to satisfy him or herself as to neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.

13. PETS: Unless otherwise provided in California Civil Code §54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent, except:

14. [X] (If checked) NO SMOKING: No smoking of any substance is allowed on the Premises or common areas. If smoking does occur on the Premises or common areas, (i) Tenant is responsible for all damage caused by the smoking including, but not limited to stains, burns, odors and removal of debris; (ii) Tenant is in breach of this Agreement; (iii) Tenant, guests, and all others may be required to leave the Premises; and (iv) Tenant acknowledges that in order to remove odor caused by smoking, Landlord may need to replace carpet and drapes and paint the entire premises regardless of when these items were last cleaned, replaced, or repainted. Such actions and other necessary steps will impact the return of any security deposit. The Premises or common areas may be subject to a local non-smoking ordinance.

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A. Tenant agrees to comply with all Landlord rules and regulations that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.

B. (If applicable, check one)

- [ ] 1. Landlord shall provide Tenant with a copy of the rules and regulations within \_\_\_\_\_ days or \_\_\_\_\_
OR [ ] 2. Tenant has been provided with, and acknowledges receipt of, a copy of the rules and regulations.

16. [ ] (If checked) CONDOMINIUM; PLANNED UNIT DEVELOPMENT:

A. The Premises are a unit in a condominium, planned unit development, common interest subdivision or other development governed by a homeowners' association ("HOA"). The name of the HOA is \_\_\_\_\_ Tenant agrees to comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions ("HOA Rules"). Landlord shall provide Tenant copies of HOA Rules, if any. Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant.

B. (Check one)

- [ ] 1. Landlord shall provide Tenant with a copy of the HOA Rules within \_\_\_\_\_ days or \_\_\_\_\_
OR [ ] 2. Tenant has been provided with, and acknowledges receipt of, a copy of the HOA Rules.

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18. KEYS; LOCKS:

A. Tenant acknowledges receipt of (or Tenant will receive [ ] prior to the Commencement Date, or [ ] \_\_\_\_\_):

- [X] 1 key(s) to Premises,
[X] 1 key(s) to mailbox,
[X] one key to front door
[ ] key(s) to common area(s).

B. Tenant acknowledges that locks to the Premises [ ] have, [ ] have not, been re-keyed.

C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or opening devices. Tenant may not remove locks, even if installed by Tenant.

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A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs, (including, but not limited to, installing, repairing, testing, and maintaining smoke detectors and carbon monoxide devices, and bracing, anchoring or strapping water heaters), decorations, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors.

B. Landlord and Tenant agree that 24-hour written notice shall be reasonable and sufficient notice, except as follows: (1) 48-hour written notice is required to conduct an inspection of the Premises prior to the Tenant moving out, unless the Tenant waives the right to such notice. (2) If Landlord has in writing informed Tenant that the Premises are for sale and that Tenant will be notified orally to show the premises (C.A.R. Form NSE), then, for the next 120 days following the delivery of the NSE, notice may be given orally to show the Premises to actual or prospective purchasers. (3) No written notice is required if Landlord and Tenant orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement. (4) No notice is required: (i) to enter in case of an emergency; (ii) if the Tenant is present and consents at the time of entry; or (iii) if the Tenant has abandoned or surrendered the Premises.

C. [ ] (If checked) Tenant authorizes the use of a keysafe/lockbox to allow entry into the Premises and agrees to sign a keysafe/lockbox addendum (C.A.R. Form KLA).

20. SIGNS: Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.

21. ASSIGNMENT; SUBLETTING: Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent. Unless such consent is obtained, any assignment, transfer or subletting of Premises or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall, at the option of Landlord, terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement.

Tenant's Initials ( J ) ( L )

Landlord's Initials ( Jm ) ( )



July 13, 2017

Irene I. Noh, Ho J. Kang, &  
Yejin Kwack  
3036 Brook Street, #2  
Oakland, CA 94611

Dear Sir,

My tenant has witnessed that one of the tenant in your building has been bringing her dog to the back of my property to urinate and defecate. Afterward, she left the dog waste in my back yard and walked away. Please inform your tenant that she is trespassing on my property. If she continued to do so, I will have no choice but to file a "Nuisance Abatement" on her.

Thank you for your cooperation.

Sincerely,



Wanda W Tom  
Owner of 3042 Brook Street  
Oakland, CA 94611  
Phone# 415 244 1270

Chris Gillis  
3036 Brook Street, #5  
Oakland, CA 94611

1 March, 2015

Ho Joon & Irene Noh  
3036 Brook Street, #2  
Oakland, CA 94611

Ho Joon & Irene-

It's been a couple years since we've had an issue with noise worthy of a written letter, but Bob Armas in Unit #4 has been playing his stereo at increasingly louder volumes and even leaving the unit with the stereo on at loud volumes—all creating a nuisance. This has been occurring over the past several months. I'm noticing it mainly one or two times a weekend, but am not present during the week to hear any disturbances then.

Most recently, on Saturday the 28<sup>th</sup> of February, he had the stereo at a volume that constituted a nuisance for several hours and I don't believe he was home at the time. Along with multiple events like this, the increasing volume and increasing absences seem to be growing in frequency.

I ask that you give the tenant written notice that they are creating a nuisance and that they (a) cease doing so, (b) play stereos and TVs only at a reasonable volume, and (c) not leave the unit with the stereo on. Additionally, the likely use of a subwoofer projects the sound into the surrounding units and modifying all leases (a simple 30-day notice of modification to all tenants would do) to forbid the use of subwoofers by all tenants would help greatly, too.

Given his past aggressive behavior and attitude, I have not talked with him about the noise and feel the written letter from you, as landlords, is the most effective way to handle this. I'm not sure if you have laid out any consequences in previous letters, but given all the trouble this tenant has been, discussing options with your lawyer, including eviction options, is a wise suggestion.

As always, I'm happy to work with you on this and despite the hassle that Unit #4 has been for us I enjoy living in Unit #5! Thank you.

Kindly,



Chris Gillis



To all tenants at 3036 Brook Street, Oakland CA 94611

Regards; Breach of "No Dog" Policy under the lease contract.

From: Kang Ho-Joon, the property owner.

Greeting to all tenants at the 3036 Brook street.

Recently, in preparing for the new tenant for the vacant unit of the building, we have realized our position is being corner to enforce the no dog policy for it has to be stated with the new tenant's lease term as it has stated with all of the 3036 tenant's lease contract.

We have been noticing the presence of dog being raised by one or more tenants starting few months ago. Despite the fact that it is not allowed in the contract and verbal and written disapproval was communicated when asked for permission, dogs has been raised in the units.

Not only raising dogs potentially can cause damages to the carpets, floors, and building structures, already some of the concerning signs, are presence, such as the dogs litters being found around the property, furs, dirt, and odor in the hall ways, stairs and carpet area. Also barking and running noise are direct nuisance to the neighboring unit.

Having dog is violation of lease contract and such policy is necessary specially for a building like the 3036 Brook Street, built in many years ago with wooden structure, which has very bad sound proofing between walls and ceiling.

This serve as official notice to all tenants that **no dog is allowed** to raised in any of the unit of 3036 brook street.

The tenants are responsible for any damages caused by the dogs, which includes structural damages to the property and cost of cleaning resulted by odor, fur and dust, flea, or any destruction caused by dogs.

If you do not have a dog in your unit, please keep it mind that no dogs are allowed. If you have any dog raising in your unit, please have your dog(s) out of the of the property and clean up any damages made by them by end of the month.

We will take further legal action if dogs are not removed out of the property by end of the month.

Sincerely

Kang, Ho Joon

May 7th 2017

**To: Robert Armas, Tenant at 3036 Brook Street #4. Oakland CA 94611**

**From: Kang, Ho Joon, the property owner**

**Regards: Use of parking spaces without permission.**

**Our family has been owner of the property since 2005. Since we have been owner of the property, for over 10 years, you have not had any car and any parking space reserved for you. As far as I remember, you had motorcycle and you always had small space to park your motorcycle without any conflict.**

**Since my family have been owner of the property, we have had experience which gave us the reason to regulate the parking space for the tenants' use. Reason being, 1) Some tenant may have more than one car, 2) Some tenant may have frequent guest visiting, who may take the parking space, which could conflict with the regular tenants use 3) Some tenant may lease or give out the space to their friend or neighbors who are not the tenant of the property. Such cases have been actual issues and I am sure you may recall on being applied to one or more of above cases.**

**To provide fairness to all and any of tenants who may need the parking space for their own use, It was fair and necessary decision to reserve the parking space with small and reasonable fee. So we started out with \$30 and now it is \$50 to all the new tenants who are in need of parking space.**

**There are total of 6 parking spaces available. Two spaces have been reserved by my family, third space by unit 2-A, fourth space by unit 5. And fifth space was reserved for unit 1 tenant. However Starting last November, we have new tenant for unit 1 who does not have a car. So we stated in her contract that "parking space could be reserved for use for a fee when needed." The 6th space was reserved by the unit 3 tenant who just moved out by last month, who also paid for his parking space. And in the process of finding new tenant I stated in the ad that the parking is available for additional \$50 fee. As of now two parking space have been made available due to one tenant not having a car and another tenant just moving out.**

**For past 12 years you did not have any car of your own to park in any of the space we had available. You only had motorcycles which we had no problem reserving small area for its parking. You have been tenant for longer than my family have been owning this property and we certainly would like to see the copy of the contract which states that you have the parking right with your tenancy, which you fail to provide. The only document that comes close to the original lease contract is the hearing decision which also happened prior to time my family purchasing the property and there is no indication of your parking rights in the hearing decision.**

Please understand that I am not trying to deny your right to park, but I am trying to make it fair for everyone else who have been told that there parking rights are reserved for additional fee. Suddenly, you sold your motorcycle in exchange for two cars and parking both of the cars in the vacant space without any consent is just not acceptable. For over 12 years we had no conflict with you or any of other tenants regards leasing out the parking space for tenants who are in need of space. You certainly had your right to park your motorcycle pardoned without any additional fee. Suddenly, you come and take the two car parking space that were reserved for tenants, who previously paid for their use of the parking space, violates the regulation which I have been kept and enforcing with all of the tenants without any conflicts for as long as my family have been owner of the property.

Over 12 years, with my best to provide satisfying service to all of the tenant with fairness, I have carefully adapted the policy into contractual regulation. You have not been updated with the changes simply because you did not have a car to be applied in such regulation.

