

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING  
July 22, 2021  
5:00 P.M.  
Meeting Will Be Conducted Via Zoom**

**AGENDA**

**PUBLIC PARTICIPATION**

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

**OBSERVE:**

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

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

When: July 22, 2021 5:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING July 22, 2021

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87086362397>

Or One tap mobile :

US: +16699009128,,87086362397# or +13462487799,,87086362397#

Or Telephone:

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

US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592

Webinar ID: 870 8636 2397

International numbers available: <https://us02web.zoom.us/j/87086362397>

**COMMENT:**

There are two ways to submit public comments.

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

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

If you have any questions, please email [Bkong-brown@oaklandca.gov](mailto:Bkong-brown@oaklandca.gov).

## HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. CONSENT ITEMS
  - a. Approval of Board Minutes, 6/24/2021 (p. 4-8)
  - b. Approval of Board Minutes, 7/10/2021 (p. 9-15)
5. APPEALS\*
  - a. T18-0414 & T18-0472, Martin et al v. Zalabak (p. 30-227)
  - b. L19-0163, Lake 1925 LP v. Tenants (p.228-546)
  - c. T19-0424, Thornton v. Joyce (p. 547-588)
6. ELECTION OF BOARD VICE CHAIR
7. INFORMATION AND ANNOUNCEMENTS
  - a. Board Training – Rules of Evidence and Appeals (p. 16-29)
8. SCHEDULING AND REPORTS
  - a. Discussion about Returning to In-Person Meetings (K. Friedman)
9. ADJOURNMENT

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

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

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

Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en Español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) o llame al (510) 238-3721 o 711 por lo menos cinco días hábiles antes de la reunión.

需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) 或致電 (510) 238-3721 或711 California relay service.

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

June 24, 2021

5:00 P.M.

**VIA ZOOM CONFERENCE  
OAKLAND, CA**

**MINUTES**

1. CALL TO ORDER

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:07 p.m. by Board Chair J. Ma {Powers..

2. ROLL CALL

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
R. NICKENS	Tenant	X		
R. AUGUSTE	Tenant			X
H. FLANERY	Tenant Alt.			X
Vacant	Tenant Alt.			
S. DEVUONO- POWELL	Undesignated			X
A. GRAHAM	Undesignated			X
J. MA POWERS	Undesignated	X		
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
K. FRIEDMAN	Landlord			X
T. WILLIAMS	Landlord	X		
B. SCOTT	Landlord Alt.	X		
K. SIMS	Landlord Alt.			X

**Staff Present**

Kent Qian  
Braz Shabrell  
Barbara Kong-Brown

Deputy City Attorney (for first appeal)  
Deputy City Attorney  
Senior Hearing Officer

Harman Grewal  
Briana Lawrence-McGowan  
Mike Munson

Business Analyst III (HCD)  
Administrative Analyst I (HCD)  
KTOP

### 3. OPEN FORUM

- a. None

### 4. CONSENT ITEMS

- a. Approval of Board Minutes from June 10, 2021, Full Board Special Meeting  
R. Nickens, Jr. moved to approve the minutes. B. Scott seconded.

The Board voted as follows:

**Aye:** T. Williams, J. Ma Powers, R. Nickens, Jr., B. Scott

**Nay:** None

**Abstain:** None

The minutes were approved by consensus.

### 5. APPEALS

- a. T18-0311, Cervantes v. Fong

Appearances: Samantha Beckett

Ms. Beckett appeared on behalf of Xavier Johnson, the tenant representative, stating that Mr. Johnson was unable to appear due to an emergency. The owner was not present, and K. Qian suggested that in the past the Board waited to see if the owner would show up or the Board could dismiss the case subject to a showing of good cause. T. Williams suggested that the Board give the owner time to appear. The Board agreed and moved to hear the next case, returning to consider this case after hearing the next case.

After hearing the last appeal case, The Board returned to consider this case.

Appearances: May Fong  
Samantha Beckett

Owner Appellant  
Tenant Respondent

Ms. Beckett requested a continuance due to Mr. Johnson's medical emergency. She stated she was notified at 1:00 p.m. of Mr. Johnson's situation, and no one at Central Legal was prepared to represent the tenant

on such short notice.

Ms. Fong stated that no one reached out to her and this case has been pending since 2019, and she requested that the Board proceed to hear the appeal.

K. Qian stated the requirements for good cause for a continuance.

Chair Ma Powers moved to grant a continuance based on a determination of good cause. Member Nickens Jr. seconded.

The Board voted as follows:

Aye: R. Nickens, Jr., J. Ma Powers, B. Scott, T. Williams  
Nay: 0  
Abstain: 0

The motion was approved.

b. L19-0159, 378 Grand Avenue Associates LP v. Tenants

This case has been postponed.

c. T21-0019, Yu v. Bruins

Appearances, Jane Yu	Tenant Appellant
Julia Bruins	Owner Respondent

The tenant agreed to a settlement agreement in a prior case. The base rent was set at \$900 and increased to \$931 effective December 1, 2020, for an increase of 3.15%. After the settlement agreement, the tenant filed a petition to contest the rent increase on the grounds that the increase violated the City's moratorium against rent increases in excess of the CPI adjustment, which was 2.7 % and she did not receive the RAP notice in three languages. The hearing officer issued an administrative decision dismissing the tenant petition on the grounds that the tenant agreed to the rent increase and agreed to a dismissal of the petition with prejudice.

The issues are 1) whether the administrative decision was appropriate based on the settlement agreement, 2) whether the tenant can contest the rent increase when she agreed to the increase in the settlement agreement, and 3) whether the rent increase is prohibited by the City's moratorium?

The tenant contends that the rent increase of 3.15% is void against public

policy as it is in violation of the City's moratorium on any rent increase above the CPI adjustment, which was 2.7%, and the Rent Ordinance trumps the settlement agreement.

The owner contended that she abided by the process, the hearing officer knew that the CPI would change on July 1, 2020, and the tenant did not understand why an agreement would be created and signed if the CPI would change. The tenant agreed to the increase and it is reasonable to enforce the agreement that was signed.

### Appeal Decision

After questions to the parties and Board discussion, R. Nickens Jr. moved to remand the case to the hearing officer for a decision on whether the settlement agreement was valid regarding the rent increase in light of the City's moratorium. B. Scott seconded.

The Board voted as follows:

Aye: R. Nickens, Jr., J. Ma Powers, B. Scott, T. Williams  
Nay: 0  
Abstain: 0

The motion was approved.

## 6. Information and Announcements

### a. Board Training-The Brown Act

Deputy City Attorney B. Shabrell conducted a board training regarding the Brown Act.

The training covered the following:

- Notice to the public of any action taken
- Opportunity for public participation
- Meeting requirements
- What constitutes a prohibited meeting?
- What constitutes board business
- Agenda requirements
- Public Testimony
- Remedies for Violations

## 7. Scheduling and Reports

a. None.

8. ADJOURNMENT

The meeting was adjourned at 6:30 p.m.

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

July 8, 2021

5:00 P.M.

**VIA ZOOM CONFERENCE  
OAKLAND, CA**

**MINUTES**

1. CALL TO ORDER

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:05 p.m. by Board Chair S. Devuono-Powell

2. ROLL CALL

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
R. NICKENS	Tenant	X		
R. AUGUSTE	Tenant		X	
H. FLANERY	Tenant Alt.			X
Vacant	Tenant Alt.			
S. DEVUONO- POWELL	Undesignated	X		
A. GRAHAM	Undesignated			X
J. MA POWERS	Undesignated			X
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
K. FRIEDMAN	Landlord	X		
T. WILLIAMS	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

**Staff Present**

Braz Shabrell  
Barbara Kong-Brown  
Barbara Cohen

Deputy City Attorney  
Senior Hearing Officer  
Acting Senior Hearing Officer

Harman Grewal  
Briana Lawrence-McGowan  
Meadow Holmes

Business Analyst III (HCD)  
Administrative Analyst I (HCD)  
KTOP

### 3. OPEN FORUM

- James Vann- Stated that at a prior meeting the Board was not informed that it was empowered to elect a vice chair.

### 4. APPEALS

#### a. T19-0344, Stephenson v. Ramirez

Appearances: Connie Stephenson  
Phil and Lisa Ramirez

Tenant Appellant  
Owner Respondents

The tenant filed a petition contesting two rent increases in 2018 and 2019 and alleging decreased housing services. The Hearing Decision denied the tenant petition, finding that the petition regarding the 2018 increase and decreased services claim was untimely, and the owner was entitled to a 2019 rent increase based on banking.

The issues are 1) whether the base rent of \$1,020 is supported by substantial evidence and 2) whether banking is permitted when there is a temporary rent reduction?

The tenant contended that for banking purposes, the base rent in 2008 was \$1,003.00 not \$1,020.00, and the rent increases since 2017, in 2018 and 2019, exceeded the allowable amount allowed by the annual CPI adjustment. The owner was allowed banked increases for years that the tenant did not have heat. The heat issue was fixed in 2016. The Board issued an order on May 29, 2014, stating the base rent was \$1,020.00 and lowered it to \$969.00. The current rent increases are in conflict with the order issued by the Board in May 2014.

The owners contended that they justified the rent increases with the Rent Board and do not have a problem fixing any issues, but the tenant does not allow access to her unit.

#### Appeal Decision

After arguments by the parties, questions and Board discussion, K. Friedman moved to affirm the Hearing Decision based on substantial evidence. T. Williams Seconded.

The Board voted as follows:

Aye: S. Devuono-Powell, K. Friedman, T. Williams

Nay: R. Nickens, Jr.

Abstain: 0

The motion was adopted..

b. T20-0093, Bolanos v. Olivieri

Appearances:	Jack Olivieri	Owner Appellant
	Gina Fresquez	Owner Appellant Representative
	Tom Fresquez	Owner Appellant Representative
	Jill Broadhurst	Owner Representative
	Miriam Bolanos	Tenant Respondent
	Samantha Beckett	Tenant Representative
	Marci Valdivieso	Spanish Interpreter

The Spanish interpreter was sworn in by staff.

The tenant filed a petition contesting all prior rent increases and alleging decreased housing services. The owner filed a response claiming that the unit was exempt from the Rent Ordinance under Costa-Hawkins. The Hearing Decision granted the tenant's petition, invalidating all the rent increases, and finding that the tenant never received the RAP notices, the building was not exempt, and the unit was previously used as a dwelling, with separate mailboxes, separate gas and electric meters. The Hearing Officer also granted a 5% reduction for decreased housing services.

The issues are 1) whether the 5% rent reduction for decreased housing services is supported by substantial evidence and 2) whether the finding that the property contains two dwelling units is supported by substantial evidence?

The owner filed an appeal to the decision, contending that the Hearing Officer's finding was based on her opinion and lacks foundation. There are no functioning utilities at this structure. The Hearing Officer relied on the tax assessor's information which states the use only for property tax purposes, not to establish a dwelling unit.

The owner representative further contended that the rear unit was a storage unit and was used as such since 2006. California Civil Code

§1940 defines a dwelling unit as a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. The second unit was not used as a sleeping place during this tenant's tenancy and does not meet the definition of a sleeping unit. The Hearing Officer expanded the clear meaning of the definition in the California Civil Code, without any legal basis to support this expanded interpretation. The Code states "is used", not has the potential to be used as such in the future.

Additionally, the City issued a permit that classified the second unit as a utility or miscellaneous, not as a dwelling. A copy of the permit was sent to the RAP. Due to the CO-VID 19 pandemic, the permit process took over a year and the owner only received permission to remove the second unit two weeks ago. The City performed a planning commission study, and a City inspector made a site visit, evaluating the exterior and interior of the structure.

The owner contended that the subject unit is uninhabitable and is not a dwelling unit. It is a utility structure and would have to be rehabilitated under permit.

The tenant representative contended that the Hearing Decision holding that the unit is subject to the RAP, should be upheld on the following grounds:

1. Any new evidence submitted by the tenant, e.g. the demo permit, should be disregarded as it is improper under O.M.C. 8.22.120 (F) which permits new evidence only in limited circumstances. New evidence is not permitted if evidence in the record is sufficient. See Hobbs v. Bernstein.
2. Exemptions from the Rent Ordinance should be strictly construed. The subject unit is not separately alienable. The Hearing Officer's decision indicated substantial evidence of prior use-separate mailboxes, separate utilities and the unit was used as a dwelling by the tenant. The Hearing Officer considered all the arguments and the tenant's argument was persuasive. The owners did not meet their burden of proof.
3. The Hearing Decision is consistent with the definition of a dwelling unit in the Owens case. The definition of a dwelling unit in California Civil Code §1940 is whether a structure was used as a home, residence or sleeping place. The second unit was used as a residence.
4. When can a dwelling unit stop being a dwelling unit? The Ordinance is silent on this. The definition of a dwelling unit should not be interpreted to mean current use and would lead to an absurd result. A duplex does not

become exempt because it remains vacant for a short time, and this is against the purpose of the Rent Ordinance. A dwelling unit stops if it has been demolished or lawfully removed, such as in an Ellis eviction.

Appeal Decision

After arguments by the parties, questions and Board discussion, Chair S. Devuono-Powell moved to remand the Hearing Decision to the Hearing Officer to consider the new evidence regarding the permit. K. Friedman seconded.

The Board voted as follows:

Aye: S. Devuono-Powell, K. Friedman, T. Williams, R. Nickens, Jr.  
Nay: None  
Abstain: None

The motion was adopted.

Chair S. Devuono-Powell moved to postpone consideration of whether the 5% rent reduction was supported by substantial evidence pending the remand decision on the issue of whether the property is a dwelling. R. Nickens, Jr. seconded.

The Board voted as follows:

Aye: S. Devuono-Powell, K. Friedman, T. Williams, R. Nickens, Jr.  
Nay: None  
Abstain: None

The motion was adopted.

c. T19-0514, Green v. Mosser Companies Inc

Appearances: Morris Green	Tenant Appellant
Jackie Zaneri	Tenant Representative
Gregory McConnell	Owner Respondent Representative

The tenant contested rent increases and decreased housing services. A Notice of Settlement Conference and Hearing was scheduled. The tenant participated in a settlement conference with the owner representative and agreed to a settlement. The Hearing Officer sent a written settlement agreement memorializing the terms, stating that it settled all issues. The owner signed the agreement, but the tenant did not sign the settlement agreement, stating that it was not accurate concerning their agreement, and

stated terms that he did not agree to. The Hearing Officer entered an order based on the oral agreement of the parties.