It is not fair for all of the other tenants to have you exempt from the regulation which should equally applied to everyone.

Please pay the parking Fee of \$50 per vehicle or do not park your car in the parking space.

Without any answer from you, your cars will be towed after a notice of warning, just the same ways as any other illegally parked vehicle.

Please do not verbally threaten or harass my mother regards the matter. If you have anything to express regarding what you believe, you may express to me in writing.

Thanks

Sincerely

Kang, Ho Joon

May 7th 2017

To: Robert Armas, Tenant at 3036 Brook Street #4, Oakland CA 94611

From: Kang, Ho Joon, the Property Owner.

Regards: Response to the Hearing Petitioned List of Complaints/ Issue with Dog and Parking

Hello.

I have received the complaints you have filed with the Housing Authority. I do acknowledge that all of the complaints on the list are necessary for the inspection and repair. I question the reason for filing the petition instead of expressing In order for to do so, there will be one or more visits to your unit to make any necessary repair or upgrade. My mother or i will communicate with you to schedule handy man or specialists.

The prior notice about the Dog is still valid and we would like to hear from you if you have any ideas or suggestions about any thoughts different from what has been addressed and asked to do. The reasons for your dog considered as a nuisance are the fact that; 1) the apartment is not designed and not sound proved enough for such big dog to be in presence, 2) allowing you to have such big dog creates unspoken consensus with other tenants that they can do the same thing by bringing a big dog, despite the fact that their contract clearly states otherwise. 3) flea, pest, or allegiant reaction could go out of control and could be a costly cleaning job.

Having a pet is a wonderful thing! we have had no problem with you having a cat in past, which does not cause much of nuisance with noise when it runs around in the unit. I would love to have you enjoy you having a pet. However, it clearly crosses the enjoyment of other tenants' stay.

**To Tenants at 3036 Brook Street**

**From Property Owner; Irene Noh and Ho Joon Kang.**

**Regards: Complaint from the neighbor.**

**2017, July 23rd**

**Greeting to all tenants at the Brook Street.**

**Few days ago, we received a letter from the property owner of the neighboring building 3042 brook street. The letter states that one of our tenant with a dog has trespassed the property of the neighbor's back yard and walked away after dog waste without picking up the dog waste.**

**I have no way to know who it maybe, so I am writing to everyone and also attaching the copy of the letter received from the next door property owner.**

**We have not had anyone complying with the no dog policy, even after several verbal and written warnings and the complaint of nuisance caused by the dog continues even to the neighboring property.**

**We will contact everyone with the final decisions or option to best deal with the issues with the dog policy, after we consult with proper advisors and look into the best possible compromising options.**

**Thanks**

**Sincerely**

## Pet Addendum to Lease Agreement

This Pet Addendum (this "Addendum") is an amendment to the \_\_\_\_\_ Agreement dated \_\_\_\_\_ by and between \_\_\_\_\_ ("Landlord") and ("Tenant") for the premises located at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the "Premises").

1. Landlord agrees Tenant is permitted to keep the following pet(s) ("Tenant's Pet") on the Premises in accordance with this Addendum and Tenant agrees to abide by this Addendum. No other pets are allowed on the Premises without the prior consent of the Landlord.

Pet Type: \_\_\_\_\_  
Name: \_\_\_\_\_  
Breed: \_\_\_\_\_  
Color: \_\_\_\_\_  
Gender: \_\_\_\_\_  
Age: \_\_\_\_\_  
Weight: \_\_\_\_\_  
License Number: \_\_\_\_\_

2. Tenant agrees to the following terms:

- a. Tenant shall be responsible for Tenant's Pet at all times.
- b. Tenant will take all reasonable action to not allow Tenant's Pet from creating a nuisance, annoyance and disturbance to the other tenants and neighbors.
- c. Tenant's Pet will be kept in appropriate areas within the Premises and will not be left unattended for an undue amount of time.
- d. Tenant will clean up and properly dispose of all pet waste inside and outside the Premises including any and all common areas.
- e. Tenant will comply with all applicable community association rules, statutes, local ordinances, rules and regulations.

3. Tenant shall be liable for any damage, loss or injury caused by Tenant's Pet. Tenant will pay all costs to repair, clean or replace any damage to the Premises including but not limited to carpets, floors, tiles, walls, doors, screens, windows, blinds, drapes, cabinets, landscaping and fences.

4. Tenant will pay a monthly pet fee of \$50 in addition to the current rent

5. Tenant will pay a pet deposit of \$500

7. The Tenant is suggested but not required to maintain renters insurance that includes damage and liability coverage for pets for any property damage or bodily injury caused by the acts of Tenant's Pet.

8. Tenant shall indemnify, hold harmless and defend Landlord against any and all liabilities, judgments, actions, suits, costs, expenses, losses or claims by third parties for injury to a person or damage to property caused by Tenant's Pet.

9. If any of the above were not kept, if any nuisances, caused the pet(s), were not managed, or responsibility of the owner were not delivered, the landlord has right to ask for removal of the pet out of the premises.

Tenant \_\_\_\_\_

Date \_\_\_\_\_

Property address: \_\_\_\_\_

Landlord \_\_\_\_\_

Date \_\_\_\_\_

## CHRONOLOGICAL CASE REPORT

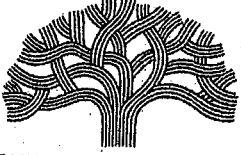
Case Nos.: T17-0390  
Case Name: Allen v. Casalongue  
Property Address: 2701 High Street, #304, Oakland, CA  
Parties: Best Bay Apartments (Owner)  
Edward Allen (Tenant)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	July 3, 2017
Owner Response filed	September 28, 2017
Hearing Decision mailed	January 2, 2018
Owner Appeal filed	January 18, 2018



T17-0390 RC/BC

 CITY OF OAKLAND	<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp: <b>2017 JUL -3 AM 11:56</b>
	<b><u>TENANT PETITION</u></b>	

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

**Please print legibly**

Your Name	Rental Address (with zip code)	Telephone:
EDWARDS Allen	2701 High ST #304 94619	510 717-0219
Your Representative's Name	Mailing Address (with zip code)	E-mail:
		Telephone:
		Email:
Property Owner(s) name(s)	Mailing Address (with zip code)	Telephone: 510
MILTON CASALONGUE	OAKLAND, CA 94601	982-0634
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
	2744 E 11 <sup>th</sup> ST	
		Email:

Number of units on the property: 30

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

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

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

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

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

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

Date you moved into the Unit: 5/27/91 Initial Rent: \$ 875.00 /month

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

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>5/27/17</u>	<u>8/1/17</u>	\$ <u>1300.00</u>	\$ <u>2003</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

**III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:**

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

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

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

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

Please attach documentary evidence if available.

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

**IV. VERIFICATION:** The tenant must sign:

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

Edward Allen  
Tenant's Signature

7/1/17  
Date

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

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

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

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

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

\_\_\_\_\_  
Tenant's Signature

\_\_\_\_\_  
Date

## **VI. IMPORTANT INFORMATION:**

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

### **File Review**


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

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

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

Original

RC

 <p><b>CITY OF OAKLAND</b>  <b>RENT ADJUSTMENT PROGRAM</b>  P.O. Box 70243  Oakland, CA 94612-0243  (510) 238-3721</p>	For date stamp.
	<p><b><u>PROPERTY OWNER</u></b>  <b><u>RESPONSE</u></b></p>

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

CASE NUMBER T 17 0390

Your Name <b>BEST Bay APARTMENTS</b>	Complete Address (with zip code) <b>2744 E 11th ST Oakland, Ca</b>	Telephone: <b>415-298-3558</b>
		Email: <b>ROSS@RLSAINC.COM</b>
Your Representative's Name (if any) <b>ROSS TAPLIN</b>	Complete Address (with zip code) <b>2744 E 11th ST Oakland Ca</b>	Telephone: <b>415-298-3558</b>
		Email: <b>ROSS@RLSAINC.COM</b>
Tenant(s) Name(s) <b>EDWARD ALLEN</b>	Complete Address (with zip code) <b>2701 HICK STREET # 304 Oakland, Ca 94619</b>	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property

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

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

Date on which you acquired the building: \_\_\_/\_\_\_/\_\_\_.

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

Type of unit (Circle One): House / Condominium/ Apartment, room, or live-work  
**EXEMPTION! This Building is Exempt see Page 3**

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

SEE ATTACHED CERTIFICATE OF EXEMPTION

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

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

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

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

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

The tenant moved into the rental unit on \_\_\_\_\_

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

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

If yes, on what date was the Notice first given? \_\_\_\_\_

Is the tenant current on the rent? Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

**III. EXEMPTION**

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds 28 PM 4:39

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

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

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

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

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

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

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

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

**IV. DECREASED HOUSING SERVICES**

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

**V. VERIFICATION**

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

\_\_\_\_\_  
Property Owner's Signature

\_\_\_\_\_  
Date

9/27/2017

RENT ADJUSTMENT PROGRAM



2017 SEP 28 PM 4:39

CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA, SUITE 5313  
P. O. BOX 70243  
OAKLAND, CALIFORNIA 94612-0243

Housing and Community Development Department  
Rent Adjustment Program

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

August 16, 2013

Russell Taplin  
Best Bay Apartments  
160 Franklin Street, Ste. 300  
Oakland, CA 94607

Re: T12-0112, Williams v. Best Bay Apts.

Dear Mr. Taplin:

Enclosed please find a Certificate of Exemption in the above-captioned case.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Barbara Kong-Brown', with a long horizontal flourish extending to the right.

BARBARA KONG-BROWN  
Hearing Officer  
Rent Adjustment Program

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CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 5313  
P.O. BOX 70243, OAKLAND, CA 94612-2043

Housing and Community Development Agency  
Rent Adjustment Program

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

**CERTIFICATE OF EXEMPTION**

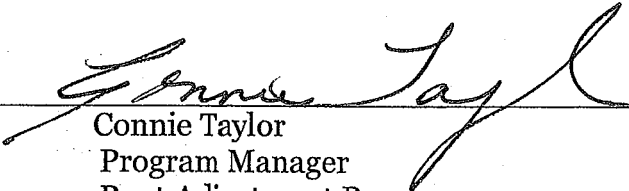
**O.M.C. § 8.22.030(B)**

Pursuant to the Final Agency Decision in the City of Oakland Rent Adjustment Program (Case No. T12-0112, Williams v. Best Bay Apts), the residential rental units described below are permanently exempt from application of the City of Oakland Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22, Article 1.