The issue is whether the Hearing Officer had the authority to issue an order based on an unsigned settlement agreement? If so, what are the terms of the settlement?

The tenant representative contended that the tenant never signed the settlement agreement. He was unrepresented and thought he was at a hearing. He agreed to the rent payment and when he received the settlement agreement it was not what he agreed to. He emailed the Hearing Officer and refused to sign the agreement. The Hearing Officer entered an order over his objection.

The settlement agreement must be agreed to by both parties. There is no agreement when both parties did not agree. If there is no agreement the matter proceeds to a hearing. An oral agreement is okay but does not apply here because there is no record of what was said by the Hearing Officer regarding the settlement terms. This case should be remanded for a hearing.

the tenant representative stated that the status conference was unrecorded, and the tenant denied in his declaration stating that he agreed to the decision. The tenant had a number of claims, some of which were outside the RAP jurisdiction. He agreed to dismiss certain claims but did not say all claims were resolved.

The owner representative contended that the tenant claimed items that were untimely, past 90 days. The owner offered the tenant \$500.00 to settle this matter, as he regards this matter as a nuisance case, where the cost of defending the case costs more than the value of the case.

The Hearing Officer issued a document for the parties' signature, called a status conference, and asked the tenant: "Are you asking for something that is not included in the settlement agreement?" The tenant responded: "Yes." "Do you agree that what was stated was what was agreed?" He said "Yes." He said this at the first and second hearing. If the Board sends this case back why take the time and effort to resolve the case amicably if the tenant can kill the agreement by refusing to sign it when there is no evidence that what was in the agreement was not agreed upon?

The Hearing Officer said: "I will find there was a settlement agreement before me and here are the terms." This is the Hearing Officer's decision. If a party does not sign a settlement agreement it can never be finalized. The purpose of sending a written agreement is to confirm that this is what you

agreed to. The Hearing Officer spoke to the tenant twice about what he agreed to and he agreed that this was what he agreed to. The tenant had two bites at the apple. The owner representative requested that the Board affirm the Hearing Decision.

### Appeal Decision

After questions to the parties and Board discussion, T. Williams moved to remand the case to a new hearing officer for a hearing. R. Nickens, Jr. seconded.

The Board voted as follows:

Aye: S. Devuono-Powell, K. Friedman, T. Williams, R. Nickens, Jr.  
Nay: 0  
Abstain: 0

The motion was adopted.

## 5. Information and Announcements

### a. Rent Adjustment Program Updates

B. Cohen reported there are two new RAP employees, Merna Altala, who will be working on the board packets with Briana McGowan, and someone who will be starting next Monday.

Due to the lateness of the hour, the updates on the new RAP forms is re-scheduled to the next Board meeting on September 23, 2021.

## 6. Scheduling and Reports

- a. The Board requested that the office of the Vice-Chair of the Rent Board be placed on the agenda for the July 22, 2021, Board meeting.
- b. K. Friedman asked when in-person meetings will resume, what other boards are doing, and requested that this item be placed on agenda for the July 22, 2021, Board meeting

## 7. ADJOURNMENT

The meeting was adjourned at 8:20 p.m.

## Appeal Hearing Outline

### I. Appellate Body

#### A. Full Board

##### 1. Quorum.

a) Four.

b) One of each category of Board member first time matter comes up.

c) Any four Board members next time matter comes up.

d) Parties may waive requirement for one of each category, but not numerical quorum.

#### B. Appeal Panels

##### 1. Quorum.

a) One of each category on Board member.

2. Should only hear appeals on issues already decided by the Board or more routine cases.

### II. Appeals

#### A. Grounds for Appeal (Reg. 8.22.120B):

1. The decision is inconsistent with Rent Law, the Regulations, or prior Board decisions;

2. The decision is inconsistent with other Hearing Officer decisions;
3. New policy issue;
4. The decision violates federal, state, or local law;
5. The decision is not supported by “substantial evidence”.
6. The Hearing Officer made a procedural error denying sufficient opportunity adequately present claim or respond to opposing party; or
7. Owner denied a fair return.

#### B. Timelines and Deadlines

1. Party must appeal in 15 days after decision + 5 days for mailing.
  - a) If appeal is late, staff dismisses.
2. 10 day notice for appeal hearing.
3. Goal of hearing appeal w/i 30 days (give reasons in writing for each 30 day extension)
4. Postponements of Appeal Hearings
  - a) Granted by Board or staff.
  - b) Only for good cause and in the interest of justice.
    - (1) Illness.

(2) Travel plans scheduled before notice of hearing.

(3) Impractical to appear due to unforeseen circumstances or prearranged plans.

(4) Difficulty or inconvenience in appearing not sufficient.

c) Must be verified.

d) Mutual consent by parties.

e) Request must be submitted at earliest possible time prior to appeal hearing.

#### C. Appeal submissions.

1. Appeal must be on Board form.

2. Must state reason for appeal.

3. Must serve other parties.

4. Staff reviews for deficiency.

a) For example, failure state reasons for appeal.

b) Staff sends deficiency letter.

c) If not corrected, staff dismisses.

5. Limited to 25 pages (record is 2300).

#### D. Reconsideration by staff.

1. If appeal presents minor, facial error, Hearing Officer may be asked to review, correct, and issue corrected decision.

- a) For example, calculation error.

E. Failure to appear.

1. Appellant -- Board may dismiss.
2. Respondent – Board continues with appeal hearing, appellate must still put forward case.

F. Conduct of Appeal Hearing

1. Open and recorded.
2. Parties may be represented or assisted.
3. Parties may have translators, but if City is to provide, request must be made in advance.
4. Presentation.
  - a) Each side gets 15 minutes, unless Board votes otherwise.
  - b) 5 minutes for presentation.
  - c) 5 minutes for rebuttal.
  - d) 5 minutes for Board questions.
5. Comments by members of the public not considered.

6. Additional documents not provided with packet cannot be used.

a) Due process concerns, opposing party has a right to respond.

b) If documents are part of the record, they may be found in case file and referred to.

7. New evidence.

a) No new evidence may be presented at an appeal hearing.

b) Exceptions

(1) As proffer of what evidence might have been presented because party did not have opportunity to present at hearing and that is basis of appeal.

(2) As proffer of good cause for failure to appear.

c) Board does not consider evidence, but rather refers to Hearing Officer if proffer is sufficient.

(1) For example, if evidence is sufficient to constitute good cause for excuse, it is referred to

Hearing Officer to determine veracity. If it is not sufficient cause, no need to refer.

## G. Board's Decision on Appeal

### 1. Voting

- a) Majority of those present required to overturn (provided quorum is present).
- b) Tie vote or no vote upholds decision.

### 2. Written Decision

- a) Staff prepares written decision; comes back Board consideration at subsequent meeting only if Board requests.
- b) Decision must include analysis articulating how the evidence supports the findings and how the findings support the conclusion.

## III. Appeal on the record or de novo.

### A. On the record.

- 1. No new testimony taken or documents submitted.
- 2. Parties allowed to argue and to discuss evidence before the hearing office, but not to submit new evidence.

3. The decisions must be apparent from documents or findings.
4. Parties can agree on what facts are from hearing below.
5. Staff prepares limited portion of record for Board.
  - a) Board may review the file at office or at Board meeting.
6. Record of oral proceedings not available unless:
  - a) Party transcribes or plays portion of hearing.
  - b) Board member listens at office or requests copy of recorded hearing.

B. De novo (new hearing).

1. Board takes new evidence (testimony and or documentary) on entire case or specific issues.
2. De novo or evidentiary hearings by the Board are not recommended:
  - a) Hearing Officers are better equipped to handle evidentiary hearings.
  - b) Board would have to make evidentiary rulings.
3. Must be at subsequent hearing to allow other party to prepare to contest evidence or to submit contrary evidence.

4. Witnesses must be sworn.

a) Representatives cannot testify.

#### IV. Evidence.

A. Decision must be based on preponderance of evidence.

B. Strict rules of evidence don't apply.

C. Board can accept hearsay, but give it appropriate weight.

1. Out of court statement offered for the truth.

2. One person testifying as to what another person says.

3. Primary issue is whether the testimony is reliable because it is not direct.

4. Must be other corroborative evidence.

D. Direct and circumstantial evidence.

1. Direct.

a) I saw her eat a piece of cake.

2. Circumstantial.

a) I saw the cake with a slice out and cake crumbs on her mouth.

E. Documents that are not agreed to as being true and correct should be attested to or certified.

F. Evaluating conflicting evidence.

1. Look at surrounding circumstances.

a) Are there other facts to support one side or the other.

2. Motivation of the person testifying.

3. Credibility of the person testifying.

G. Proffered evidence (offer of proof).

1. This is the evidence I would have presented or would present if I have had the opportunity to do so.

a) I can show why I was late.

V. Addressing Appeal Issues.

A. What issues did party appeal on?

B. Should the Board address issues that are apparent, but that neither party appealed on?

1. For example, when a party plainly missed a time deadline and the decision is in error on this point, but there is no appeal on this issue.

C. The Board should assume that issues not brought forward on appeal that are necessary to support the Hearing Officer's decision were correctly decided.

1. For example, that the tenant timely filed the petition or that the landlord gave the proper notices.

D. Substantial evidence.

1. The appellant who claims there was not substantial evidence supporting the decision has the burden of producing the evidence presented and demonstrating it was not substantial.

E. Findings do not support decision or a conclusion.

1. The findings point to an opposition conclusion.
  - a) Example: The finding states that housing services were decreased, but the conclusion is that no rent decrease was granted.

2. There is an analytical gap between the findings and the conclusion.

- a) The findings do not state “why” the conclusion follows.

b) Example:

(1) “The roof work was not a capital improvement.” (Why not?).

(2) “The roof work was not a capital improvement

*because* it was just the repair of a small leak and not a replacement of the roof.”

## VI. Burdens of Proof.

A. The party with the burden of proof must present evidence to meet that burden.

1. If the party with the burden fails to produce competent evidence, that party loses.

B. Examples of burdens.

1. Landlord.

a) Burden of proving eligibility for rent increase.

b) Exemption.

2. Tenant

a) Rent decrease.

## VII. Options for Decisions.

A. Affirm hearing officer.

1. No action is affirmation.

2. Affirm with recalculation.

a) Staff performs recalculation and it becomes Board decision with or without further review.

B. Reverse hearing officer.

1. Make a new decision.

C. Remand to Hearing Officer.

1. Board gives instructions as to what issues to address.
2. Hearing officer may make new decision or keep existing decision.

### VIII. Decision

A. Decisions must be in writing.

B. Decisions should have findings.

C. The Board should respond to all issues raised on appeal.

D. The Board should articulate the reasons for its decision.

E. Board's decision is final as to City.

F. Decision can only be appealed to court by writ.

1. Court considers only case record.

### IX. Types of Cases for Board.

A. Rent

1. Tenant.

- a) Rent in excess of CPI.
- b) Lack of notice at commencement.
- c) Lack of notice with Rent Increase.
- d) Decreased housing services.

- e) Uncured code violations.
- f) No timely summary after request.
- g) Contests exemption.

2. Landlord

- a) Rent increase.
- b) Exemption from Rent Law.

(1) Board does deal with Just Cause exemptions.

B. Just Cause for Eviction.

1. Protected status.

- a) Senior.
- b) Disabled.
- c) Catastrophically ill.

2. Time for rehabilitation longer than 3 months.

C. Relocation.

1. Amount of relocation benefits for redevelopment or other relocation.

- a) Not code enforcement relocation.

D. Housing Code

1. Interpretations of housing code.

X. Communications With the Board

A. Ex parte communications.

1. Parties communicating with the Board or Hearing Officer outside of the appeal process.

B. Non-parties speaking at Appeal Hearings.

1. Brown Act permits the public to speak on any item on the Board Agenda.
2. Because of due process and fairness considerations, the Board should not consider comments of non-parties at appeal hearings.

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## CONSOLIDATED CHRONOLOGICAL CASE REPORT

Case Nos.: T18-0414 & T18-0472

Case Name: Martin et al v. Zalabak

Property Address: 5553 Avenue, Oakland CA

Parties: Chester Martin (Tenant)  
Kristen Ponger (Tenant)  
Sherry Zalabak (Owner)  
Lisa Giampaoli (Attorney for Tenant)  
Alana Grice Conner (Attorney for Owner)

### TENANT APPEAL:

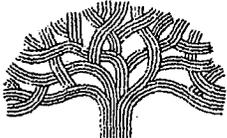
<u>Activity</u>	<u>Date</u>
Tenant Petitions filed	August 3, 2018 (T18-0414) November 9, 2018 (T18-0472)
Owner Response filed	December 5, 2018 (T18-0414) February 15, 2019 (T18-0472)
Property Owner filed Submission Of Tangible Evidence	February 15, 2019
Property Owner's filed Supplemental Statement	April 11, 2019
Hearing Decision mailed	June 7, 2019
Tenant Appeal filed in both cases	June 27, 2019
Tenant Attorney Brief filed	January 14, 2020
Appeal Decision mailed	November 20, 2020

000030

Hearing Decision After Remand mailed	March 9, 2021
Tenant Attorney Second Brief filed	April 12, 2021
Tenant Appeal filed	April 27, 2021
Owner Appeal Response filed	April 29, 2021

T18-0414 Ref EL

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM

 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 2018 JUN 10 10:41
	<b>TENANT PETITION</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 CHESTER "CHASE" MARTIN KRISTEN PONGER	Rental Address (with zip code) 5553 KALES AVENUE OAKLAND, CA 94618	Telephone:  E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:  Email:
Property Owner(s) name(s) SHERRY ZALABAK	Mailing Address (with zip code) 402 VERMONT AVENUE BERKELEY, CA 94707	Telephone:  Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:  Email:

Number of units on the property: 2

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 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).
	(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.
<input checked="" type="checkbox"/>	(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).
<input checked="" type="checkbox"/>	(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: NOV. 24, 2014 Initial Rent: \$ 2,600 /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		
06/05/18	08/01/18	\$2,652	\$ 4,500	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12/1/16	1/1/17	\$2,600	\$ 2,652	<input type="checkbox"/> Yes <input checked="" 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).