Situs Address: 2701 High Street, No. 204  
Oakland, CA

Alameda County Assessor Parcel No: 032-2058-098-00

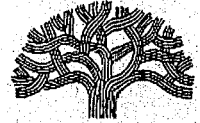
Date: August 16, 2013

  
\_\_\_\_\_  
Connie Taylor  
Program Manager  
Rent Adjustment Program  
City of Oakland

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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:** T17-0390, Allen v. Casalongue  
**PROPERTY ADDRESS:** 2701 High Street, #304, Oakland, CA  
**DATE OF HEARING:** November 2, 2017  
**DATE OF DECISION:** December 27, 2017  
**APPEARANCES:** Edward Allen (Tenant)  
No appearance by owner

### SUMMARY OF DECISION

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

### CONTENTIONS OF THE PARTIES

The tenant filed a petition on July 3, 2017, contesting a rent increase from \$1,300 to \$2,003, effective August 1, 2017, on the grounds that:

- The CPI and/or banked rent increase notice was calculated incorrectly;
  - The increase exceeds the CPI Adjustment and is unjustified or is greater than 10%;
  - That he received the rent increase notice before the property owner received approval for the rent increase from the Rent Adjustment Program (RAP);
  - No written notice of the Rent Program (*RAP Notice*) was given together the rent increase;
  - No *RAP Notice* was served at least 6 months prior to the rent increase;
- and,

///

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- The rent increase notice was not served in compliance with State law.

The owner filed a timely response to the tenant petition and alleged that the building is exempt from the RAP as new construction. The owner did not appear at the Hearing.

### THE ISSUES

1. When, if ever, was the tenant served the *RAP Notice*?
2. Can the issue of exemption be decided without the owner's presence?
3. Was the rent increase notice served in compliance with State law?
4. What is the allowable rent?
5. What if any restitution is owed between the parties and how does it affect the rent?

### EVIDENCE

The tenant testified that he moved into the subject unit in 1991. The tenant listed on his petition, which was signed under penalty of perjury, that his initial rent was \$875 a month. He was never served with a *RAP Notice*.

On May 27, 2017, the tenant was served with a *Sixty-Day Notice of Change of Monthly Rent* purporting to increase his rent from \$1,300 a month to \$2,003 a month, effective August 1, 2017. The rent increase notice was posted on his door. No *RAP Notice* was attached. The tenant has been paying the rent increase and will continue to do so until he gets a Hearing Decision in this matter.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### **When, if ever, was the tenant served the *RAP Notice*?**

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>1</sup> and together with any notice of rent increase or change in the terms of a tenancy.<sup>2</sup> An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.<sup>3</sup>

The tenant testified that he never received the *RAP Notice*. Therefore, unless the unit is exempt from the RAP, no rent increases are valid.

#### **Can the issue of exemption be decided without the owner's presence?**

There is an issue regarding whether or not this unit is exempt from the Rent Adjustment Program as new construction. However, the owner did not appear at the Hearing. In order to establish new construction, the owner must produce a *Certificate of Occupancy*, or a finalized permit, showing that the building was built after January 1,

<sup>1</sup> O.M.C. § 8.22.060(A)

<sup>2</sup> O.M.C. § 8.22.070(H)(1)(A)

<sup>3</sup> O.M.C. § 8.22.060 (C)

1983. A *Certificate of Exemption* for another unit in the building was provided by the owner, but without the owner providing testimony, this document was not admitted into evidence.

An owner has the burden of proof to establish an exemption. Without the owner's presence, no determination could be made as to whether or not this unit is exempt from the RAP.

**Was the rent increase notice served in compliance with State law?**

Civil Code § 827 requires that a rent increase notice be served by hand delivery or by mail. Posting a notice on the door is not legal service of a rent increase notice. The tenant testified that the rent increase notice in question was posted on his door. Therefore, service of the rent increase was invalid.

**What is the allowable rent?**

The tenant's base rent is \$1,300 a month.

**What if any restitution is owed between the parties and how does it affect the rent?**

Assuming the tenant has already paid the rent for January of 2018, the tenant has paid the rent increase since August of 2017, a period of 6 months. He has overpaid rent by \$703 a month, for a total overpayment of \$4,218. Overpayments of this size are ordered repaid over a 12-month period.<sup>4</sup> Therefore, from February 1, 2018 through January 31, 2019, the tenant's rent is \$948.50 a month (\$1,300-\$351.50). The rent reverts to \$1,300 a month, on February 1, 2019.

The owner may otherwise be entitled to a rent increase according to the laws of the State of California and the Rent Adjustment Program. No rent increase notice can be served until six months after the tenant is first served with the *RAP Notice*. If the rent is increased while the period of restitution is still pending, the monthly restitution of \$351.50 shall be deducted from the new rent.

**ORDER**

1. The tenant's petition is granted.
2. The base rent is \$1,300. The rent increase notice is invalid.
3. No determination of whether or not the unit is exempt can be made without the owner present.

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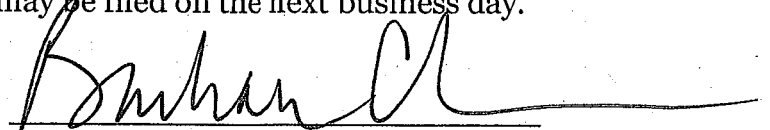
<sup>4</sup> Regulations, § 8.22.110(F)(4)

4. The tenant is owed restitution of \$4,218. From February 1, 2018 through January 31, 2019, the tenant's rent is reduced by \$351.50 a month, to \$948.50. The rent reverts to \$1,300 a month on February 1, 2019.

5. The owner may increase the rent six months after the tenant is first served with a *RAP Notice*. If the owner increases the rent before the restitution is paid, the \$351.50 will be reduced from the new rent.

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

Dated: December 27, 2017



Barbara M. Cohen  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number T17-0390**

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

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

**Tenant**

Edward Allen  
2701 High St #304  
Oakland, CA 94619

**Owner**

Best Bay Apartments  
2744 East 11th St  
Oakland, CA 94601

**Owner Representative**

Russ Taplin  
2744 East 11th St  
oakland, CA 94601

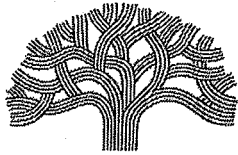
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 02, 2018 in Oakland, CA.



Esther K. Rush

000070



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp.  
4:24

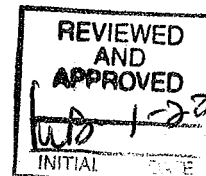
**APPEAL**

Appellant's Name <b>BEST BAY APARTMENTS</b>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <b>2701 High STREET, UNIT 304</b>			
Appellant's Mailing Address (For receipt of notices) <b>2744 E 11th Street Oakland, CA 94601</b>		Case Number <b>T17 0390</b>	Date of Decision appealed <b>December 27, 2017</b>
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.



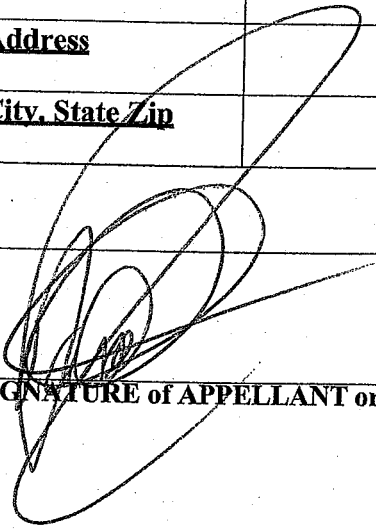
- f)  I was denied a sufficient opportunity to present my claim, or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may 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 January 17, 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:

<b>Name</b>	EDWARD ALLEN
<b>Address</b>	2701 HIGH STREET #304
<b>City, State Zip</b>	OAKLAND CA 94619
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

	1-17-2018
<b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b>	<b>DATE</b>

For more information phone (510) 238-3721.



2018 JAN 18 PM 4:24

**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.

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For more information phone (510) 238-3721.

RENT ADJUSTMENT  
2018 JAN 18  
Best Bay Apartments Inc.  
2744 E 11<sup>th</sup> Street,  
Oakland, Ca 94601

Oakland Rent Board  
250 Frank Ogawa Plaza, Suite 5313  
Oakland, California 94612

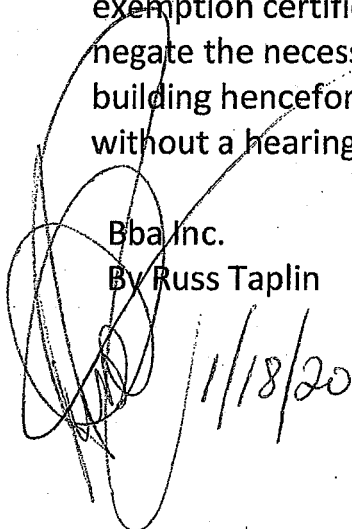
Re: T17-0390

Dear Oakland Rent Board:

Please be advised we filed a Owners response to this matter on September 28, 2017 with attached documents showing that the subject building is exempt from the Oakland Rent Adjustment ordinance. By letter dated October 16, 2017 you referred to our September 28, 2017 stating that we needed to provide you with proof of the Rent Program Service Fee. On October 24, 2017 we provided you with proof that we had paid the 2017 Rent Program Service Fee and the 2017 Business Tax.

In the past upon providing you with the exact same documents a tenant RAP petition has been dismissed without a hearing and we expected that the same procedure would be followed in this matter. Our understanding is that the exemption certificate that was attached to our owner's response was issued to negate the necessity of having a hearing on the exempt status of the subject building henceforth and in the past at least one other petition was so dismissed without a hearing.

Bba Inc.  
By Russ Taplin

  
1/18/2018

000074



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

For date stamp.