C. Mark  
Tenant's Signature

8/2/18  
Date

## **VI. IMPORTANT INFORMATION:**

### **Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

### **File Review**

Your property owner(s) will be required to file a response to this petition with the Rent Adjustment office within 35 days of notification by the Rent Adjustment Program. When it is received, the RAP office will send you a copy of the Property Owner's Response form. Any attachments or supporting documentation from the owner will be available for review in the RAP office by appointment. To schedule a file review, please call the Rent Adjustment Program office at (510) 238-3721. If you filed your petition at the RAP Online Petitioning System, the owner may use the online system to submit the owner response and attachments, which would be accessible there for your review.

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

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

Chester Martin & Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618  
August 3, 2018

Rent Adjustment Program (RAP)  
City of Oakland, CA  
Re: Tenant Petition

To Whom it May Concern:

Chester "Chase" Martin & Kristen Ponger, "Tenants"  
Sherry Zalabak, "Landlord"  
Rental Property Address: 5553 Kales Ave, Oakland, CA 94618

On June 5th, 2018 Landlord dropped off "Sixty Day Notice of Change in Terms of Tenancy" [Attachment A] raising tenants' rent 70% from \$2,652/month to \$4,500/month as of August 5th, 2018. Landlord's behavior has been erratic and contradictory over the past 6 months, and no justification for the rent increase has been provided. Tenants Martin & Ponger are choosing to proactively contest the increase via this petition on the following grounds.

1. Increase exceeds the CPI Adjustment and is greater than 10% without RAP approval
2. Tenants have never received notice of RAP
3. Wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud

**Key Points:**

- 5553 Kales Avenue is publicly listed as a Single-Family Residence, but has been rented as a duplex with two separate units since before current tenants Kristen & Chase signed a lease for front 1-BR unit in 2014 [Attachment B]
- Tenants entered lease for front unit in November 2014; no RAP notice provided [Attachment C]
  - a. Previous tenants were Holly and Steve
- Since 2014, the back unit has had two different sets of tenants paying rent under own respective leases
  - a. Mike and LeAnne Devol (maiden name Fowlkes); \$1,100/month
  - b. Lindsay Byrd and Isabel Avellan [Attachment D]; \$1,400/month
- Landlord raised both front & rear units' respective rents by 2% in January 2017 with no RAP notice [Attachment E]
- On March 28, 2018 Landlord states that tenants must vacate the property by July 1, 2018, so that she can make improvements to prepare for sale [Attachment F]
- On April 25, 2018, Landlord urged tenants repeatedly to sign agreement to terminate lease [Attachment G], misrepresenting document as "extension of tenancy" [Attachment H]

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- Tenants do not have access to back unit but it is currently vacant. Landlord has told tenants as recently as July 2018 that they are restricted from back unit and yard, as those are a separate unit.
- Tenants have always paid rent on time, cared for the property, maintained and performed minor upgrades and repairs at their own financial expense. Landlord stated in February 2018 that Martin & Ponger were "the best tenants she's ever had"

**Glossary of Attachments:**

Tenants are providing the following attached documentation outlining our historical rental agreement and series of events that led to this petition.

- **Attachment A:** Sixty-Day Notice of Change in Terms of Tenancy (Rent Increase)
- **Attachment B:** E-mail to back unit tenants announcing vacancy in front unit
- **Attachment C:** Martin & Ponger Lease Agreement
- **Attachment D:** Byrd & Avellan Lease Agreement
- **Attachment E:** Increase in rent for both units without RAP Notice, Jan. 2017
- **Attachment F:** Landlord states tenants must leave property to prepare for sale
- **Attachment G:** Landlord-Tenant Agreement to Terminate Lease
- **Attachment H:** Urging tenants to vacate and sign lease termination, misrepresenting document as an "extension"
- **Attachment J:** Offer of sale-of-property with Landlord's description of secondary unit

**Background:**

In February 2018, landlords of the 5553 Kales Avenue rental property, Sherry and John Zalabak, invited the tenants, Chase Martin & Kristen Ponger, over to their home in the Berkeley Hills to discuss the potential purchase of their Kales Ave rental property. The property at 5553 Kales includes two separate units: the 1-BR front house that Kristen & Chase have rented since November 2014, and the rear standalone studio cottage which the landlord refers to as a "Golden Duplex".

After tenants shared the news with the landlords that they were expecting their first child in July, both parties left the February meeting in agreement that there was no rush to action necessary and to reconvene in the Fall of 2018 to discuss further.

On Sunday, March 25th at 9am Landlord Sherry showed up to tenant's home unannounced to with a realtor friend named Julie Durkee. Landlord proceeded to barge into the house for an impromptu appraisal of the front unit, while accosting the tenants with questions on whether they were interested in buying another house down the street to move-in before baby arrives on July 9.

On March 27th, Tenants (Kristen & Chase) received an email and physical note from landlord (Sherry) apologizing for her unannounced visit the previous weekend. E-mail stated that circumstances had changed in respect to her husband's health, and tenants must vacate the unit by July 1, 2018 [Attachment F] in order to prepare the property for sale. Alternatively, landlord gave the tenants 30 days to make an offer to purchase the property. Landlord stated that tenants must make an offer or move out by July 1st.

On March 28th, Tenants Kristen & Chase replied to Landlord's email confirming interest in purchasing the property, but could not make an offer without the landlord first providing an asking price. Tenants also requested that landlord would reconsider the July 1st vacancy timeline since their baby was due that week.

On March 29th, Landlord dropped off a handwritten note [Attachment J] offering the property "as is" for \$1.3M through a private sale. At this point tenants took it upon themselves to contact a real estate agent to conduct a comparable evaluation of the property who also referred tenants to a lawyer, Jean Shrem.

On April 25th, Landlord begins to repeatedly urge tenants to sign a "Landlord-Tenant Agreement to Terminate Lease" document [Attachment G] without cause. Landlord misrepresents this as an "extension" [Attachment H] of lease and her offer of sale.

On May 25th, Tenants email Landlord with a purchase offer while giving notice of their refusal to sign "Termination of Lease" document.

On June 5th, 2018 Landlord shows up unannounced to drop off "Sixty Day Notice of Change in Terms of Tenancy" [Attachment A], raising tenants rent 70%, from \$2,652 to \$4,500 effective August 5, 2018. Tenant Chase Martin was present at the time and approached Landlord Sherry to discuss the legality of the notice, but was rebuffed by the landlord. Tenant verbally informed Landlord of intention to file with Rent Board if issue could not be resolved amicably in private, but as of August 1st no reply received from Landlord.



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

For date stamp.  
 CITY OF OAKLAND  
 RENT ADJUSTMENT PROGRAM  
 2018 DEC -5 PM 4: 24  
**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 18-0414**

Your Name Sherry Zalabak	Complete Address (with zip code) 402 Vermont Avenue Berkeley, CA 94707	Telephone: / / Email: @
Your Representative's Name (if any) Alana Grice Conner Fried & Williams LLP	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Telephone: / / Email: @
Tenant(s) Name(s) Chester "Chase" Martin Kristen Ponger	Complete Address (with zip code) 5553 Kales Avenue Oakland, CA 94618	Telephone: / / Email: @
Property Address (If the property has more than one address, list all addresses) 5553 Kales Avenue, Oakland, CA 94618		Total number of units on property Single Family Residence

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00182031  
 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: 48A-7043-40  
 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: 10/07/10

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.

CITY OF OAKLAND  
RENT ARBITRATION  
MULTIPLE 75 2014: 24

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 November 24, 2014.

The tenant's initial rent including all services provided was: \$ 2,600.00 / 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? October 10, 2018 but unit is exempt

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>	
10/10/18	12/15/18	\$ 2,652.00	\$ 4,500.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12/1/16	1/1/17	\$ 2,600.00	\$ 2,652.00	<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

**III. EXEMPTION**

CITY OF OAKLAND  
RENT ADJUSTMENT  
2018 DEC -5 PM 4:24

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.

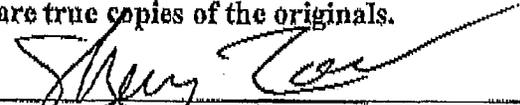
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

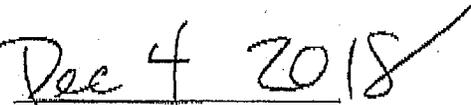
**IV. DECREASED HOUSING SERVICES**

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

RECEIVED  
CITY OF LOS ANGELES  
RENT ARBITRATION BOARD

2018 DEC 5 5:20 PM

Landlord Narrative

The Tenants' petition must be dismissed because the Rent Adjustment Program does not have jurisdiction. The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code §1954.50 et seq.). See Attachment A, Property Assessment Information. Furthermore, the Tenants' petition is incomplete because the Tenants failed to sign the verification under penalty of perjury which is required. Nonetheless, if the hearing officer seeks to further review the petition, Landlord responds as follows:

To address the issues raised by Tenant in section I. Grounds for Petition, Landlord responds as follows:

(b) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The CPI Adjustment does not apply to the rental unit.

(c) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to receive approval from the Rent Adjustment Program for the contested rent increase.

(d) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to provide the Notice of the Rent Adjustment Program (RAP Notice) form.

(e) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to provide the Notice of the Rent Adjustment Program (RAP Notice) form.

(k) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The limit for rent increases over 30% over a 5-year period does not apply to the rental unit.

(i) This exemption is based on a State law and there is no fraud or mistake.

I. Justification for Rent Increase

Date of Contested Rent Increase: 10/10/18 effective 12/15/18

Justification: Single Family Home exemption

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RENT ARBITRATION BOARD

2018 DEC -5 PM 4: 24

III. Exemption Attachment

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?  
**No**
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?  
**No**
3. Was the prior tenant evicted for cause?  
**No**
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?  
**No**
5. Is the unit a single family dwelling or condominium that can be sold separately?  
**Yes**
6. Did the petitioning tenant have roommates when he/she moved in?  
**No**
7. If the unit is a condominium, did you purchase it? **No**  
If so: 1) from whom? **N/A** 2) Did you purchase the entire building? **N/A**

T18-0472 Re/RL

 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 2018 NOV -9 PM 3:26
	<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 CHESTER "CHASE" MARTIN KRISTEN PONGER	Rental Address (with zip code) 5553 KALES AVENUE OAKLAND, CA 94618	Telephone:  E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:  Email:
Property Owner(s) name(s) SHERRY ZALABAK	Mailing Address (with zip code) 402 VERMONT AVENUE BERKELEY, CA 94707	Telephone:  Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:  Email:

Number of units on the property: \_\_\_\_\_

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.)
<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).
	(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.
<input checked="" type="checkbox"/>	(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).
<input checked="" type="checkbox"/>	(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: NOVEMBER 24, 2014 Initial Rent: \$ 2,600 /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: November 4, 2018. 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		
11/4/18	01/03/19	\$2,652	\$4,500	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
06/05/18	08/01/18	\$2,652	\$4,500	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12/1/16	01/01/17	\$2,600	\$2,652	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

\* You have 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:

T18-0414 Martin et al v. Zalabak

**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:

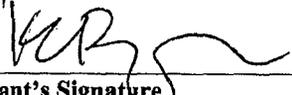
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

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

11/9/18  
\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_

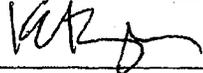
**V. MEDIATION AVAILABLE:** Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

11/9/18  
\_\_\_\_\_  
Date

**VI. IMPORTANT INFORMATION:**

**Time to File**

This form must be received at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit.** **Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

**File Review**

Your property owner(s) will be required to file a response to this petition with the Rent Adjustment office within 35 days of notification by the Rent Adjustment Program. When it is received, the RAP office will send you a copy of the Property Owner's Response form. Any attachments or supporting documentation from the owner will be available for review in the RAP office by appointment. To schedule a file review, please call the Rent Adjustment Program office at (510) 238-3721. If you filed your petition at the RAP Online Petitioning System, the owner may use the online system to submit the owner response and attachments, which would be accessible there for your review.

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

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

Chester Martin & Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618  
November 7, 2018

Housing and Community Development Department  
Rent Adjustment Program (RAP)  
City of Oakland, CA

Re: Addition to RAP Case no. T18-0414 Martin et al v. Zalabak

Chester "Chase" Martin & Kristen Ponger, "Tenants"  
Sherry Zalabak, "Landlord"  
Rental Property Address: 5553 Kales Ave, Oakland, CA 94618

To Whom it May Concern:

Tenants are filing an additional petition to add to the existing case number T18-0414, filed August 3rd. Tenants are filing current petition to contest Landlord's second notification of a rent increase of 70%, raising the rent from \$2,652/mo. to \$4,500/mo [Attachment AA].

Tenants Martin and Ponger are contesting the increase on the following grounds:

1. The increase exceeds the CPI Adjustment and is unjustified and greater than 10%.
2. 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.
3. The proposed rent increase would exceed an overall increase of 30% in 5 years.
4. **I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.**

**Key Points:**

- 5553 Kales Avenue has been rented as a multi-unit property, with two dwelling units with separate leases since before current tenants Kristen and Chase signed a lease for Unit A in 2014
- Tenants entered into a lease agreement in 2014 based on the fact that the property was a duplex and protected under rent control
- Upon signing the lease in 2014, Unit B of the duplex was already leased to Tenants LeAnne (Fowikes) and Mike Devol on a separate lease agreement (2011-2017)
- Since 2014, Unit B has had two different sets of tenants paying rent under their own respective leases
  - 2011-2017: LeAnne (Fowikes) and Mike Devol [Attachment FF]; \$1,070/month
  - 2017-2018: Lindsay Byrd and Isabel Avellan [Attachment D]; \$1,400/month

000048

Martin/Ponger/Zalabak Petition

November 7, 2018

Page 2 of 2

**Since the original petition was filed on August 3rd, the following has occurred:**

On Monday, August 6th, Tenants Chester Martin and Kristen Ponger notified Landlord Sherry Zalabak of filed RAP petition [Attachment BB]. On August 8th, 2018 Tenants Chester Martin and Kristen Ponger received an email from distressed landlord Sherry Zalabak about the filed RAP petition, acknowledging the second unit on the property [Attachment CC]. Landlord proceeded to show up at the tenant's house unannounced the following day, emotionally pleading that tenants withdraw the petition and handle this without legal involvement. Tenant Chester Martin agreed and filed to withdraw the petition in-person at office of the City of Oakland Rent Program later that week [Attachment DD]. Unbeknownst to Martin the withdrawal was never processed. In September, Tenants proceeded to proactively and voluntarily pay the legal CPI rent increase of 3.4%, as they believed this was a fair resolution.