**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T 17 0390**

Your Name <b>BEST BAY APARTMENTS</b>	Complete Address (with zip code) <b>2744 E 11th ST Oakland, Ca</b>	Telephone: <b>415-298-3558</b>
		Email: <b>ROSS@RLSAINC.COM</b>
Your Representative's Name (if any) <b>RUSSTAPLIN</b>	Complete Address (with zip code) <b>2744 E 11th ST Oakland Ca</b>	Telephone: <b>415-298-3558</b>
		Email: <b>ROSS@RLSAINC.COM</b>
Tenant(s) Name(s) <b>EDWARD ALLEN</b>	Complete Address (with zip code) <b>2701 High Street # 304 Oakland, Ca 94612</b>	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property

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

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

Date on which you acquired the building: \_\_\_/\_\_\_/\_\_\_

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

Type of unit (Circle One): House / Condominium/ Apartment, room, or live-work  
**EXEMPTION! This Building is Exempt see Page 3**  
**I. JUSTIFICATION FOR RENT INCREASE** You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition.  
 For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent

**SEE ATTACHED CERTIFICATE OF EXEMPTION**

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

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

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

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

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

The tenant moved into the rental unit on \_\_\_\_\_

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

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

Yes \_\_\_\_\_ No \_\_\_\_\_ I don't know \_\_\_\_\_

If yes, on what date was the Notice first given? \_\_\_\_\_

Is the tenant current on the rent? Yes \_\_\_\_\_ No \_\_\_\_\_

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

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

**III. EXEMPTION**

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

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

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

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

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

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

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

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

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

**IV. DECREASED HOUSING SERVICES**

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

**V. VERIFICATION**

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

\_\_\_\_\_  
Property Owner's Signature

9/27/2017  
\_\_\_\_\_  
Date

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 5313  
P.O. BOX 70243, OAKLAND, CA 94612-2043

Housing and Community Development Agency  
Rent Adjustment Program

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

**CERTIFICATE OF EXEMPTION**

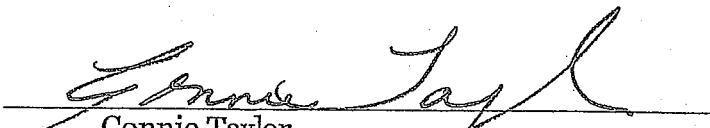
**O.M.C. § 8.22.030(B)**

Pursuant to the Final Agency Decision in the City of Oakland Rent Adjustment Program (Case No. T12-0112, Williams v. Best Bay Apts), the residential rental units described below are permanently exempt from application of the City of Oakland Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22, Article 1.

Situs Address: 2701 High Street, No. 204  
Oakland, CA

Alameda County Assessor Parcel No. 032-2058-098-00

Date: August 16, 2013

  
\_\_\_\_\_  
Connie Taylor  
Program Manager  
Rent Adjustment Program  
City of Oakland

000078



Official Use Only

2013 SEP 28 10 11 AM '13

CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA, SUITE 5313  
P. O. BOX 70243  
OAKLAND, CALIFORNIA 94612-0243

Housing and Community Development Department  
Rent Adjustment Program

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

August 16, 2013

Russell Taplin  
Best Bay Apartments  
160 Franklin Street, Ste. 300  
Oakland, CA 94607

Re: T12-0112, Williams v. Best Bay Apts.

Dear Mr. Taplin:

Enclosed please find a Certificate of Exemption in the above-captioned case.

Very truly yours,

BARBARA KONG-BROWN  
Hearing Officer  
Rent Adjustment Program

000079

## CHRONOLOGICAL CASE REPORT

Case No.: T17-0575  
Case Name: Titcomb v. Vinyard-Ide  
Property Address: 2050 Lakeshore Ave., Oakland, CA  
Parties: Clark Titcomb (Tenant)  
Je'Nen Chastain, (Tenant)  
Linda Vinyard-Ide (Owner)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	October 18, 2017
Owner Response filed	November 30, 2017
Hearing Decision mailed	February 15, 2018
Owner Appeal filed	February 20, 2018
Tenants Response to Appeal filed	March 26, 2018



T17.0575 KM/BC



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

For date stamp  
**RECEIVED**  
 OCT 18 2017  
**OAKLAND RENT ADJUSTMENT**  
**TENANT PETITION**

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

**Please print legibly**

Your Name <b>CLARK TITCOMB</b>	Rental Address (with zip code) <b>2050 LAKESHORE AVE. 94606</b>	Telephone: <b>MOBILE 704.560.0341</b>
		E-mail: <b>CLARKTITCOMB@GMAIL.COM</b>
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) <b>LINDA VINYARD - IDE</b>	Mailing Address (with zip code) <b>626 OAK ST. OAKLAND 94607</b>	Telephone: <b>MOBILE 510.499.9872</b>
		E-mail: <b>HOME: 510.832.0537</b>
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 3

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

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

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

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

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

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

Date you moved into the Unit: 9/18/10 Initial Rent: \$ 1,775 /month

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

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
11/29/13	1/1/14	\$ 1775	\$ 1890	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/29/14	12/1/14	\$ 1890	\$ 2010	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/1/15	10/1/15	\$ 2010	\$ 2170	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/1/16	9/1/16	\$ 2170	\$ 2360	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7/31/17	9/1/17	\$ 2360	\$ 2600	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes  
 No

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

**III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:**

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

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

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


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

Please attach documentary evidence if available.

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

**IV. VERIFICATION:** The tenant must sign:

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

  
\_\_\_\_\_  
Tenant's Signature

8/14/17  
Date

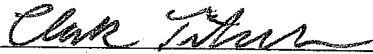
**V. MEDIATION AVAILABLE:** Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

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

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

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

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



Tenant's Signature

8/14/17

Date

## **VI. IMPORTANT INFORMATION:**

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

### **File Review**

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

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

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

### III. DESCRIPTION OF DECREASED HOUSING SERVICES:

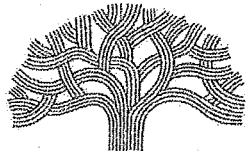
Services originally paid by the owner:

1) Garbage Collection:

- a) On 11/25/15 I was notified by the landlord that effective 1/1/16 there will be a \$30 per month garbage fee. Prior to this, since moving in on 9/18/10, there had been no fee for garbage or recycling collection.
- b) On 6/24/16 I was notified that effective 8/1/16 the garbage fee would increase from \$30 per month to \$37.50 per month.
- c) On 6/30/17 I was notified that effective 8/1/17 the garbage fee would increase from \$37.50 per month to \$46.50 per month.

2) Water Bill:

- a) On 9/24/16 I was notified by the landlord that effective 1/1/17 there will be a \$110 per month fee to cover the water bill. Prior to this, since moving in on 9/18/10, there had been no fee for water.



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp:  
ARBITRATION PROGRAM

2017 NOV 30 AM 11:45

**PROPERTY OWNER**  
**RESPONSE**

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

**CASE NUMBER T-17-0575**

Your Name <i>LINDA VINYARD-IDE</i>	Complete Address (with zip code) <i>626 OAK ST. 94607</i>	Telephone: <i>510-499-9872</i>
		Email:
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>CLARK TITCOMB</i>	Complete Address (with zip code) <i>2050 LAKESHORE AVE. 94606</i>	
Property Address (If the property has more than one address, list all addresses) <i>2048, 2050 &amp; 2052</i>		Total number of units on property <i>3</i>

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 60044100  
The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes  No  APN: 22-308-3  
The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 12/28/06.

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

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

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

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

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

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

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

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

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

The tenant moved into the rental unit on 9/18/2010.

The tenant's initial rent including all services provided was: \$ 1775.00 / month.

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

Yes  No  I don't know

If yes, on what date was the Notice first given? \_\_\_\_\_

Is the tenant current on the rent? Yes  No

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

Date Notice Given (mo./day/year)	Date Increase Effective	Rent Increased		Did you provide the "RAP NOTICE" with the notice of rent increase?
		From	To	
7/31/17	9/1/17	\$ 2360.00	\$ 2600.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/1/16	9/1/16	\$ 2170.00	\$ 2360.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/1/15	10/1/15	\$ 2010.00	\$ 2170.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/29/14	12/1/14	\$ 1890.00	\$ 2010.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11/29/13	1/1/14	\$ 1775.00	\$ 1890.00	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### III. EXEMPTION

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

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

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

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

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

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

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

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

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

### IV. DECREASED HOUSING SERVICES

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

### V. VERIFICATION

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

  
Property Owner's Signature

11/23/2017  
Date



**IMPORTANT INFORMATION:**

**Time to File**

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

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

**File Review**

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

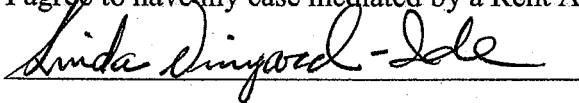
**Mediation Program**

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

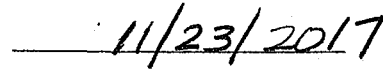
If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitting a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510)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

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

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



Property Owner's Signature



Date

CASE NO 717-0575

RENT ARBITRATION PROGRAM

November 23, 2017

To Whom It May Concern: 2017 NOV 30 AM 11:19

Up until now, the tenants for 2050 Lakeshore Ave Oakland, Clark & Je'nen, still grooms their 2 pet dogs and gives them both a bath and trim their fur in order to avoid clogging and damaging the drain pipes of the unit/apartment. The reason for this is on September 21<sup>st</sup>, 2015, the drain pipe to the 2048 Lakeshore bathtub (the unit/apartment above 2050) was stopped up due to all the dog fur and long strands of human hair from 2050 Lakeshore. The plumber had to locate where the drain pipe for 2048 connects to 2050 inside the basement and was forced to cut two different sections of wall to locate and cut a one and a half foot section of drain pipe, to remove the dog fur and human hair. The labor time for locating the drain pipe, removing the hair and fur, and replacement of the clogged pipe was over 3 hours, spanning over 2 and a half days, costing a total of \$1,300.00, which finished on September 23<sup>rd</sup>, 2015.

I suggest very strongly suggest to Clark & Je'nen, that they should take their 2 dogs to a professional pet groomer to give them a bath and trim their fur to avoid damaging the drain pipes of the unit/apartment. The plumber said that if this happens again, it will cost around \$10,000.00 for repairs/replacement of the drain pipes that connects 2048 and 2050 Lakeshore all the way to the basement and into the sewers. The plumber also stated that if this continues, the pipes will clog again in 2-3 years' time.

If this happens again, it would be very inconvenient for the upstairs tenants of 2048 Lakeshore Ave.

I lost 2 good tenants from 2048 Lakeshore Ave two different times because when they were walking in the back yard, they stepped on loose, wet, smelly dog fur, witched tracked back

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into the upstairs unit/apartment, which proceeded to cause the unit/apartment to smell like wet dog. The 2048 tenants needed to hire a professional cleaner to remove the smell.

On May, 6<sup>th</sup>, 2016, when I was in the basement with a contractor replacing a hot water heater, we herd both dogs pawing and clawing at two different spots the hardwood floors above us for over 26 minutes.