Despite Landlord's request for Tenants not to take legal action, on November 4, 2018 Tenants Chester Martin and Kristen Ponger received two letters from Alana Grice Conner of Fried & Williams Attorneys at Law [Attachment AA, EE]. The first letter notified the tenants that the landlord is rescinding the original Sixty-Day Notice of Change to Terms of Tenancy [Attachment EE] and Pre-Move Out Negotiations Disclosure Form, which the tenants refused to accept. The second letter was a new Sixty-Day Notice of Change to Terms of Tenancy [Attachment AA].

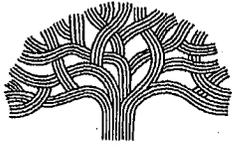
**Glossary of Attachments:**

Tenants are providing the following attached documentation outlining our historical rental agreement and series of events that led to this petition.

- **Attachment AA:** Sixty-Day Notice of Change to Terms of Tenancy
- **Attachment BB:** E-mail from Tenant notifying Landlord of filed RAP Petition
- **Attachment CC:** E-mail from Landlord acknowledging second unit on property
- **Attachment DD:** E-mail from Tenant to Landlord stating the withdrawal of RAP petition
- **Attachment EE:** Rescinding Sixty-Day Notice of Change to Terms of Tenancy from June 5, 2018
- **Attachment FF:** LeAnne Devol's Bank Statement with proof of rent payment to Sherry Zalabak

\*Please see original petition, case no. T18-0414, Martin et al v. Zalabak for complete background story and additional information.

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CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For file stamp  
CITY OF OAKLAND  
ARBITRATION PROGRAM

2019 FEB 15 PM 3:52

**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 18-0472**

Your Name Sherry Zalabak	Complete Address (with zip code) 402 Vermont Avenue Berkeley, CA 94707	Telephone: .....
		Email: .....
Your Representative's Name (if any) Alana Grice Conner Fried & Williams LLP	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Telephone:
		Email:
Tenant(s) Name(s) Chester "Chase" Martin Kristen Ponger	Complete Address (with zip code) 5553 Kales Avenue Oakland, CA 94618	Telephone:
		Email:
Property Address (If the property has more than one address, list all addresses) 5553 Kales Avenue, Oakland, CA 94618		Total number of units on property Single Family Residence

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00182031  
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: 48A-7043-40  
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: 10/07/10.

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 November 24, 2014.

The tenant's initial rent including all services provided was: \$ 2,600.00 / 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 X No      I don't know     

If yes, on what date was the Notice first given? October 10, 2018 but unit is exempt

Is the tenant current on the rent? Yes X 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>	
10/10/18	12/15/18	\$ 2,652.00	\$ 4,500.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
06/05/18	08/01/18	\$ 2,652.00	\$ 4,500.00(Rescinded)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12/1/16	1/1/17	\$ 2,600.00	\$ 2,652.00	<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

### 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.

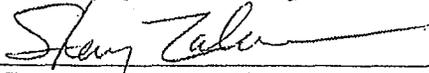
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

### 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

February 15, 2019  
\_\_\_\_\_  
Date

### Landlord Narrative

The Tenants' petition must be dismissed because the Rent Adjustment Program doesn't have jurisdiction. The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code §1954.50 et seq.). See Attachment A, Property Assessment Information. Furthermore, the Tenants' petition is incomplete because the Tenants failed to sign the verification under penalty of perjury which is required. Nonetheless, if the hearing officer seeks to further review the petition, Landlord responds as follows:

To address the issues raised by Tenant in section I. Grounds for Petition, Landlord responds as follows:

(b) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The CPI Adjustment does not apply to the rental unit.

(c) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to receive approval from the Rent Adjustment Program for the contested rent increase.

(e) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to provide the Notice of the Rent Adjustment Program (RAP Notice) form.

(k) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The limit for rent increases over 30% over a 5-year period does not apply to the rental unit.

(i) This exemption is based on a State law and there is no fraud or mistake.

I. Justification for Rent Increase

Date of Contested Rent Increase: 10/10/18 effective 12/15/18

Justification: Single Family Home exemption

III. Exemption Attachment

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?  
**No**
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?  
**No**
3. Was the prior tenant evicted for cause?  
**No**
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?  
**No**
5. Is the unit a single family dwelling or condominium that can be sold separately?  
**Yes**
6. Did the petitioning tenant have roommates when he/she moved in?  
**No**
7. If the unit is a condominium, did you purchase it? **No**  
If so: 1) from whom? **N/A** 2) Did you purchase the entire building? **N/A**

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RENT ARBITRATION PROGRAM

2019 FEB 15 PM 3:52

1 Alana Grice Conner, SBN 182676  
Fried & Williams LLP  
2 1901 Harrison Street  
Oakland, CA 94612  
3 Phone: (510) 625-0100  
4 Fax: (510) 550-3621  
aconner@friedwilliams.com

5 Attorneys for Respondent and Owner  
Sherry Zalabak

8 **DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT AGENCY**

9 **RENT ADJUSTMENT PROGRAM**

10 **CITY OF OAKLAND**

11 CHESTER "CHASE" MARTIN;  
12 KRISTEN PONGER;

13 Petitioner/Tenants,

14 v.

15 SHERRY ZALABAK;

16 Respondent/Owner.

CASE NO.: T18-0472

**PROPERTY OWNER'S SUBMISSION OF  
TANGIBLE EVIDENCE**

HEARING DATE: MARCH 5, 2019

TIME: 10:00 A.M.

PLACE: 250 FRANK H. OGAWA PLAZA, STE.  
5313, OAKLAND, CA 94612

17  
18 **I. INTRODUCTION**

19 Respondent Sherry Zalabak ("Respondent") is the owner of the real property commonly known as  
20 5553 Kales Avenue, Oakland, CA 94618 (the "Premises"), having acquired it in October 2010  
21 following her brother, Stephen Lage's death. A true and correct copy of the Declaration Re Death of  
22 Life Tenant is attached hereto as Exhibit A. Prior to Mr. Lage's death, he converted the detached garage  
23 for use as an office and residential studio. In 2010, Stephen was living in the house and Respondent was  
24 providing full time care and using the studio. After Stephen passed, Respondent rented the house and  
25 moved back home with her husband and rented the studio.

26 On or around November 24, 2014 Respondent rented the Premises to Chester "Chase" Martin and  
27 Kristen Ponger ("Petitioners"). A true and correct copy of the lease is attached hereto as Exhibit B. The  
28 "studio" was occupied at the time the Petitioners moved in. Respondent discovered the unit was an

1 unpermitted unit in early 2018. Upon discovering the studio was only permitted for use as an office  
2 space, Respondent pulled a permit and restored the garage to use as an office.

3 Respondent served a rent increase notice with the Notice to Tenants of the Residential Rent  
4 Adjustment Program attached in 3 languages (English, Spanish, Chinese) on October 10, 2018. A true  
5 and correct copy of the Notice of Change to Terms of Tenancy is attached hereto as Exhibit C.

6 On November 9, 2018, Petitioners filed this petition contesting a rent increase on the basis 1) The  
7 increase exceeds the CPI Adjustment and is unjustified or is greater than 10%; 2) The Petitioner  
8 received a rent increase notice before the property owner received approval from the Rent Adjustment  
9 Program for such an increase and the rent increase exceeds the CPI Adjustment and the available  
10 banked rent increase; 3) The Respondent did not give the Petitioners the required form "Notice of Rent  
11 Adjustment Program: at least 6 months before the effective date of the rent increase; 4) the proposed  
12 rent increase would exceed an overall increase of 30% in 5 years and; 5) Petitioners wish to contest an  
13 exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.

## 14 **II. LEGAL ARGUMENT**

### 15 **1. The increase exceeds the CPI Adjustment and is unjustified or is greater than 10%**

16 The CPI Adjustment does not apply to the rental unit. The rental unit is exempt from rent control  
17 because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California  
18 Civil Code 1654.50). A true and correct copy of the Alameda County Property Assessment Information  
19 previously submitted to the City of Oakland Rent Adjustment Program is attached hereto as Exhibit D.  
20 True and correct copies of photographs exhibiting the property is a single-family residence is attached  
21 hereto as Exhibit E. True and correct copies of the Assessor's Map 48A exhibiting the property as a  
22 single-family residence is attached hereto as Exhibit F.

### 23 **2. The Petitioner received a rent increase notice before the property owner received approval** 24 **from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI** 25 **Adjustment and the available banked rent increase**

26 No approval was required, and no banking was requested. The rental unit is exempt from rent  
27 control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act  
28 (California Civil Code 1654.50 A true and correct copy of the Alameda County Property Assessment

1 Information previously submitted to the City of Oakland Rent Adjustment Program is attached hereto as  
2 Exhibit D. True and correct copies of photographs exhibiting the property is a single-family residence is  
3 attached hereto as Exhibit E. True and correct copies of the Assessor's Map 48A exhibiting the property  
4 as a single-family residence is attached hereto as Exhibit F.

5 **3. The Respondent did not give the Petitioners the required form "Notice of Rent Adjustment**  
6 **Program: at least 6 months before the effective date of the rent increase.**

7 Respondent is not required to provide the Notice of the Rent Adjustment Program (RAP Notice)  
8 form. The rental unit is exempt from rent control because it is a single-family residence exempted by the  
9 Costa-Hawkins Rental Housing Act (California Civil Code 1654.50). A true and correct copy of the  
10 Alameda County Property Assessment Information previously submitted to the City of Oakland Rent  
11 Adjustment Program is attached hereto as Exhibit D. True and correct copies of photographs exhibiting  
12 the property is a single-family residence is attached hereto as Exhibit E. True and correct copies of the  
13 Assessor's Map 48A exhibiting the property as a single-family residence is attached hereto as Exhibit F.

14 **4. The proposed rent increase would exceed an overall increase of 30% in 5 years**

15 The limit for rent increases over 30% over a 5-year period does not apply to the rental unit. The  
16 rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-  
17 Hawkins Rental Housing Act (California Civil Code 1654.50). A true and correct copy of the Alameda  
18 County Property Assessment Information previously submitted to the City of Oakland Rent Adjustment  
19 Program is attached hereto as Exhibit D. True and correct copies of photographs exhibiting the property  
20 is a single-family residence is attached hereto as Exhibit E. True and correct copies of the Assessor's  
21 Map 48A exhibiting the property as a single-family residence is attached hereto as Exhibit F.

22 **5. Exemption based on fraud or mistake**

23 The Petitioners allege Respondent's claim for exemption from rent control is based on fraud or  
24 mistake and wish to contest an exemption. Respondent denies the Petitioner's claim. This exemption is  
25 based on a State law and there is no fraud or mistake.

26 Respondent became aware of the unpermitted studio being used for residential purposes and stopped  
27 using it, restoring the Premise to a single-family residence by pulling a permit over the counter and  
28 removing the stove in the unpermitted studio. True and correct copies of the Permit Application

1 Worksheet and Record Details exhibiting the removal of the stove and conversion of the studio to an  
2 office is attached hereto as Exhibit G.

3 **III. CONCLUSION**

4 Respondent has provided enough evidence to prove the Premises is a single-family residence and  
5 thus any challenge to the rent increase moot. The Rent Adjustment Program does not have jurisdiction  
6 over single-family homes exempted by the Costa-Hawkins Rental Housing Act, therefore Petitioner's  
7 petition should be dismissed.

8 Dated: February 15, 2019

FRIED & WILLIAMS LLP

9 

10 By: Alana Grice Conner  
11 Attorneys for Respondent and Owner  
12 Sherry Zalabak

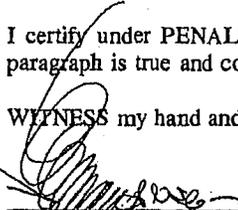
**Acknowledgement of Notary Public**

State of California }  
County of Contra Costa }

On October 4, 2010 before me, F. Michael Hanson, a Notary Public, personally appeared SHERRY DIANE ZALABAK, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature, Notary Public for the State of California



**Legal Description**

Beginning at a point on the Southern Line of Kales Avenue distant thereon Westerly 166.66 feet from the intersection thereof with the Western line of Broadway as said avenue and Broadway are shown on the Map hereinafter referred to; running thence Westerly along said line of Kales Avenue, 40 feet; thence at right angles Southerly 65 feet; thence at right angles Easterly 40 feet; and thence at right angles Northerly 65 feet to the point of beginning.

Being a portion of Lots 168 and 169, "Map of Woodlawn Park", filed June 28, 1905, Map Book 20, Page 48, Alameda County Records.

SUBJECT TO all covenants, conditions, restrictions, easements, rights of way, exceptions, reservations, servitudes, limitations, uses, licenses, rights, agreements, and other matters of record.

Recorded at the request of:

F. MICHAEL HANSON, Esq.

When recorded return to:

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, California 94707



2010293555

10/07/2010 02:56 PM

OFFICIAL RECORDS OF ALAMEDA COUNTY  
PATRICK O'CONNELL  
RECORDING FEE: 21.00



3 PGS

ZALABAK SA

3  
#

## DECLARATION RE DEATH OF LIFE TENANT

I, Sherry Diane Zalabak, declare as follows:

I am of legal age (18 years or older). The decedent described in the attached certified copy of Certificate of Death as Stephen Allen Lage is the same person as Stephen Allen Lage who is named as a party in that Gift Grant Deed dated July 21, 2010 executed by Stephen Allen Lage, an unmarried man, to Sherry D. Zalabak, a married woman as her separate property, which Gift Grant Deed also reserved a life estate to Stephen Allen Lage, and which Gift Grant Deed was recorded as Document Number 2010201664 on July 21, 2010, in the official records of Alameda County, California, and concerns the real property situated in the City of Oakland, County of Alameda, State of California, more particularly described as follows:

See the **Legal Description** section commencing on the following page, the contents of which are incorporated herein by this reference.

(commonly known as 5553 Kales Avenue, Oakland, California)

APN: 048A-7043-040

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

Dated: October 4, 2010

SHERRY DIANE ZALABAK

**Mail Tax Statements To:**

Sherry D. Zalabak  
402 Vermont Avenue  
Berkeley, California 94707

000060

RC MS/SK  
EL

2019 APR 11 PM 2:01

1 Alana Grice Conner, SBN 182676  
2 Fried & Williams LLP  
3 1901 Harrison Street  
4 Oakland, CA 94612  
5 Phone: (510) 625-0100  
6 Fax: (510) 550-3621  
7 aconner@friedwilliams.com

8 Attorneys for Respondent and Owner  
9 Sherry Zalabak

10 **DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT AGENCY**  
11 **RENT ADJUSTMENT PROGRAM**  
12 **CITY OF OAKLAND**

13 CHESTER "CHASE" MARTIN;  
14 KRISTEN PONGER;  
15  
16 Petitioner/Tenants,  
17  
18 v.  
19 SHERRY ZALABAK;  
20  
21 Respondent/Owner.

CASE NO.: T18-0114 & T18-0472

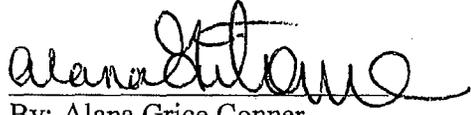
**PROPERTY OWNER'S SUPPLEMENTAL STATEMENT**

HEARING DATE: APRIL 22, 2019  
TIME: 10:00 A.M.  
PLACE: 250 FRANK H. OGAWA PLAZA, STE. 5313, OAKLAND, CA 94612

22 Sherry Zalabak ("Respondent") is the owner of the real property commonly known as 5553 Kales  
23 Avenue, Oakland, CA 94618 (the "Premises"). Owner responds to the hearing officer's request  
24 regarding the back unit/office and evidence of new construction. The back unit/office is not new  
25 construction. That phrase is defined by O.M.C. 8.22.030 Exemptions, "Dwelling units which were  
26 newly constructed and received a certificate of occupancy on or after January 1, 1983..." While work  
27 on the office was done in or around 2009, no certificate of occupancy was ever issued. Therefore, the  
28 office is not "new construction".

Dated: April 11, 2019

FRIED & WILLIAMS LLP



By: Alana Grice Conner  
Attorneys for Respondent and Owner  
Sherry Zalabak

**PROOF OF SERVICE BY FIRST-CLASS MAIL**

RECEIVED  
2019 APR 11 PM 2:01

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party to this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On April 11, 2019, I served the attached, concerning the action known as *Martin, et al. v. Zalabak*, City of Oakland Rent Adjustment Program case no. T18-0114 & T18-0472:

**PROPERTY OWNER'S SUPPLEMENTAL STATEMENT**

on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

Chester Martin a.k.a. Chase Martin  
5553 Kales Avenue  
Oakland, CA 94618

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 11, 2019, at Oakland, California.

  
Marena Perez

\* 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)

**RECEIVED**

**FEB 22 2019**

Have you ever filed a petition for this rental unit?

- Yes
- No

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other rental units in the same building.

**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.

*C. Man Li K. Tang*  
\_\_\_\_\_  
Tenant's Signature

2/16/18  
Date

\_\_\_\_\_

\_\_\_\_\_

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM

2019 FEB 15 PM 3:52

1 Alana Grice Conner, SBN 182676  
Fried & Williams LLP  
2 1901 Harrison Street  
Oakland, CA 94612  
3 Phone: (510) 625-0100  
Fax: (510) 550-3621  
4 aconner@friedwilliams.com

5 Attorneys for Respondent and Owner  
Sherry Zalabak  
6  
7

8 **DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT AGENCY**  
9 **RENT ADJUSTMENT PROGRAM**  
10 **CITY OF OAKLAND**

11 CHESTER "CHASE" MARTIN;  
12 KRISTEN PONGER;

13 Petitioner/Tenants,

14 v.

15 SHERRY ZALABAK;

16 Respondent/Owner.  
17

CASE NO.: T18-0414

**PROPERTY OWNER'S SUBMISSION OF  
TANGIBLE EVIDENCE**

HEARING DATE: MARCH 5, 2019

TIME: 10:00 A.M.

PLACE: 250 FRANK H. OGAWA PLAZA, STE.  
5313, OAKLAND, CA 94612

18 **I. INTRODUCTION**

19 Respondent Sherry Zalabak ("Respondent") is the owner of the real property commonly known as  
20 5553 Kales Avenue, Oakland, CA 94618 (the "Premises"), having acquired it in October 2010  
21 following her brother, Stephen Lage's death. A true and correct copy of the Declaration Re Death of  
22 Life Tenant is attached hereto as Exhibit A. Prior to Mr. Lage's death, he converted the detached garage  
23 for use as an office and residential studio. In 2010, Stephen was living in the house and Respondent was  
24 providing full time care and using the studio. After Stephen passed, Respondent rented the house and  
25 moved back home with her husband and rented the studio. On or around November 24, 2014  
26 Respondent rented the Premises to Chester "Chase" Martin and Kristen Ponger ("Petitioners"). A true  
27 and correct copy of the lease is attached hereto as Exhibit B. The "studio" was occupied at the time the  
28 Petitioners moved in. Respondent discovered the unit was an unpermitted unit in early 2018. Upon

1 discovering the studio was only permitted for use as an office space, Respondent stopped renting the  
2 unit for residential use moving forward.

3 On or about June 5, 2018, Respondent served a rent increase notice on the Petitioners, under the  
4 impression the Premises is a single-family residence. A true and correct copy of the 60 Day Notice of  
5 Change in Terms of Tenancy is attached hereto as Exhibit C.

6 On August 3, 2018 Petitioners filed this petition contesting a rent increase on the basis 1) The  
7 increase exceeds the CPI Adjustment and is unjustified or is greater than 10%; 2) The Petitioner  
8 received a rent increase notice before the property owner received approval from the Rent Adjustment  
9 Program for such an increase and the rent increase exceeds the CPI Adjustment and the available  
10 banked rent increase; 3) No written notice of Rent Program was given to the Petitioners with the notice  
11 of increase contested; 4) The Respondent did not give the Petitioners the required form "Notice of Rent  
12 Adjustment Program: at least 6 months before the effective date of the rent increase; 5) the proposed  
13 rent increase would exceed an overall increase of 30% in 5 years and; 6) Petitioners wish to contest an  
14 exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.

15 **II. PETITIONER'S PETITION SHOULD BE DENIED**

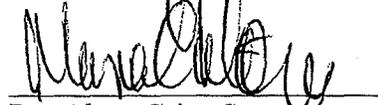
16 On October 10, 2018, Respondent rescinded the Notice of Change to Terms of Tenancy served on  
17 Petitioners and refunded Petitioners for overpayment by giving a rent credit in the amount of \$360.00. A  
18 true and correct copy of the rescission letter and image of the check are attached hereto as Exhibit D.

19 **III. CONCLUSION**

20 Respondent has rescinded the rent increase making any challenge to the rent increase moot. Thus,  
21 Petitioner's petition should be dismissed.

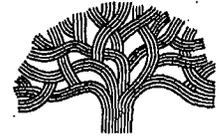
22  
23 Dated: February 15, 2019

FRIED & WILLIAMS LLP



By: Alana Grice Conner  
Attorneys for Respondent and Owner  
Sherry Zalabac

CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBERS:** T18-0414, Martin et. al. v. Zalabak  
T18-0472, Martin et al. v. Zalabak

**PROPERTY ADDRESS:** 5553 Kales Avenue, Oakland, CA

**DATES OF HEARING:** March 5, 2019  
April 22, 2019

**DATE OF DECISION:** April 30, 2019

**APPEARANCES:** Chester Martin, Tenant  
Kristen Ponger, Tenant  
Sherry Zalabak, Owner  
Alana Grice Conner, Attorney for Owner

**SUMMARY OF DECISION**

The Tenant's petitions are dismissed.

**INTRODUCTION**

The tenant filed the initial petition on August 3, 2018, T18-0414, which contests a rent increase effective August 1, 2108, raising their rent from \$2,652.00 to \$4,500.00, on the following grounds:

- Rent Increase Exceeds CPI or more than 10%;
- No Pre-Approval of Increase;
- No Concurrent RAP Notice;
- No RAP Notice 6 Months prior to the effective date of the increase;
- Rent Increase exceeds an overall increase of 30% in 5 years.

000066

The tenant filed a second petition on November 9, 2018, T18-0472, which contests a rent increase effective December 15, 2108, raising their rent from \$2,652.00 to \$4,500.00, on the following grounds:

- Rent Increase Exceeds CPI or more than 10%;
- No Pre-Approval of Increase;
- No RAP Notice 6 Months prior to the effective date of the increase;
- Rent Increase exceeds an overall increase of 30% in 5 years.

The owner filed a timely response in T18-0414 and an untimely response in T18-0472. The owner attended the hearing and was represented. The matter proceeded to hearing on March 5, 2019. Subsequently, the undersigned re-opened the matter for further hearing on the construction of the back unit, including but not limited to whether the second unit is new construction under the ordinance.

### **ISSUE(S) PRESENTED**

1. Is the subject unit exempt from the Rent Adjustment Ordinance?

### **EVIDENCE**

March 5, 2019

#### Rental History

The tenants moved into the unit November 24, 2014, for \$2600.00 per month. At the inception of their tenancy, it was a multi-unit property. The front unit and the back unit were rented out to separate tenants, with separate leases.<sup>1</sup>

In January 2017, their rent was increased by the CPI, 2%, to \$2652.00. They believe the back unit was raised by the same amount. They received a notice of rent increase indicating the rent would be \$4,500.00, effective January 3, 2019. They have paid the uncontested portion of their rent, 2652.00 per month, pending the outcome of their petition.

The tenants were first given a RAP Notice on November 4, 2018. They live in a house; they dispute the designation as a single-family residence. When they moved

---

<sup>1</sup> The owner property response acknowledges that the owner had an unpermitted use of the second unit.

in, there was a unit in the back. Subsequently, they removed the stove from the other unit and applied for a permit to use it as a non-residential space. The stove is currently being stored in the basement. The tenant claims the owner will put it back in the unit when she lists the property for sale.

In 2018, the tenants in the rear unit moved. The back unit is unoccupied, but they do not have access to it.

The owner testified that she received the property as an inheritance in 2010. Her property is assessed as a single-family residence.<sup>2</sup> At the time she inherited the property, the back unit was occupied. In June 2018, she served a rent increase notice. The petitioners filed a petition with the Rent Adjustment Program. The owner retained counsel to respond to the petition. Subsequently, she became aware that the studio unit was impermissible, which was confirmed with the permit department.

After finding out that the space was permitted for an office, she returned the space to non-residential use and removed the stove.<sup>3</sup>

The owner testified that she does have the original permit for creating the office space but did not bring it to the hearing.

The tenants argued that they rented what was by all intents and purposes a rent-controlled unit and that the owner's unilateral change to comply with the law was motivated by bad faith.

The property owner argued that by the removal of the illegal unit restored the single-family residence to its proper use and therefore restored its status as an exempt unit.

April 22, 2019

The undersigned re-opened the hearing to determine if the second unit qualified as new construction under the ordinance. At the hearing, the tenant provided documentation from the City of Oakland, which established that there was a second structure on the property, which was a garage in the 1930s.<sup>4</sup>

---

<sup>2</sup> Exhibit A, March Hearing. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence.

<sup>3</sup> Exhibit 11, March Hearing.

<sup>4</sup> Exhibit A, April Hearing.

The tenant testified that there was no permit to convert the garage structure to an office. The records indicated that in 1993, the new amp circuits went out to the garage.<sup>5</sup>

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### **Exemption**

Costa-Hawkins: The Costa-Hawkins Rental Housing Act<sup>6</sup> provides that a dwelling or unit which is separately alienable from any other dwelling or unit is exempt from local rent control, except under certain circumstances. The Oakland Rent Adjustment Ordinance specifically states that if a unit is covered under Costa-Hawkins, it is exempt from the Ordinance.<sup>7</sup>

### Exceptions to the Application of Costa-Hawkins:

A single-family residence is exempt from local rent control laws unless one or more of the following situations applies:

- (1) The tenancy began before January 1, 1996
- (3) The prior tenant was evicted for no cause
- (4) The prior tenant vacated after being given a notice of rent increase
- (5) There were serious health, safety, fire or building code violations for which the owner was cited, and which were not corrected for six months before the start of the current tenancy.

The tenants' testimony that she initially rented a multi-unit property and that the tenant in the back unit moved out and that the owner has not allowed subsequent illegal residential use is credited. Accordingly, the subject unit has been restored to a single-family residence. Therefore, the house is exempt from the application of the Oakland Rent Adjustment Ordinance. Because the subject unit is exempt from the Ordinance, no other issues raised in the tenant petition can be addressed.

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<sup>5</sup> Exhibit B, April Hearing.

<sup>6</sup> Civil Code Section 1954.52(a)(3)

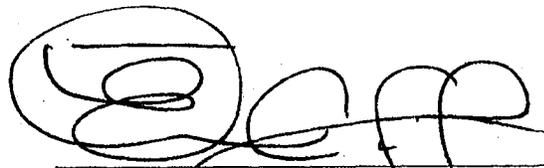
<sup>7</sup> O.M.C. Section 8.22.030(A)(7)

**ORDER**

1. Petitions T18-0414 and T18-0472 are denied.
2. The subject unit is exempt from the Rent Adjustment Ordinance pursuant to Civil Code §1954.52(a)(3).
3. The unit is not exempt from payment of the Rent Adjustment Service fee.
4. A Certificate of Exemption for the subject unit will be issued when this Decision becomes final.