On March 29<sup>th</sup>, 2017, during the inspection on the unit/apartment, I told Clark & Je'nen that only one dog (terrier mix) was allowed, and I found out that there were now 2 dogs (second dog is also a terrier mix). Having 2 dogs are a Breach of Contract, which they signed for 1 pet on September 18<sup>th</sup>, 2010. I also mentioned to them when they moved in, to only take their dog out of the front door only and not let their dog out of the backdoor to run around to play in the backyard, nor use the area as an outdoor toilet.

They also re-painted some of the walls either a dark blue and gray. My husband and I told them **NO** because we would like to keep the same color set-up across all of the other units. This original color scheme also matches Unit/apartment 2052 Lakeshore Ave, which was painted a few weeks ago.

They also went ahead and changed the locks for both the front and back doors to the unit. I wasn't able to enter the unit/apartment with my original key set when I had the plumber with me. I was forced to borrow 2050's keys in order to make a copy so I could enter.

I strongly feel that both Clark & Je'nen both abusive my property.

Even I lost my janitor/groundskeeper. On August 31<sup>st</sup>, 2013, he told me he was very upset from cleaning-up dog feces for over 2 years while on top of his job of sweeping away

evergreen debris and pulling weeds. He didn't want to continue to work, especially due to the dog feces.

During September, 2013, when I was cleaning the backyard, twice that day I stepped in dog feces.

On March 29, 2017, during the inspection of their unit, I asked Clark to move out because they were still washing their dogs in their unit/apartment bathtub and using the 2 lawn chairs to dry the dogs on and I would be forced to increase the rent accordingly. Clark said "Go ahead, we're not going to move."

Both 2050 and 2052 Lakeshore are part of the same building and share the same water meter. Despite the fact that the tenants to Unit/apartment **2052** had **moved out** since **June 30, 2017**, the water bill is still over \$222.10. I received this \$222.12 bill on November 20<sup>th</sup>, 2017. Even when 2050 Lakeshore Ave pay their share of \$110.00 per month, I have to cover the other half of the bill.

Lastly, the tenants of 2050 Lakeshore Ave produce more garbage than is normal for a two person occupied unit/apartment. Sometimes, they produce so much garbage that it risks overflowing the 64 gallon garbage can. One of the items that can often be seen thrown away are the pet beds for their dogs.

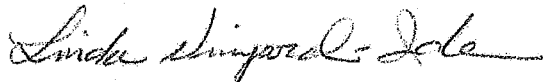
Again, to reiterate:

- When Clark & Je'nen signed the contract on September 18<sup>th</sup>, 2010, my husband and I told them that they can go to the City of Oakland website to view the

**RESIDENTIAL RENT ADJUSTMENT PROGRAM**

- When they signed the rental contract, we told them both Clark & Je'nen their dog isn't allowed into the backyard.
- Breach of Contract to the Pet Addendum; only one dog allowed, now 2 dogs are present
- No consideration for my janitor/groundskeeper, forcing him to leave after 2 years (2010 - August 31<sup>st</sup>, 2013) by leaving all their dogs feces behind in the backyard for him to clean up
- Wasting water, no consideration to the owner's water bill
- No consideration for my property's drain pipes
- 2048 tenants move out because unit 2050 bathed, groomed, and trim the fur for both dogs, 2048 tenants stepped into leftover dog fur, tracked it into the unit/apartment and resulted in the place smelling. Tenants hired cleaner to remove smell from unit/apartment
- Re-painted some of the walls without permission from owner
- Went ahead and changed the locks to the unit/apartment without informing the owner, nor giving the owner a copy of the replacement keys
- Produce more garbage than is normal, to the point of almost causing a 64 gallon garbage can to overflow

Sincerely,



Linda Vinyard-Ide

510-499-9872

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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:** T17-0575, Titcomb v. Vinyard-Ide

**PROPERTY ADDRESS:** 2050 Lakeshore Ave, Oakland, CA

**DATE OF HEARING:** February 7, 2018

**DATE OF DECISION:** February 14, 2018

**APPEARANCES:** Clark Titcomb, Tenant  
Je'Nen Chastain, Tenant  
Linda Vinyard-Ide, Owner

## SUMMARY OF DECISION

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

## CONTENTIONS OF THE PARTIES

Tenant Titcomb filed a petition on October 18, 2017, contesting a rent increase from \$2,360 to \$2,600, effective September 1, 2017, violated the Rent Adjustment Ordinance (Ordinance) on the following grounds:

1. The increase exceeds the CPI Adjustment and is unjustified or is greater than 10%;
2. No written notice of the Rent Program (*RAP Notice*) was given together with the notice of increase; and,
3. The rent increase would exceed an overall increase of 30% in five years.

The tenant also contested all rent increases given since he moved into the unit.

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Additionally, the tenant claimed decreased housing services relating to being charged for garbage and water.

The owner filed a timely response to the tenant petition on November 30, 2017, in which the owner did not state a justification for the rent increases. The owner stated in her response that she had not given the *RAP Notice* with any of the rent increases. She additionally stated "I don't know" to the question asking whether the *RAP Notice* had ever been provided. The owner denied the tenant's claims of decreased housing services.

**THE ISSUES**

1. When, if ever, was the tenant provided the *RAP Notice*?
2. Were the rent increases valid and what is the base rent?
3. Have the tenant's housing services decreased?
4. Can the owner split utilities?
5. What, if any, restitution is owed to the tenant and how does it affect the rent?

**EVIDENCE**

Rental History: The tenant testified that he moved into the rental unit in September of 2010, at an initial rent of \$1,775, with Je'Nen Chastain. They were not served the *RAP Notice* when they moved in, or at any time over the course of their tenancy. Their lease was provided, with no *RAP Notice* attached.<sup>1</sup>

The tenants' rent was increased by written notice as follows:<sup>2</sup>

Effective Date of Increase	Rent before Increase	Rent After Increase	Amount of Increase
January 1, 2014	\$1,775	\$1,890	\$115
December 1, 2014	\$1,890	\$2,010	\$120
October 1, 2015	\$2,010	\$2,170	\$160
September 1, 2016	\$2,170	\$2,360	\$190
September 1, 2017	\$2,360	\$2,600	\$240

The tenants paid all the rent increases as noticed except the last one. They paid \$2,600 in September through November of 2017. Since December of 2017, the tenants reverted to paying the prior rent of \$2,360 a month. The tenants will continue to pay \$2,360 a month until they receive a Hearing Decision in this matter.

The owner testified that no *RAP Notice* was given when the tenants moved in. Her husband verbally informed the tenants about the *RAP* program, and referred them to the City of Oakland's website about the *RAP* program. As to the payments made, the owner did not cross-examine on this issue or provide contrary testimony.

<sup>1</sup> Exhibit 1. All Exhibits referred to in this Hearing Decision were admitted into evidence without objection.

<sup>2</sup> Exhibit 2

Decreased Housing Services:

Water: The lease states:

“Utilities: Resident shall pay for all utilities, services and charges, if any, made payable by or predicated upon occupancy of Resident, except: Garbage.”<sup>3</sup>

Tenant Titcomb testified that when they moved into the unit they were not asked to pay water bills until they had been residing there for about four years. The owner agreed with this testimony.

The tenant further testified that in September of 2016, the tenants received a letter from the owner stating that effective January 1, 2017, the tenants would have to pay their share of the water bill totaling \$55.00 a person, or \$110 a month. No *RAP Notice* was provided. The tenants have been paying this charge and will continue to do so until they receive a Hearing Decision in this matter.

The owner testified that the building is a three unit building with three separate addresses, 2048, 2050 and 2052 Lakeshore. The unit at 2048 Lakeshore has its own water meter. The 2050 and 2052 units share one water meter. The owner began passing on the cost of water to the tenants starting in January of 2017. On June 30, 2017, the tenants in 2052 Lakeshore moved out. It remained empty until recently because the owner had work done in the unit.

The owner produced a copy of the *EBMUD* bills for both the single unit and the two units for the period from mid-September 2017 through mid-November of 2017. The bill for the single unit was a total of \$185.16 while the bill for the two units was \$222.12.<sup>4</sup> She produced this to support her contention that the tenants in the subject unit use too much water, since this was the period in which they were the only tenants in the two units.

Garbage: The tenants testified that they did not pay any fees for garbage usage when they first moved in. In November of 2015, they received a notice from the owner saying that effective January of 2016, they were required to pay \$30 a month for garbage collection.<sup>5</sup> No *RAP Notice* was provided with this letter or the other letters about the garbage collection. They paid this charge monthly.

Additionally, the owner increased this charge on two occasions. Effective July 1, 2016, the tenants were informed that they had to pay \$37.50 a month for garbage.<sup>6</sup> They did so. Then on June 30, 2017, the tenants were informed they had to pay \$46.50 a month for garbage effective August 1, 2017.<sup>7</sup> They did so.

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<sup>3</sup> Exhibit 1

<sup>4</sup> Exhibit 5

<sup>5</sup> Exhibit 4, page 1

<sup>6</sup> Exhibit 4, page 2

<sup>7</sup> Exhibit 4, page 3



The owner did not provide contrary testimony.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**When, if ever, was the tenant first served with the *RAP Notice*?**

The Rent Adjustment Ordinance (Ordinance) requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>8</sup> and together with any notice of rent increase or change in the terms of a tenancy.<sup>9</sup> An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.<sup>10</sup>

It is uncontested that the tenants never received the *RAP Notice*. Not only did tenant Titcomb testify that he never received it, but the Owner admitted on her Owner's Response that she did not give the *RAP Notice* with any rent increase and testified at the Hearing that the *RAP Notice* was not provided with the lease. Verbally referring a person to the City of Oakland's website about the Rent Adjustment Program does not meet the requirement that a *RAP Notice* be served. Therefore, all rent increase notices given to the tenants were invalid.

Additionally, not only were the rent increases notices served without *RAP Notices*, but so were the notices requiring the tenants to pay for garbage and water fees. These letters are letters to change the terms of the tenancy and require *RAP Notices*. Therefore, these notices are also invalid.

No rent increase or notice to change the terms of the tenancy can be given to the tenants with an effective date any earlier than six months after the tenants are first given the *RAP Notice*.

**Were the rent increases valid and what is the base rent?**

As noted above, all rent increase notices must be served with a *RAP Notice*. Therefore, all the rent increases given were invalid.

Additionally, the rent may only be increased once in every twelve month period. O.M.C. § 8.22.070(A)(1).