**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: May 31, 2019



Elan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

000070

**PROOF OF SERVICE**  
**Case Number T18-0414**

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

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

**Documents Included**

Hearing Decision

**Owner**

Sherry Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner, Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant**

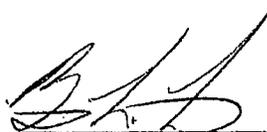
Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant**

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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 **June 07, 2019** in Oakland, CA.



---

Brittini Lothlen

Oakland Rent Adjustment Program

**000071**

**PROOF OF SERVICE**  
**Case Number T18-0472**

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

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

**Documents Included**

Hearing Decision

**Owner**

Sherry Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner,  
Fried & Williams, LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant**

Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant**

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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 **June 07, 2019** in Oakland, CA.



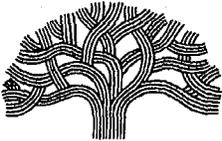
Brittini Lothlen

Oakland Rent Adjustment Program

**000072**

RC/ECL

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	2019 JUN 27 PM 2:06
	<b><u>APPEAL</u></b>	

<b>Appellant's Name</b> Chester Martin & Kristen Ponger		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
<b>Property Address (Include Unit Number)</b> 5553 Kales Ave Oakland CA 94618			
<b>Appellant's Mailing Address (For receipt of notices)</b> 5553 Kales Ave Oakland, CA 94618		<b>Case Number</b> TB-044; TB-0472	
		<b>Date of Decision appealed</b> 4.30.2019	
<b>Name of Representative (if any)</b>		<b>Representative's Mailing Address (For notices)</b>	

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

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

For more information phone (510) 238-3721.

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

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

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

I declare under penalty of perjury under the laws of the State of California that on June 27, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Sherry Zalabak
<u>Address</u>	402 Vermont Ave
<u>City, State Zip</u>	Berkeley, CA 94707
<u>Name</u>	Alana Crice Corner
<u>Address</u>	1901 Harrison Street, 14th floor
<u>City, State Zip</u>	Oakland, CA 94612

<u>Signature</u>	<u>Date</u>
	6.27.2019
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

Chester Martin & Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618  
June 27, 2019

Rent Adjustment Program (RAP)  
City of Oakland, CA  
Re: Appeal

**Case Number(s):**  
T18-0414  
T18-0472

**Tenant(s):**  
Chester "Chase" Martin  
Kristen Ponger

**Landlord:**  
Sherry Zalabak

**Rental Property Address:** 5553 Kales Avenue, Oakland, CA 94618

**Tenants Cause for Appeal:**

We are appealing the decision on the following grounds:

1. (a) The decision is inconsistent with OMC Chapter 8.22.060
  - A. Notice at the Commencement of Tenancy
  - C. Failing to Give Notice
2. (c) The decision raises a new policy issue that has not been decided by the Board
3. (e) The decision is not supported by substantial evidence

**Key Points:**

**1. (a) The decision is inconsistent with OMC Chapter 8.22.060:**

- As stated in Case T18-0414, Tenants never received notice of RAP at the commencement of our tenancy or 6 months prior to rent increase notice (OMC 8.22.060). The property was then being rented as a multi-unit property (confirmed by landlord). The first RAP notice was provided on November 4, 2018.

000075

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

- If an owner can remove an illegal unit from the rental market in order to restore their property's status to exempt for the purposes of evading OMC Chapter 8.22, so that the owner can then raise the remaining tenant's rent 70%, how does that foster the fair housing purpose of the program?

**3. (e) The decision is not supported by substantial evidence:**

- Hearing Decision Summary from March 5th hearing includes assessments contradictory to factual evidence filed in tenant petition
  - There is no evidence that the back unit was occupied when the owner inherited the property. No proof of occupancy was submitted for time prior to 2012
  - There is no evidence that the owner was unaware of the legal status of the back unit. The evidence shows the opposite. Owner claims that she had no knowledge of the legality of the unit until tenants filed a petition. As you can see in Exhibit H [attached] from T18-0414 petition, which is dated May 25th, 2018 discussion of the legality of the unit had been raised at this point. This had been discussed between landlord and tenant on many occasions.
  - There is no original permit for the "office", therefore the owner's application for a permit to "restore to office use" is invalid and the unit is still deemed a residential structure. Hearing officer accepted a verbal confirmation from the landlord who claimed to have permit at home. She accepted this as evidence despite the hard evidence provided by tenants proving there is no evidence or record of such permit. Records obtained from the City of Oakland.

**In Summary**

The landlord has strategically used certain tactics such as removal of the stove to evade rent control (The stove remains in the laundry room with the intention of reinstalling it to the back unit). This remains a bad faith rent increase and an attempt to force tenants out of the home. A single-family dwelling is not exempt and is considered a two-unit building if there is another residential structure on the same lot, regardless of the legality of the unit. Owners application for permit to "restore to office use" is invalid as there is no original permit. Therefore, the property remains as a two-unit property.

7/29/2018

mail - Print Kales Ave. Fwd: Lease Expiration and Offer to Purchase

**M** Gmail

Chase Martin

**Print Kales Ave. Fwd: Lease Expiration and Offer to Purchase**

2 messages

**Kristen Ponger**  
To: Chase Martin

Mon, Jul 23, 2018 at 11:53 AM

----- Forwarded message -----

From: Chase Martin  
Date: Fri, May 25, 2018 at 2:08 PM  
Subject: Re: Lease Expiration and Offer to Purchase  
To: Sherry Zalabak  
Cc: kristen Ponger

Hi Sherry,

We have been thinking about you guys and really hope that John is hanging in there. I am sure you all are doing everything you can to make the best out of a difficult situation. We are hoping for the best.

We appreciate you getting that stained leaf glass back to us, it was a gift with sentimental value to us. You can leave it in our mailbox anytime. The weed whacker you saw was the Black & Decker one that our neighbor loaned us, but the one we are missing is a nice (also orange) STIHL whacker that Ron gifted to me when we move into Kales, and it's still missing. Can you please follow up with Maco about this? Thank you!

As far as planning for the future, I know you are eager to know where we stand on the house. Kristen and I absolutely love the Kales house and have cared for it as if it was our own the past 3.5 years. We are very interested in our collective dream of a mutually-beneficial purchasing agreement between the four of us. With that said, we had our realtor evaluate the house and give us comps on updated/renovated 1Br/1Baths in our neighborhood, which we would be happy to share with you. Our realtor's professional review of 17 comps in the area shows a current fair market value of 750K.

Based on this, knowing the ins and outs of the house, recognizing that this would be a direct sale for you without realtor and other fees, we would like to purchase the house "as is," without inspection at 750K. This is taking the current condition of the house into consideration, knowing that it needs major repairs, as well as the fact that the unit in the back is not legal and from a realtor's point-of-view is considered a liability, rather than an asset. We cannot go higher than this and don't have room for negotiation. But, we are very flexible to alternative financing arrangements that we've spoken about before such as a down-payment then renting to buy.

Our baby is due to arrive on July 9th, and as you can imagine we are entirely focused on preparations for the birth. Of course, settling on an agreement for the Kales house is also a major priority. Our apologies for not getting back to you sooner regarding the termination of lease agreement you dropped off. We wanted to let you know that we don't plan on signing this, but will do our best to work with you through the details of buying Kales.

We look forward to hearing your thoughts on this. We'd be happy to meet in person to talk more specifically about the details.

All the best,

Chase & Kristen



On Thu, May 10, 2018 at 8:13 AM, Sherry Zalabak <sherZ@comcast.net> wrote:  
Hi Chase,

I assumed that the stained glass leaf was left by the tenant. Yes, I have it here and will return it. Re: the two garden tools you described—I did see them during our work days there and Maco did use your red rake but we did not take them. Did you look in the basement crawl space? When I went back to water the plants a week after Maco and I finished I saw the weed-wacker. It was sitting to the left of the crawl-space door in the laundry room. I remember this as

000077

2020 JAN 14 PM 5:42

1 Lisa Giampaoli, SBN 291234  
Giampaoli Law  
2 100 Pine Street, Suite 1250  
San Francisco, CA 94111  
3 Telephone: (415) 890-6529  
4 Attorneys for Tenants/Appellants  
Chester Martin & Kristen Ponger  
5  
6  
7

OAKLAND RENT ADJUSTMENT BOARD  
CITY OF OAKLAND

10 RE: 5553 Kales Ave.  
11 CHESTER MARTIN & KRISTEN PONGER  
12 Tenant-Appellants,  
13 v.  
14 SHERRY ZALABAK,  
15 Landlord-Respondent.  
16

Consolidated petitions: T18-0414, T18-0472

MEMORANDUM IN SUPPORT OF  
APPEAL OF TENANT-APPELLANTS  
CHESTER "CHASE" MARTIN AND  
KRISTEN PONGER

Hearing Date: TBD

17  
18 **INTRODUCTION**  
19

20 Tenants appeal the dismissal of their petition for unlawful rent increase and the decision  
21 that the Subject Property was exempt from the RAP as a single family residence at the time the  
22 rent increase was noticed. Tenants contend that their unit did not qualify as a SFR because at the  
23 time they entered into the rental agreement for their unit, and throughout their tenancy, the  
24 Landlord was collecting rents for two separate dwelling units at the property pursuant to two  
25 separate rental agreements; Landlord never removed the rear cottages from use as living space;  
26

27 Landlord never provided Tenants with access to, or use of, the entirety of the property as SFR; and  
28 Landlord failed to provide any credible evidence that would lead a reasonable person to conclude

1 Landlord had permanently removed the rear cottages from use as a dwelling space. Tenants further  
2 contend Landlord's claim of exemption is nothing more than an attempt to evade the RAP and Just  
3 Cause for Eviction protections by raising the rent so high it would force Tenants to vacate,  
4 allowing the Landlord to sell the property vacant, as she had repeatedly told them she wanted to  
5 do. The issue at stake here is whether Landlord, based on nothing more than her own unreliable  
6 testimony, can unilaterally claim a SFR exemption from the RAP for a property that Landlord  
7 admits she has rented out as multiple units for years. The answer should be a resounding "no."  
8

9 **STATEMENT OF FACTS**

10 5553 Kales Ave. ("Subject Property") is located in the Rockridge neighborhood. The  
11 property contains three structures: a Craftsman style cottage with one bedroom, living room,  
12 kitchen and bathroom; a rear studio cottage with a living area, bathroom, and kitchen; and a  
13 second ~100 sq. ft. rear cottage with hardwood floors, windows, a loft, baseboard heater and an  
14 interior locking deadbolt. (See: 3/5/19 Hearing Exh.1: Photos of interiors of rear cottages at  
15 5553 Kales Ave.) In 2014 Tenant-Appellants ("Tenants") entered into a two year written rental  
16 agreement with Landlord-Respondent ("Landlord") for the one bedroom Craftsman cottage  
17 (hereinafter "subject premises") for a monthly rent of \$2600. (See: 3/5/19 Hearing Exh. 3:  
18 Rental Agreement between Sherry Zalabak and Chester Martin & Kristen Ponger.) At the  
19 time that Tenants entered into the agreement for the Subject Premises, the two rear cottages ("rear  
20 cottages"), were being rented as a single dwelling unit by Landlord to Leanne Fowlkes and Mike  
21 Devol, leading Tenants to understand and believe that the Subject Premises was part of multi-unit  
22 property protected by rent control. (3/5/19 RAP Hearing, Part 1: 23:30-23:47; 56:15- 56:23.) A  
23 2% rent increase imposed on both units by Landlord in 2017 was in line with the allowable CPI  
24 and substantiated Tenants' belief that their unit was covered by the RAP. (3/5/19 RAP Hearing,  
25 Part 1: 23:47-23:55.) Additionally, Tenants did not have use or access to the rear cottages and  
26 were not permitted to use the rear yard. (3/5/19 RAP Hearing, Part 1: 56: 56:34-56:40.) When  
27  
28

1 Ms. Fowlkes and Mr. Devol vacated the rear units in June 2017, Landlord immediately re-rented  
2 the rear cottages to another couple, Lindsay Byrd and Isabel Avellan. (See: **3/5/19 Hearing Exh.**  
3 **4: July, 2017 lease agreement between Sherry & John Zalabak and Lindsay Byrd & Isabel**  
4 **Avellan.**) On November 14, 2017, Landlord asked Tenants if they would be interested in  
5 purchasing the Subject Property, stating Tenants could rent out the "rear cottages" for income.  
6 (See: **3/5/19 Hearing Exh. 9: November 14, 2017 email from Sherry Zalabak to Kristen**  
7 **Ponger.**) On or around February 28, 2018, Lindsay Byrd & Isabel Avellan vacated the rear  
8 cottages. (**3/5/19 RAP Hearing, Part 1: 55:08-55:23.**) On March 28, 2018, Landlord gave  
9 Tenants a letter stating her intent to sell the Subject Property and demanded Tenants vacate by  
10 July 1, 2018. (See: **3/5/19 Hearing Exh. 10: March 28, 2018 letter from Sherry Zalabak to**  
11 **Kristen Ponger and Chase Martin.**) On April 25, 2018, Landlord sent a document to Tenants  
12 which Landlord represented as a "lease extension," but which was entitled "Landlord-Tenant  
13 Agreement to Terminate Lease." (**3/5/19 RAP Hearing, Part 1: 46:05.-46:12.**)<sup>1</sup> Tenants would  
14 not sign it. On June 5, 2018, Landlord served Tenants a 60 day notice of a rent increase to \$4500.  
15 (See: **Tenant Petition T18-0414, Exh. A.**)<sup>2</sup> On August 3, 2018 Tenants filed Tenant petition T18-  
16 0414 for unlawful rent increase. After they filed the petition, Landlord came to Tenants' home  
17 pleading for them to rescind petition T18-0414, offering to make a new agreement and causing  
18 Tenants to feel bad for landlord and agree to rescind the petition. (**3/5/19 RAP Hearing, Part 1:**  
19 **52:28-52:44**). However, for reasons unknown, the RAP failed to dismiss petition T18-0414.  
20 (**3/5/19 RAP Hearing, Part 1: 2:28-2:40.**) At the end of September 2018 Tenants discovered the  
21  
22  
23  
24

25 \_\_\_\_\_  
26 <sup>1</sup> Tenants offered the document as evidence in support of their petition at the March 5, 2019 hearing, but though  
there was no objection from Landlord, hearing officer Lambert did not enter the document into the record and  
provided no reason for failing to do so.