The tenants' base rent is \$1,775, the initial rent when they moved in. They are entitled to restitution as noted in the Order below.

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<sup>8</sup> O.M.C. § 8.22.060(A)

<sup>9</sup> O.M.C. § 8.22.070(H)(1)(A)

<sup>10</sup> O.M.C. § 8.22.060 (C)

## **Have the tenant's housing services decreased and if yes, in what amount?**

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent<sup>11</sup> and may be corrected by a rent adjustment.<sup>12</sup> However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

There is a time limit for claiming decreased housing services. Once the tenant is served with a *RAP Notice*, a tenant petition must be filed within 90 days after the decrease in service begins. However, where no *RAP Notice* was ever provided, the tenant can contest any decrease in services.<sup>13</sup>

In this case the lease specifically states that the owner pays for garbage. "Rent' means the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant." O.M.C. § 8.22.020. Additionally, housing services means "all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, .....utilities....janitorial service, refuse removal...." etc. Id.

Here, the owner was required to pay for garbage per the lease. Any attempt to change that, even after the lease period is over, is a decrease in housing services and an increase in rent. This is prohibited. The owner must continue to pay for garbage services. Additionally, the tenants are owed restitution for the overpayment of these fees, as noted in the section below on restitution.

See below for the discussion of water charges.

## **Can the owner split utilities?**

Unlike the garbage charges, in this case the lease states that the tenants are responsible for all utilities other than garbage, which implies that the tenants will pay for water usage. However, the owner did not charge the tenants for water usage when they first moved in, and did not seek any payment for water usage until January of 2017.

While it was assumed in the lease that the owner could charge the tenants for water, the RAP Regulations prohibit the splitting of utilities. The Regulations specify that "when more than one rental unit shares any type of utility bill with another rental unit; it is illegal to divide up the bill between units."<sup>14</sup> This is true even when the lease calls for the tenants to pay toward the water bill. Parties cannot agree to violate the Rent

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<sup>11</sup> O.M.C. § 8.22.070(F)

<sup>12</sup> O.M.C. § 8.22.110(E)

<sup>13</sup> O.M.C. § 8.22.090(A)(3)(a)(ii)

<sup>14</sup> Regulations Appendix A § 10.1.10.

Ordinance.<sup>15</sup> This is because where there is more than one unit on one meter, it is impossible to tell who is using the utilities.<sup>16</sup>

The owner cannot transfer the water bill to the tenants for two reasons. First, since the Rent Adjustment Regulations prohibit the splitting of utilities, the original lease clause requiring the tenants to pay for water was an illegal contract term that cannot be enforced.

Because the original contract term was illegal, and since water is a required amenity in a rental, the owner was responsible for providing for and paying for the water service from the beginning of the tenancy. Since the tenants could not legally be the responsible party for paying for water, that requirement fell on the owner. Any change to that requirement is a change in terms of tenancy that must follow the rules of the Rent Adjustment Program.

Rent Adjustment Regulation § 10.1.9 states that "The transfer of utility costs to the tenant by the landlord is not considered as part of the rent increase unless the landlord is designated in the original rental agreement to be the party responsible for such costs."

Here, since the lease term designating the tenants as the responsible party was an illegal lease term, the owner became the responsible party to pay for the water bill. A designation does not have to be written, it can be implied. Therefore, the transfer of the water costs to the tenants must be considered as part of a rent increase.

The second reason this cost cannot be transferred to the tenants is that the attempted transfer of the cost was not adequately noticed. No *RAP Notice* was included.

See *Tabet v. Siu*, HRRRB, T16-0037, a case in which the Housing, Residential, Rent and Relocation Board held that an owner cannot transfer a water bill to the tenant even where there was a lease provision stating that the tenant was responsible for a water bill.<sup>17</sup>

For these reasons, the owner may not shift the cost of water to the tenants and the tenants are entitled to restitution as noted below.

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<sup>15</sup> *Gombiner v. Swartz*, 167 Cal.App. 4<sup>th</sup> 1365 (2008)

<sup>16</sup> This does not change because there was a period of time where the second unit was empty. The owner testified that it was empty because it had to be remodeled. It is unknown what the water usage might have been during this time period while there were workers in the unit. It is also unknown at all other time periods where there were tenants in the unit, what water usage belonged to these tenants.

<sup>17</sup> In *Tabet v. Siu*, the owner installed separate meters but was not allowed to enforce the lease provision because at the time the lease was entered into, there were not separate meters; so the lease provision was illegal and unenforceable.

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

Additionally, the tenants are entitled to restitution of overpaid rent, beginning three years prior to the date the *Tenant Petition* was filed. See *Moore v. Lagios Property Investments*, HRRRB T13-0159. Therefore, the restitution calculation begins on November 1, 2014. The tenants' rent, before consideration of restitution is \$1,775 a month. Additionally, as noted on the chart below, the tenant has overpaid rent of \$20,593. Note that the chart lists "garbage charges" three times because of the three different periods during which the tenants were charged \$30, \$37.50 and \$46.50 a month.

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Garbage Charges	1-Jan-16	30-Jun-16	\$1,775	n/a	\$30	6	\$ 180.00
Garbage Charges	1-Jul-16	30-Jul-17	\$1,775	n/a	\$ 37.50	13	\$ 487.50
Garbage Charges	1-Aug-17	28-Feb-18	\$1,775	n/a	\$ 46.50	7	\$ 325.50
Water charges	1-Jan-17	28-Feb-18	\$1,775	n/a	\$ 110.00	14	\$ 1,540.00
					\$ -		-
<b>TOTAL LOST SERVICES</b>							<b>\$ 2,533.00</b>
OVERPAID RENT							
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
	1-Nov-14	30-Nov-14	\$1,890	\$1,775	\$ 115.00	1	\$ 115.00
	1-Dec-14	30-Sep-15	\$2,010	\$1,775	\$ 235.00	10	\$ 2,350.00
	1-Oct-15	31-Aug-16	\$2,170	\$1,775	\$ 395.00	11	\$ 4,345.00
	1-Sep-16	31-Aug-17	\$2,360	\$1,775	\$ 585.00	12	\$ 7,020.00
	1-Sep-17	30-Nov-17	\$2,600	\$1,775	\$ 825.00	3	\$ 2,475.00
	1-Dec-17	28-Feb-18	\$2,360	\$1,775	\$ 585.00	3	\$ 1,755.00
<b>TOTAL OVERPAID RENT</b>							<b>\$ 18,060.00</b>
RESTITUTION							
						<b>MONTHLY RENT</b>	<b>\$1,775</b>
						<b>TOTAL TO BE REPAID TO TENANT</b>	<b>\$ 20,593.00</b>
						<b>TOTAL AS PERCENT OF MONTHLY RENT</b>	<b>1160%</b>
<b>AMORTIZED OVER</b>				<b>MO. BY REG. IS</b>			
<b>OR OVER</b>	<b>24</b>	<b>MONTHS BY HRG. OFFICER IS</b>				<b>\$</b>	<b>858.04</b>

An overpayment of this size is normally adjusted over a period of 12 months.<sup>18</sup> However, where the overpayment is 1160% of the rent, good cause exists to extend the restitution to 24 months. For now \$858.04 a month is subtracted from the base rent of \$1,775 for a total rent of \$916.96 a month. From March of 2018 through February of 2020, the tenants' rent is \$916.96 a month. The rent reverts to \$1,775 a month on March 1, 2020.

The owner may otherwise be entitled to a rent increase, if it is served with an effective date at least six months after the tenants are served with a copy of the *RAP Notice* and is served according to the State law and the Rent Ordinance. If such a rent increase notice is served during the course of the restitution order, the tenants' monthly restitution should be deducted from the new base rent.

### ORDER

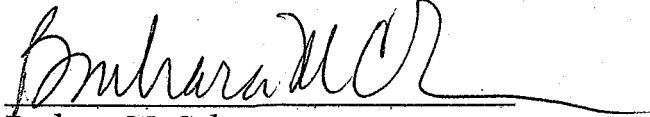
1. Petition T17-0575 is granted.
2. The tenants have never been served with the *RAP Notice*. All rent increases and notices to change the terms of the tenancy are invalid.
3. The tenants' base rent is \$1,775 a month.
4. The owner may not charge the tenants for garbage or for *EBMUD* bills because the RAP Regulations prohibit splitting of utilities.
5. The owner owes restitution to the tenants of \$20,593 for rent overpayments and for the tenants payments of garbage and water fees. This overpayment is adjusted by a rent decrease for the next 24 months in the amount of \$858.04 a month.
6. The tenants' rent for the months of March 2018 through February 2020 is \$916.96 per month. The rent reverts to \$1,775 a month in March of 2020 (if a rent increase notice has not been sent).
7. If the owner wishes to, she can repay the restitution owed to the tenants at any time. If she does so, the monthly decrease for restitution ends at the time the tenants are provided restitution.
8. The owner may otherwise be entitled to a rent increase, if it is served with an effective date at least six months after the tenants are served with a copy of the *RAP Notice* and is served according to the State law and the Rent Ordinance. If such a rent increase notice is served during the course of the restitution order, the tenants' monthly restitution should be deducted from the new base rent.
9. **Right to Appeal:** **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be

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<sup>18</sup> Regulations, Section 8.22.110(F)

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

Dated: February 14, 2018



Barbara M. Cohen  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number T17-0575**

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:**

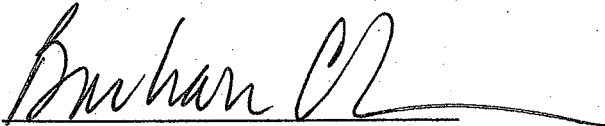
**Documents Included**  
Hearing Decision

**Owner**  
Linda Vinyard-Ide  
626 Oak St  
Oakland, CA 94607

**Tenant**  
Clark Titcomb  
2050 Lakeshore Avenue  
Oakland, CA 94606

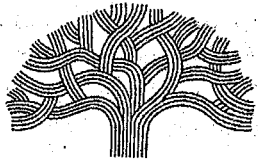
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on Feb. 15, 2018, in Oakland, CA.



Barbara M. Cohen

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

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ARBITRATION PROGRAM

2018 FEB 20 PM 1:30

**APPEAL**

Appellant's Name <i>LINDA VINYARD-IDE</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>2050 LAKESHORE AVE</i>			
Appellant's Mailing Address (For receipt of notices) <i>626 OAK ST, OAKLAND, 94607</i>		Case Number <i>717-0575</i>	
		Date of Decision appealed <i>2/15/2018</i>	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.