27 \_\_\_\_\_  
28 <sup>2</sup> Tenants provided a copy of the 60 day notice in their petition/response, but hearing officer Lambert did not enter it  
into the record as an exhibit.

1 stove from the rear cottage had been placed in the basement laundry room of the Subject Property.  
2 **(3/5/19 RAP Hearing recording, Part 1: 27:56-28:00) (See also: 3/5/19 Hearing Exh. 1, p. 3,**  
3 **photo of stove in laundry room.)** Shortly thereafter tenants received from Landlord a new 60  
4 Day Notice of change in terms of tenancy increasing the rent from \$2652 to \$4500. The new  
5 notice was dated October 10, 2018, less than two weeks after the stove had been removed from the  
6 rear cottage. Tenants filed petition T18-0472 for unlawful rent increase. Landlord then filed a  
7 response contending that the Subject Premises was a single family residence exempt from the  
8 RAP under the state Costa Hawkins Act.  
9

### 10 PROCEDURAL HISTORY

11 The first RAP hearing on Tenants' petitions was held March 5, 2019 with hearing officer  
12 Elan Consuela Lambert ("Lambert"). Tenants, Landlord and Landlord's counsel were present.  
13 Mike Devol, former tenant of the rear cottages initially attended with the intent to testify as a  
14 witness for Tenants, but had to leave before having the opportunity to do so.<sup>3</sup> Tenants did not have  
15 legal representation. Tenant Petitions T18-0414 and T18-0472 were based on two separate rent  
16 increase notices but only the second rent increase notice was still in effect at the time of the  
17 hearing.<sup>4</sup>  
18

19 Lambert confirmed that Tenants were not served a RAP notice upon commencement of  
20 their tenancy. **(3/5/19 Hearing, Part 1: 17:19-7:29.)** Tenants testified that Landlord rented the  
21 rear cottages separately from the subject premises throughout Tenants' possession of the subject  
22 premises, offering as evidence photos of the interiors of the rear cottages,<sup>5</sup> a copy of a 2017 lease  
23 agreement for the rear cottages between Landlord and tenants Lindsey Byrd & Isabel Avellan,<sup>6</sup>  
24

25  
26 <sup>3</sup> The March 5, 2019 Hearing Sign In Sheet is in the RAP record.

27 <sup>4</sup> Both Tenant Petitions and Landlord responses included copies of the Rent Increase Notices, but for  
reasons unknown, they were not entered into the hearing record.

28 <sup>5</sup> See March 5, 2019 Hearing Exhibit 1.

<sup>6</sup> See March 5, 2019 Hearing Exhibit 2.

1 and communications from Landlord stating Tenants could rent out the rear cottages for income if  
2 they bought the subject property.<sup>7</sup> (3/5/19 Hearing, Part 1: 24:46-34:15.)

3 Tenants further testified that on February 28, 2018 the rear cottages became vacant and on  
4 March 28, 2018 Landlord sent them a letter stating they would have to move out because she  
5 wanted to sell the subject property. (3/5/19 Hearing, Part 1: 39:27-40:11; 55:08.) When Tenants  
6 testified that they believed Landlord sought a 70% rent increase to force them out and sell the  
7 property vacant for maximum profit, Lambert asked Tenant if there was anything in the law that  
8 prevents that. (3/5/19 Hearing, Part 1: 40:12.) Tenants testified that Landlord had repeatedly  
9 made it clear she wanted them out so she could sell the Property vacant, and that landlord had only  
10 removed the stove from the rear cottage in order to claim it was no longer a dwelling unit and  
11 therefore exempt from the RAP. Tenants further testified that the stove was still in the laundry  
12 room at the subject property and they believed she planned to simply put in back in the rear unit  
13 when it benefited her. (3/5/19 RAP Hearing, Part 1: 56:05- 57:15.) Tenants contended that  
14 Landlord's decision to stop renting out the rear cottages was an action over which they had no  
15 control and which should not change their status under the RAP.  
16  
17

18 Landlord freely admitted that she rented out the rear cottages for residential use from the  
19 time she inherited the Subject Property in 2010 until February 2018. (3/5/19 RAP Hearing  
20 recording, Part 2: 4:05-4:19.) Landlord, a long-time Bay Area property owner and landlord,  
21 alleged that she did not know that the rear cottages were not legal until after Tenants filed their  
22 first RAP petition (T18-0414). (3/5/19 Hearing, Part 2: 6:55- 7:09 and 13:17-13:32.) Landlord  
23 testified that upon learning that the rear cottages were illegal, she sought to remove them from use  
24 as dwelling units, offering as evidence a permit application worksheet she had filled out herself  
25 and allegedly submitted to the City of Oakland Planning and Building Department. (3/5/19  
26

27  
28 <sup>7</sup> See: March 5, 2019 Hearing Exhibit 9; also see March 5, 2019 Hearing Exhibit 5 located in the RAP file folder.

1 **Hearing, Part 2: 19:28-19:48.)** The application worksheet identified the subject property as 2  
2 existing residential units that Landlord was proposing to reduce to 1 unit, and states the purpose is  
3 to “return from habitable space to office space.” (See: **3/5/19 Hearing Exh. 11: Zalabak Permit**  
4 **Application Worksheet.**) Landlord testified that the rear cottage was permitted for use as an  
5 office and she had reverted it back to that use. (**3/5/19 Hearing, Part 2: 19:37-19:49.**) When  
6 Tenant asked Landlord if she had the original permit stating that rear unit was an office space,  
7 Landlord said she did, and then referred back to the Permit Application Worksheet she had filled  
8 out herself. (**3/5/19 Hearing, Part 2: 19:58-20:03.**) Lambert then referenced the repeated use of  
9 the term “returned” in Landlord’s Permit Application Worksheet as evidence that the rear unit had  
10 been permitted for use as an office.<sup>8</sup> (**3/5/19 Hearing, Part 2: 20:20-21:49.**) When Tenant noted  
11 that the application had been filled out by the Landlord who was only surmising the unit had been  
12 permitted for use as an office, Lambert stated “No, [Landlord] testified that there was a permit for  
13 it to be an office originally.” (**3/5/19 Hearing, Part 2: 21:44-21:56.**) When Tenant again asked if  
14 the Landlord actually had the permit, Landlord’s counsel stated Landlord was not responsible for  
15 pulling the permit, telling Tenant that if he wanted a copy of the permit, he could get it from the  
16 city. (**3/5/19 Hearing, Part 2: 21:57-22:07.**) Landlord then stated she did have the permit, but that  
17 she did not bring it to the hearing. (**3/5/19 Hearing, Part 2: 22:07-22:10.**)

20 Lambert later reiterated that “[the permit application worksheet] goes to show that [the rear  
21 cottage] is no longer a residential unit. It’s an office space...it’s officially with the city an office  
22 space.” (**3/5/19 Hearing, Part 2: 30:19-30:32.**) At no time did Lambert issue an order or  
23 otherwise require Landlord to provide a copy of the alleged office space permit.  
24

25 Tenants argued that removing the stove from the rear cottage and placing it in the laundry  
26 room was not evidence that Landlord had removed the cottage from use as a dwelling unit, but  
27 simply a temporary step to evade rent control. (**3/5/19 Hearing, Part 1: 57:00-57:09.**)

28 <sup>8</sup> “Returned” as in reverted.

1 Landlord claimed that upon restoring the rear cottages to non-habitable space, they were no  
2 longer rentable units, and that allowing the continued rental of illegal units was against public  
3 policy because it would put tenants at risk. (3/5/19 Hearing, Part 2: 39:39- 40:10.) Landlord  
4 admitted she had rented out the illegal cottages in violation of the law, but argued that by ceasing  
5 her illegal conduct, the property reverted back to a single family home. (3/5/19 Hearing, Part 2:  
6 41:12-41:27.) Landlord went on to claim that the property was now being used as a single family  
7 home by Tenants,<sup>9</sup> but did not provide any evidence that Tenants had access or use of the entire  
8 property. (3/5/19 Hearing, Part 2: 41:51-42:19.)  
9

10 When Tenants argued that Landlord had temporarily stopped renting the rear unit solely to  
11 circumvent rent control and the Just Cause ordinance, Lambert told Tenants that Landlord's  
12 motivation for complying with the law was not at issue, saying violation of Just Cause was not a  
13 subject for the hearing. (3/5/19 Hearing, Part 2: 45:00-45:37.) Tenants reiterated that Landlord  
14 was well aware that the rear cottages were illegal for at least ten months and did not take any  
15 action to comply with the law until after Tenants filed their first petition at the RAP. (3/5/19  
16 Hearing, Part 2: 46:50-47:16.)  
17

18 At no time did Lambert require Landlord to provide any evidence other than Landlord's  
19 own testimony that Landlord had actually removed the rear cottages from residential use or that  
20 the rear cottages were permitted for use as an office.

21 On April 22, 2019, a "good cause" hearing took place at the order of Lambert to ascertain  
22 whether the subject property might be subject to a new construction exemption. (4/22/19 Hearing,  
23 1:30-1:47.) Tenants submitted as evidence a 1940's parcel map they obtained from the Oakland  
24 Building Department which showed two structures existed on the Subject Property. (4/22/19  
25  
26

27 \_\_\_\_\_  
28 <sup>9</sup> I.e. suggesting that Tenants had been given use of the entire Subject Property, which was not the case.

1 **Hearing, 3:15-3:38.) (See: 4/22/19 Hearing Exh. A- 1940's Parcel Map of the 5500 block of**  
2 **Kales Ave.)** Tenants testified that they learned from the building records that the larger rear  
3 cottage had existed as a garage since the 1940's. (4/22/19 Hearing, 5:37-5:39.) Tenants further  
4 testified that they obtained from the Building Department the entire permit history for the Subject  
5 Property going back to the 1940's, and that there was no record of a permit to use the garage as an  
6 office space. ( 4/22/19 Hearing, 9:25-10:00.) Tenants submitted copies of all the building records  
7 as evidence. (See: 4/22/19 Hearing Exh. B- Building Records for 5553 Kales Ave. from 1940's  
8 to 2019.) Tenants pointed out that Landlord had testified under oath that she had a permit for use  
9 of the rear cottage as an office, but since no such permit existed, Landlord's credibility was at  
10 issue. (4/22/19 Hearing, 10:00-10:32.) Lambert and Landlord did not dispute the discrepancy, but  
11 Lambert said she did not know that the Landlord's [lying under oath] had any impact. (4/22/19  
12 Hearing, 11:42-11:46.) When Tenant made another layman's attempt to put Landlord's  
13 credibility at issue, Lambert obfuscated on the topic, turning it into a personal joke without  
14 formally addressing Tenants' request for notice of Landlord's lack of credibility. (4/22/19  
15 Hearing, 12:10-12:24.)

16  
17  
18 Landlord's counsel later stated several times the previous owner of the subject property  
19 was Landlord's brother and that it was the "brother" that created and initially rented out the rear  
20 cottages; Landlord's counsel offered to have Landlord testify in support of her claims. (4/22/19  
21 Hearing, 17:56-18:32.) Lambert said the Landlord's testimony was not necessary. (4/22/19  
22 Hearing, 19:00-19:10.) When Tenants then sought to have the Landlord state under oath that she  
23 was claiming the former owner of the property was Landlord's brother, Lambert would not allow  
24 Tenan to ask the Landlord the question. (4/22/19 Hearing, 21:45-21:59.) Tenants informed  
25 Lambert that the former owner was not the Landlord's brother, and when Lambert asked how  
26

27 Tenants knew that, Tenants provided a copy of the obituary of the former owner, Stephen Lage,  
28 which mentioned the names of family members, including sister Deborah Lage, but made no

1 mention of Sherry Zalabak. (4/22/19 Hearing, 22:06-22:20). Lambert acknowledged the obituary,  
2 but then asked Tenants why it mattered.<sup>11</sup> (4/22/19 Hearing, 22:22-22:24). Tenants responded  
3 that it mattered because it showed Landlord had repeatedly lied and lacked all credibility. (4/22/19  
4 Hearing, 2:24-22:46.) Lambert said she understood the argument Tenants were “attempting to  
5 make,” but that there was nothing about Landlord’s testimony that would contradict the “operative  
6 facts” of the case. (4/22/19 Hearing, 22:47-24:24). Lambert went on to state that the removal of  
7 the stove from the rear cottages was also not an operative fact but a detail used to show Landlord  
8 had removed the rear cottages from illegal use, not “the thing which allows [Landlord] to raise  
9 [Tenants’] rent.” (4/22/19 Hearing, 31:10- 31:43.) Lambert concluded the hearing with an  
10 explanation that the presence of a stove is not an operative fact for determination of a dwelling  
11 unit, but rather the residential use of a structure that mattered.<sup>12</sup> (4/22/19 Hearing, 31:53-32:30.)

12  
13 Lambert then proceeded to issue a decision based on Landlord’s testimony that she had  
14 removed the rear cottages from residential use, despite the absolute lack of evidence from  
15 Landlord that she had done so, and despite the substantial evidence that Landlord had no  
16 compunction about providing false testimony under oath.

17  
18 **I. THE RAP HAS JURISDICTION TO HEAR THE APPEAL**

19 The final decision in the underlying petitions was served by mail on June 7, 2019.  
20 Appellants timely filed their appeal on June 27, 2019 pursuant to O.M.C. 8.22.120.

21 The RAP can and must consider this appeal because “[i]n general, a party must exhaust  
22 administrative remedies before resorting to the courts.” (*Coachella Valley Mosquito and Vector*  
23 *Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1080.)  
24 “[A]n administrative remedy is exhausted only upon ‘termination of all available, nonduplicative  
25

26  
27 <sup>11</sup> Though she acknowledged the information in the obituary, Lambert did not enter the obituary into the record.

28 <sup>12</sup> Thereby implying that Landlord’s removal of the stove was not sufficient to remove the unit from residential use.

1 administrative review procedures.” *Id.* (citing to *California Correctional Peace Officers Assn. v.*  
2 *State Personnel Bd.* (1995) 10 Cal.4th 1133, 1151.)