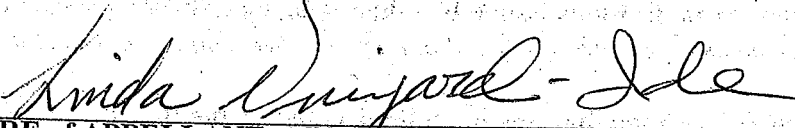
- f)  I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively. Number of pages attached: 4.

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

I declare under penalty of perjury under the laws of the State of California that on 2/20, 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:

<b>Name</b>	CLARK TITCOMB
<b>Address</b>	2050 LAKESHORE AVENUE
<b>City, State Zip</b>	OAKLAND, CA 94606
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

	2/20/18
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

## IMPORTANT INFORMATION:

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

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

For more information phone (510) 238-3721.

CASE NO. 317-0575

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CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

November 23, 2017

To Whom It May Concern:

2017 NOV 30 AM 11:19

2018 FEB 20 PM 1:30

Up until now, the tenants for 2050 Lakeshore Ave Oakland, Clark & Je'nen, still groom their 2 pet dogs and gives them both a bath and trim their fur in order to avoid clogging and damaging the drain pipes of the unit/apartment. The reason for this is on September 21<sup>st</sup>, 2015, the drain pipe to the 2048 Lakeshore bathtub (the unit/apartment above 2050) was stopped up due to all the dog fur and long strands of human hair from 2050 Lakeshore. The plumber had to locate where the drain pipe for 2048 connects to 2050 inside the basement and was forced to cut two different sections of wall to locate and cut a one and a half foot section of drain pipe, to remove the dog fur and human hair. The labor time for locating the drain pipe, removing the hair and fur, and replacement of the clogged pipe was over 3 hours, spanning over 2 and a half days, costing a total of \$1,300.00, which finished on September 23<sup>rd</sup>, 2015.

I suggest very strongly suggest to Clark & Je'nen, that they should take their 2 dogs to a professional pet groomer to give them a bath and trim their fur to avoid damaging the drain pipes of the unit/apartment. The plumber said that if this happens again, it will cost around \$10,000.00 for repairs/replacement of the drain pipes that connects 2048 and 2050 Lakeshore all the way to the basement and into the sewers. The plumber also stated that if this continues, the pipes will clog again in 2-3 years' time.

If this happens again, it would be very inconvenient for the upstairs tenants of 2048 Lakeshore Ave.

I lost 2 good tenants from 2048 Lakeshore Ave two different times because when they were walking in the back yard, they stepped on loose, wet, smelly dog fur, witched tracked back

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into the upstairs unit/apartment, which proceeded to cause the unit/apartment to smell like wet dog. The 2048 tenants needed to hire a professional cleaner to remove the smell.

On May, 6<sup>th</sup>, 2016, when I was in the basement with a contractor replacing a hot water heater, we herd both dogs pawing and clawing at two different spots the hardwood floors above us for over 26 minutes.

On March 29<sup>th</sup>, 2017, during the inspection on the unit/apartment, I told Clark & Je'nen that only one dog (terrier mix) was allowed, and I found out that there were now 2 dogs (second dog is also a terrier mix). Having 2 dogs are a Breach of Contract, which they signed for 1 pet on September 18<sup>th</sup>, 2010. I also mentioned to them when they moved in, to only take their dog out of the front door only and not let their dog out of the backdoor to run around to play in the backyard, nor use the area as an outdoor toilet.

They also re-painted some of the walls either a dark blue and gray. My husband and I told them NO because we would like to keep the same color set-up across all of the other units. This original color scheme also matches Unit/apartment 2052 Lakeshore Ave, which was painted a few weeks ago.

They also went ahead and changed the locks for both the front and back doors to the unit. I wasn't able to enter the unit/apartment with my original key set when I had the plumber with me. I was forced to borrow 2050's keys in order to make a copy so I could enter.

I strongly feel that both Clark & Je'nen both abusive my property.

Even I lost my janitor/groundskeeper. On August 31<sup>st</sup>, 2013, he told me he was very upset from cleaning-up dog feces for over 2 years while on top of his job of sweeping away

evergreen debris and pulling weeds. He didn't want to continue to work, especially due to the dog feces.

During September, 2013, when I was cleaning the backyard, twice that day I stepped in dog feces.

On March 29, 2017, during the inspection of their unit, I asked Clark to move out because they were still washing their dogs in their unit/apartment bathtub and using the 2 lawn chairs to dry the dogs on and I would be forced to increase the rent accordingly. Clark said "Go ahead, we're not going to move."

Both 2050 and 2052 Lakeshore are part of the same building and share the same water meter. Despite the fact that the tenants to Unit/apartment 2052 had moved out since June 30, 2017, the water bill is still over \$222.10. I received this \$222.12 bill on November 20<sup>th</sup>, 2017. Even when 2050 Lakeshore Ave pay their share of \$110.00 per month, I have to cover the other half of the bill.

Lastly, the tenants of 2050 Lakeshore Ave produce more garbage than is normal for a two person occupied unit/apartment. Sometimes, they produce so much garbage that it risks overflowing the 64 gallon garbage can. One of the items that can often be seen thrown away are the pet beds for their dogs.

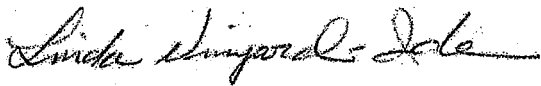
Again, to reiterate:

- When Clark & Je'nen signed the contract on September 18<sup>th</sup>, 2010, my husband and I told them that they can go to the City of Oakland website to view the

**RESIDENTIAL RENT ADJUSTMENT PROGRAM**

- When they signed the rental contract, we told them both Clark & Je'nen their dog isn't allowed into the backyard.
- Breach of Contract to the Pet Addendum; only one dog allowed, now 2 dogs are present
- No consideration for my janitor/groundskeeper, forcing him to leave after 2 years (2010 - August 31<sup>st</sup>, 2013) by leaving all their dogs feces behind in the backyard for him to clean up
- Wasting water, no consideration to the owner's water bill
- No consideration for my property's drain pipes
- 2048 tenants move out because unit 2050 bathed, groomed, and trim the fur for both dogs, 2048 tenants stepped into leftover dog fur, tracked it into the unit/apartment and resulted in the place smelling. Tenants hired cleaner to remove smell from unit/apartment
- Re-painted some of the walls without permission from owner
- Went ahead and changed the locks to the unit/apartment without informing the owner, nor giving the owner a copy of the replacement keys
- Produce more garbage than is normal, to the point of almost causing a 64 gallon garbage can to overflow

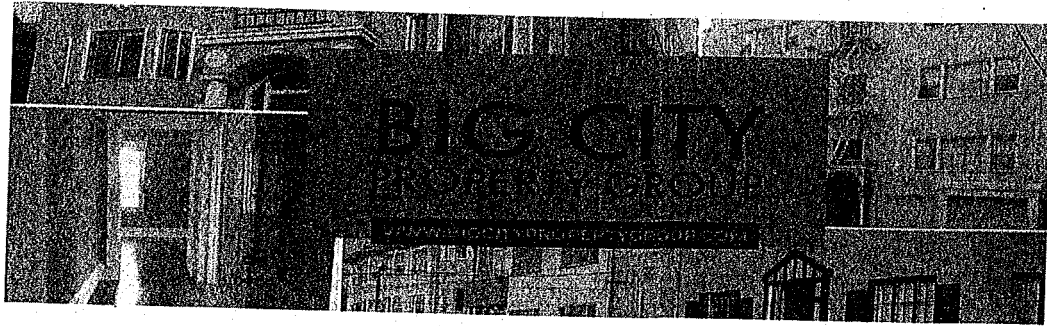
Sincerely,



Linda Vinyard-Ide

510-499-9872

000110



P.O. Box 13122

Oakland, CA 94661

510-838-0655

March 14, 2018

To: Rent Adjustment Program  
Attention: Barbara Kong-Brown  
Margaret Sullivan

Re: Petition #: T17-0575, Titcomb v. Vinyard-Ide

Good afternoon Barbara and Margaret,

I am the representative for the owner, Linda Vineyard-Ide. The Hearing Decision, issued on February 14, 2018, was not accurate for several reasons:

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RENT ADJUSTMENT PROGRAM  
2018 MAR 14 PM 4:45

- 1) Ms. Vinyard-Ide is a senior citizen, whose first language is Cantonese, English is her second language. My client stated she was not offer translation services for the hearing. This negatively impacted the hearing decision and denied my client her right to provide accurate testimony and evidence.
- 2) Ms. Vinyard-Ide engaged my services after her hearing decision was issued by RAP. My client issued a RAP notice to the tenants on September 1, 2015. My client did not fully understand the discussions during the hearing regarding the RAP Notice due to English not being her first language.
- 3) Keith Mason, the program analyst assigned to this case, has been out on leave without any determined date for his return. The impact of this has led to slow moving results and answers.

We are requesting the case be reopened to permit the submission of evidence. The Hearing Officer has the inherent power to control a hearing. It is not unusual for a Hearing to continue to allow a party to present additional documentary evidence. In Administrative Law, "the evidentiary hearing is widely regarded as a search for the truth..."<sup>1</sup> This has been the justification in previous hearings for the Hearing Officer to permit new evidence after the record has been closed.

The owner issued a RAP notice to the tenants in 2015, which supports the truth and which would have a favorable impact to my client. Additionally, the RAP should offer my client translation services.

Thank you for your consideration,

Jill Broadhurst

<sup>1</sup> The National Judicial College Deskbook on Evidence for Administrative Law Judges, at 8.1 (2005)

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CITY OF OAKLAND

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

Housing & Community Development Department  
Rent Adjustment Program



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

March 20, 2018

Jill Broadhurst  
Big City Property Group  
PO Box 13122  
Oakland, CA 94661

Re: Case T17-0575, Titcomb v. Vinyard-Ide

Dear Ms. Broadhurst;

I am in receipt of your letter dated March 14, 2018, addressed to Barbara Kong-Brown and Margaret Sullivan regarding the above referenced case. I am overseeing the day to day operation of the Rent Adjustment Program in the absence of a full time manager.

Ms. Vinyard-Ide was provided with a *Notice of Hearing* when she originally was notified about the tenant's claim. This *Notice* specifies that interpreters are available "on request." Until your letter there is no indication in the file that Ms. Vinyard-Ide needed an interpreter. Additionally, it is our practice if in a Hearing there is an indication that someone is struggling with understanding the proceedings or communicating, the person is asked if they wish an interpreter. The Hearing Officer informs me that during the Hearing, Ms. Vinyard-Ide appeared to understand her questions, participated fully throughout in English and did not request any interpretation services.

The case has already been appealed. The Hearing will not be reopened unless remanded to the Hearing Officer by the HRRRB.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michele Byrd".

Michele Byrd, Director  
Housing & Community Development Department



RESPONSE 1:

OBJECTION TO APPEAL OF CASE T17-0575, TITCOMB V. VINYARD-IDE

Clark Titcomb  
Je'Nen Chastain  
2050 Lakeshore Ave.  
Oakland, CA 94606

March 20, 2018

To Whom It May Concern,

We are filing an objection to the appeal filed by Linda Vinyard-Ide dated February 20, 2018 on the grounds that it does not comply with the requirements outlined by the City of Oakland Rent Adjustment Program and that it contains false and unsubstantiated claims. Our objections are as follows:

- (1) The Appeal Form states under option f) that: "In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented."

The appeal does not address this stipulation and makes no effort to describe how the owner was denied a sufficient opportunity to respond to the petitioner's claim.

- (2) The Appeal Form states under option g) that: "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."

The underlying petition was not based on a fair return claim. No specifics for this claim or calculations supporting it were provided in the appeal.

- (3) Lastly, the statements in the appeal are hearsay, knowingly untrue, and tantamount to character assassination.

The unlawful rent increases outlined in the original tenant petition have caused us damaging financial hardship. While awaiting the appeal decision, we continue to suffer these hardships. For the reasons outlined above and detailed in the following response, we request that (1) the appeal be denied, (2) the former hearing decision be upheld; and (3) the time between the original hearing decision and the appeal decision be deducted from the 24 months previously allocated to the owner for restitution to the tenants.

Sincerely,



Clark Titcomb

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**MAR 26 2018**

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

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RESPONSE 2:

RESPONSE TO APPEAL LETTER FROM OWNER, CASE T17-0575, TITCOMB V. VINYARD-IDE

Clark Titcomb  
Je'Nen Chastain  
2050 Lakeshore Ave.  
Oakland, CA 94606

March 20, 2018

To Whom It May Concern,

We are filing a response to the appeal filed by Linda Vinyard-Ide dated February 20, 2018 as the statements she submitted are hearsay, including knowingly false and misleading commentary tantamount to character assassination. We find the letter unethical with a disproportionate number of claims that are not only immaterial to the case, but also not factual with false innuendos and unsubstantiated by evidence. The following is an itemized list of responses:

- 1) The owner claims that her husband told us we could find the RAP notice online when we originally signed our lease in September of 2010.

We do not recall being told this information, and as noted by the Hearing Officer during the original hearing -- telling us does not comply with the requirements of the Rent Adjustment Program. As stated during our testimony, we have never received a physical copy of the RAP notice.

- 2) The owner claims that she did not know about our second dog until an apartment inspection in March of 2017.

This is immaterial to the case and not factual. As required by the Oakland Animal Shelter, we were required to provide proof of the owner's permission before being able to adopt our second dog. Since the dog's adoption in 2012, the owner has seen both dogs on the property on numerous occasions, and prior to this appeal has never asserted that she did not give us permission.

- 3) The owner claims that we bathe and groom our dogs in our tub and that their hair caused \$1,300 in plumbing repairs in 2015.

This is immaterial to the case, not factual, with false innuendo, and unsubstantiated by evidence. At the time of the repairs, the plumber informed me that the pipe damage was caused by grout that had been poured down the drain during prior repairs to the upstairs bathroom in unit 2048. Following a phone call from the owner claiming otherwise, we stopped bathing the dogs in the apartment and added a more restrictive drain cover to better catch human hair. All dog grooming and bathing is done off-property with professional services. Receipts and bank records can be made available to substantiate this.

Below our response, I have included the Yelp.com listing for Bruce and Linda Ide. A review left on 1/4/2016 demonstrates that the owner has a history of claiming clogged or damaged pipes when the tenant is not at fault.

- 4) The owner claims that we waste water.

This point is immaterial to the case and contains false innuendo. As pointed out by the original hearing decision, the Rent Adjustment Regulations prohibit the splitting of utilities. In addition to units 2050 and 2052 sharing the same water meter, there is also a coin-operated washing machine in the basement used by the entire building. We suspect this washing machine is also connected to our water meter, adding to water usage. Additionally, unlike unit 2048, unit 2050 does not have a dishwasher, which are proven to be more water efficient than hand washing dishes.

- 5) The owner claims that several tenants from unit 2048 moved out because of our dogs, and that the tenants were required to hire a professional cleaner for their apartment.

This is entirely fabricated, immaterial to the case, and not substantiated by evidence. We have confirmed these tenants moved out for job opportunities and other personal reasons and that no professional cleaner has been hired by any tenant of 2048. We have never received complaints about our dogs from any tenant, past or present.

- 6) The owner claims we repainted the walls without permission from the owner.

This is immaterial to the case, not factual, and with false innuendo. Prior to moving in, we obtained permission to paint the walls directly from the owner's husband Bruce Ide.

- 7) The owner claims we changed the locks without notification.

This is immaterial to the case, not factual, and not substantiated by evidence. At one time, the owner asked to borrow our keys to make copies. We cooperated, but no explanation was given by the owner. We were later accused of changing the locks. At the time we moved into the building, the owner accused the previous tenant of 2052 of this exact same thing.

- 8) The owner claims we produce more garbage than is normal.

This is immaterial to the case and not quantifiable. Since January of 2016, each unit has been asked to pay a garbage fee, but there is only a single 64-gallon garbage can shared by all three units.

- 9) The owner claims her grounds keeper quit due to our dogs.

This is immaterial to the case and with false innuendo. As demonstrated in the attached Yelp.com listing by a review left on 5/27/2009, the owner has a history of unstable agreements with handymen and overall poor property maintenance.

10) The owner claims we are abusive to the property and that our dogs have caused damage.

This is not factual, with false innuendos, and not substantiated by evidence. Normal wear has resulted following 90+ months of occupation in our unit and is in accordance with our lease. As the longest standing tenants in this building, we have invested time, money, and sweat equity into caring for the property, and assisting the owners when needed. This includes: landscaping upkeep, replacing exterior light bulbs, removing garbage from the property, and sweeping shared porches. We have been proactive in notifying the owners when issues arise on the property and have been cooperative with the landlords despite unusual and questionable behavior on their part. We have taken excellent care of our unit and the property while living here.

11) The owner claims she told me to move out, and I was not compliant.

This is entirely fabricated, not substantiated by evidence, and tantamount to character assassination. At no point has the owner ever asked me to move out and at no point have I ever spoken to the owner in the words or in the manner described in the appeal letter. This is a knowingly false statement on the part of the owner and a direct attempt to discredit my character.

In closing, despite false statements provided by the owner, we maintain we have been model tenants while living at 2050 Lakeshore Avenue. We have maintained good relationships with fellow tenants, cooperated with requests by the property owner, and have been respectful of our apartment and surrounding property. Since the original hearing, we have continued to pay the rent increases and fees associated with decreases in our housing services and have never missed a payment for either since moving-in in September of 2010. It is our strong hope that the original hearing decision be upheld and that restitution be ordered to be repaid in a timely manner.

Sincerely,



Clark Titcomb



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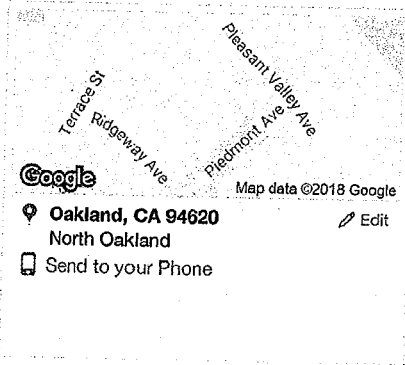


# Bruce and Linda Ide

Unclaimed

3 reviews Details

Property Management Edit



## Recommended Reviews for Bruce and Linda Ide

Your trust is our top concern, so businesses can't pay to alter or remove their reviews. Learn more.

Search within the reviews

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With so few reviews, your opinion of Bruce and Linda Ide could be huge. Start your review today.

**Myla M.**  
 Oakland, CA  
 4 friends  
 14 reviews

1/15/2010

My boyfriend's previous review of Bruce and Linda was erased (?), motivating me to sign up for yelp and make sure to save you from a horrible landlord fate! We lived in one of their properties for about 1.5 years, ending in mid-2009. We had a truly negative time renting with them, our first bad landlord experience.

They raised their voices at us, dug through the recycling and trash every week and took all the cans and bottles (a potential plus being that they took it out for us each week?), and generally were dishonest about returning our high security deposit. Also, they paved the backyard and cut down all the trees because they didn't like cleaning up back there. Ugh!

In our quad building, when we left, we had been there the longest at 18 months - turn-over is high. Though their rental prices are competitive, I do not trust them and would highly discourage anyone from renting one of their properties (they own a few throughout Oakland).

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Wes A.  
First to review

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MLRelo

Jesse W.  
Oakland, CA  
0 friends  
1 review

1/4/2016

There are a lot of unprofessional people out here Bruce and Linda Ide. meet those parameters. As a tenant they have sued me in 2003 for a problem the building has old pipes. I was told by them pipes were clogged because of me. which was not true and they got legal relief I did not contest that in 2003. Here it is twelve years later and they again are trying to take monies from me, I would never allow anyone I know to rent from them, be advised

Woods  
Star rating Negative 5



Wes A.  
Oakland, CA  
2 friends  
11 reviews

5/27/2009

First to Review

If I could give no stars to these horrible landlords, I would. My experience runs parallel to the one below. It was not a pleasant experience dealing with Bruce and Linda Ide. They poorly maintained our Oakland building, hiring the cheapest labor possible. At one point, after requesting for 2 months that they fix our leaking sink, they finally "hired" a plumber but apparently would not agree to pay him so he left, leaving the sink still leaking. Linda screamed at me in my apartment on numerous occasions. They were shady in dealing with the deposit. I strongly suggest you do not move in to any of their buildings, even if the apartment appears to be a good deal.

3 reviews



OZ-Realty  
10 reviews

I would highly recommend Dave for all real estate needs.



Via Property Management  
12 reviews

I would enthusiastically recommend Nathan and his team at Via PM to anyone.

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