3 Here the RAP has issued a decision for which Tenants have ample grounds to appeal.  
4 Tenants must exhaust all administrative remedies before resorting to the courts. Tenants must  
5 therefore be afforded the opportunity to exhaust all administrative remedies before filing a writ.

6 **A. Landlord’s Arguments that the RAP Does Not Have Authority to Hear the**  
7 **Appeal are Moot.**

8 Landlord argues that the Rent Adjustment Board does not have jurisdiction to hear this  
9 appeal because: 1) the Subject Property is a single family residence exempt from the RAP; and 2)  
10 Tenants have vacated the Subject Property. Both of these arguments fail.

11 Landlord’s claim that the Rent Board lacks jurisdiction to hear an appeal of an exemption  
12 because the unit is exempt is ridiculously circular. More to the point, RAP regulation  
13 8.22.030(C)(1)(c) specifically entitles Tenants to appeal a decision granting an exemption. While a  
14 SFR exemption pursuant to Costa Hawkins might make sense where the landlord represented, and  
15 the tenants believed, that the rental agreement was for a single family home, this is not that  
16 situation. Here the landlord, by her own admission, has profited for years from renting multiple  
17 units at the subject property. A property’s legal designation as a single family residence does not  
18 create an unappealable blanket exemption where the landlord knowingly rented out the property as  
19 a multi-unit dwelling any more than a commercial space knowingly rented out by the landlord for  
20 residential use is automatically exempt and unappealable. (See *Wofsy v. Tenant* L12-0051; Also  
21 see *Rose v. Polanski*, T05-0233.)

22 As for moving out-Tenants could and would have maintained possession of the unit if they  
23 had not been faced with the risk of owing many months of a huge rent differential while waiting  
24 for the RAP hearings and decision. They filed their petition November 2018, and the decision was  
25 issued at the end of May 2019. Though they filed their appeal in June, they knew it would be  
26  
27  
28

1 months before their appeal was heard, and they simply could not afford risking the possibility of  
2 owing a year or more of rent differential if they lost the appeal.

3 Tenants filed a timely appeal citing valid grounds while still in possession of the subject  
4 premises. Tenants should not be forced to choose between exercising their legal rights or risking a  
5 major financial burden as a result of scheduling matters outside their control. Tenants have done  
6 their due diligence and ask that the Rent Board do the same by hearing their appeal.

7 **II. GROUNDS FOR APPEAL**

8 Tenants submit their appeal pursuant to RAP Regulation 8.22.120(B)(3-5), and O.M.C.  
9 8.22.030(B)(1)(B) (exemption based on fraud or mistake.)

10 **A. O.M.C. 8.22.120(B)(3) The Decision Raises a New Policy Issue That Has Not**  
11 **Previously Been Decided by the Board**

12 The RAP acknowledged that this is a new issue not previously decided by the Board  
13 when it rescheduled the appeal hearing in this matter to have it heard by the full board. This issue  
14 is of significant importance to Oakland Tenants, as there are likely thousands of tenants living in  
15 properties recorded as single family homes but which actually have one or more illegal units.  
16

17 The rental of illegal units is commonplace in the Bay Area, including Oakland. And the  
18 RAP, the Just Cause for Eviction ordinance, and the Tenant Protection Ordinance all recognize  
19 and provide protection for tenants living in illegal units, as evidenced by the definition of "covered  
20 units" under O.M.C. 8.22.020:  
21

22 "Covered Unit" means any dwelling unit, including joint living and work quarters,  
23 and all housing services located in Oakland and used or occupied in consideration  
24 of payment of rent with the exception of those units designated in Section 8.22.030  
A. as exempt."

25 Oakland Planning Code §17.09.040 defines "dwelling unit" as:

26 ...a room or suite of rooms including only one kitchen, except as otherwise  
27 provided in Section 17.102.270, and designed or occupied as separate living  
quarters for one person or family; [reference to boarding house omitted.]

1 A review of the exemptions under 8.22.030 makes no mention of illegal or unpermitted  
2 units. Yet when illegal units are located in a property recorded as a Single Family Property, such  
3 is the case here, all tenants in the property are at risk each time one unit becomes vacant, as the  
4 landlord can simply claim exemption under Costa Hawkins and impose a huge rent increase for  
5 the remaining tenants, which often results in pushing out the existing tenants, allowing the  
6 landlord to re-rent the units at new, market rents, or sell the property vacant. The failure to uphold  
7 the RAP in these situations gives landlords a loophole to circumvent both the RAP and Just Cause.  
8

9 Recognizing this problem, San Francisco amended its planning code in 2016 to require a  
10 landlord to legalize an illegal dwelling unit whenever feasible.<sup>13</sup> The effect of the amendment has  
11 been to hold landlords accountable and protect tenants from losing their housing. San Francisco  
12 also amended its Tenant Harassment Ordinance in 2018 to include rent increases imposed in bad  
13 faith on tenants in units exempt from rent control but covered by the Just Cause Ordinance.<sup>14</sup>  
14

15 That said, while these additional protections have not yet been enacted in Oakland, the  
16 present case need not rely on them because landlord has not provided substantial, or any, evidence  
17 that she has removed the rear cottages or ceased renting them out. In fact, when Tenants vacated  
18 the property, the rear studios appeared to be exactly the same as they had throughout Tenants' 5  
19 year tenancy and there is no reason to believe Landlord did not simply re-rent the units once  
20 Tenants vacated.

21 **B. O.M.C. 8.22.120(B)(4) The Decision Violates Federal, State, or Local Law**

22 The Oakland Rent Adjustment Ordinance states: "[a]mong the purposes of this Chapter  
23 are providing relief to residential tenants in Oakland *by limiting rent increases for existing*  
24 *tenants;*" O.M.C. 8.22.010(C). Tenants rented a cottage in a multi-unit property. When Landlord  
25 decided not to re-rent the rear cottages, whatever her motive, it did not change Tenants status as  
26 "existing tenants." Nowhere in the RAP, or in the Costa Hawkins Act, is there a provision

27  
28 <sup>13</sup> See San Francisco Planning Code §317.

<sup>14</sup> See San Francisco Administrative Code §37.10A(i.)

1 allowing a Landlord to unilaterally change the status of an existing tenancy in order to claim an  
2 exemption where one did not previously exist. In fact, an attempt by a landlord to do just that was  
3 shot down by the California Court of Appeals in *Burien v. Wiley* (2014) 230 Cal. App. 4<sup>th</sup> 1039. In  
4 *Burien* a rent controlled apartment building was converted to condominiums and the owner then  
5 claimed that the property was exempt from rent control under Costa Hawkins, first as  
6 condominium, and when that failed, as new construction. In analyzing the legislative history of the  
7 Costa Hawkins Act, the Court noted the Act had been amended in 2002 specifically to close a  
8 loophole abused by landlords who had been applying for condo conversion permit simply to claim  
9 an exemption from rent control, and then never going through with the conversion. *Id.* at 1046-  
10 1047. The Court also found that the landlord's claim for new construction exemption based on the  
11 issuance of a new certificate of occupancy for a pre-existing unit did nothing to further the purpose  
12 for which the new construction exemption was created, i.e. to encourage the creation of new  
13 housing, and therefore landlord's request for exemption should be denied. *Id.* at 1049.

14  
15  
16 While the situation in the present case is distinguishable, the principle is the same- in  
17 order to claim an exemption, the purpose of the exemption should be met. Here it is not. The  
18 exemption for single family homes under both the Oakland RAP and Costa Hawkins was meant to  
19 preserve "mom and pop" investments, not to protect a landlord that rents out illegal units, and then  
20 when caught, uses the exemption to her advantage to impose a giant rent increase on the Tenants  
21 who caught her.

22  
23 Similarly, in *DaVinci Group v. SF Rent Board* (1992) 5 Cal.App. 4<sup>th</sup> 24, landlord  
24 sought a new construction exemption for a building that had been tenant occupied prior to the  
25 issuance of a certificate of occupancy. The court affirmed a decision of the Rent Board denying  
26 the landlord's petition to exempt his property from the Rent Ordinance, stating that the  
27 Ordinance's "explicit mandate is to protect tenants, especially from excessive rent increases"

1 (citing *Fox v. San Francisco Rent etc. Bd.* (1985) 169 Cal. App.3d at p. 656) to such an extent that  
2 a policy which removes such protection from tenants already in occupancy is contraindicated. *Id.*  
3 at 31. While this case is also distinguishable in that it deals with a new construction exemption  
4 rather than an exemption for a single family residence, the basic tenet applies- tenants already in  
5 place and protected by rent control ordinances should not be divested of such protections by a  
6 landlord's unilateral decision to claim a new status for the property. In citing to the rent board  
7 decision they upheld, the Court reiterated: "To permit landlords to rent out illegal units but to  
8 avoid the obligations imposed by the Ordinance is contrary to the purpose and intent of the  
9 Ordinance." *Id.* at 31. This could not be more true than in the present case where Landlord has  
10 rented out an illegal unit for 8 or more years, and now when confronted with her wrongdoing,  
11 seeks to have protections for tenants removed so that she can profit further; an exemption under  
12 these circumstances "is contrary to the purpose and intent of the Ordinance."  
13

14 **C. O.M.C. 8.22.120(B)(5) The Decision is Not Supported by Substantial Evidence**

15 Hearing decisions must be supported by substantial evidence. (RAP Hearing Officer  
16 Policies and Procedures Manual, p. 7.) "Substantial evidence means that the evidence must be of  
17 ponderable legal significance...It must be reasonable in nature, credible, and of solid value; it must  
18 actually be substantial proof of the essentials that the law requires in a particular case." *Id.*  
19 paraphrasing *In Re Alcala*, 222 Cal. App. 3d 345.  
20

21 Landlord provided no evidence of ponderable legal significance to support her  
22 contention that she has ceased renting the rear cottages for residential use. The only  
23 documentation Landlord offered as evidence was a permit application she had filled out herself, in  
24 which she claimed she planned to revert the rear cottage to its "legal use" as an office.<sup>15</sup> Having  
25 filled it out herself, the application was self-serving and of no solid value or legal significance.  
26

27  
28 <sup>15</sup> The application also only claims to revert a single structure, though Landlord has been renting out both rear cottages for residential use.

1 Landlord's only other evidence was her testimony, which, as Tenants demonstrated with records  
2 from the building department, was not in the least bit credible.<sup>16</sup> Tenants also provided tangible  
3 evidence to show that Landlord lied about her relationship to the former owner, evidence which  
4 the hearing officer then failed to enter into the record.<sup>17</sup> While Landlord's relationship with the  
5 former owner may not have substantive relevance to the matter at hand, the fact that Landlord lied  
6 about the relationship is relevant to show she lacks credibility.

7  
8 And finally, hearing officer herself stated that the absence of a stove was not  
9 determinative of residential use of a unit,<sup>18</sup> therefore the mere fact that Landlord placed the stove  
10 from the rear cottage in the laundry room of the Subject Property is no more persuasive of  
11 Landlord's intent to cease residential use of the rear cottages than it is of her intent to simply place  
12 it back in the cottages, as Tenants have argued.

13 Landlord's lack of documentary evidence of legal significance or solid value coupled  
14 with her false testimony would lead a reasonable person to conclude that Landlord lacked  
15 credibility, making it unreasonable for the hearing officer to accept as true Landlord's testimony  
16 that she had removed the rear cottages from residential use.

17  
18 With nothing but unreliable testimony to support her position, Landlord has failed to  
19 provide any substantial evidence that would lead a reasonable person to believe she had  
20 permanently ceased renting out the rear cottages for residential use.

21 **D. O.M.C. 8.22.120(B)(6) The Hearing Officer Made a Procedural Error That**  
22 **Denied Tenants Sufficient Opportunity to Adequately Respond to the**  
23 **Opposing Party.**

24 The hearing officer failed to give Tenants the opportunity to impeach Landlord with  
25 her false testimony despite Tenants' repeated protestations about Landlord's false statements made

26  
27 <sup>16</sup> See: 4/22/19 Hearing, Exh. B- Building Records for 5553 Kales Ave. from 1940's to 2019; and  
4/22/19 Hearing: 9:25-10:00.

28 <sup>17</sup> 4/22/19 Hearing, 22:06-22:20

<sup>18</sup> 4/22/19 Hearing, 31:53-32:30

1 under oath. Hearing officer then made a decision that relied almost entirely on Landlord's  
2 unreliable testimony.

3 Hearing officer also permitted Landlord to submit as evidence a permit application  
4 Landlord had filled out herself, though Tenants attempted to object to the submission by pointing  
5 out the application proved nothing other than Landlord had filled out a form.

6 When Tenants sought to show that Landlord did not possess the permit she alleged she  
7 had, hearing officer stated Landlord's testimony was sufficient to prove she had the permit and did  
8 not require Landlord to produce it.<sup>19</sup> When Tenants later showed no permit existed, hearing officer  
9 said existence of the permit was not material to the case, though hearing officer had repeatedly  
10 referred to the permit application as evidence that Landlord had removed the rear cottages from  
11 residential use.<sup>20</sup> When Tenants provided the obituary of former property owner Stephen Lage to  
12 impeach Landlord on her claim that Mr. Lage was her brother, hearing officer acknowledged on  
13 the record that she was reviewing something from Tenant, but never stated what she was  
14 reviewing and never entered the obituary into the record.<sup>21</sup>

15  
16  
17 No matter what the Landlord said, hearing officer justified it. When Tenants tried to  
18 impeach Landlord and demonstrate she lacked credibility, their attempts were ignored, dismissed  
19 or denied.

20 The RAP is meant to make to make the system more accessible to Oakland residents  
21 that do not have the means to obtain legal counsel. Tenants, who have no legal experience and  
22 were not represented by counsel, did their best to have their laymen's objections acknowledged  
23 and demonstrate Landlord lacked credibility. But instead of acknowledging and allowing Tenants'  
24 objections and impeachment examination, hearing officer instead lectured them on legal  
25

26  
27 <sup>19</sup> 3/5/19 Hearing, Part 2: 21:57-22:10.

28 <sup>20</sup> 3/5/19 Hearing, Part 2: 20:20-21:49

<sup>21</sup> 4/22/19 Hearing, 22:06-22:24

1 terminology while ignoring the substance of Tenants' arguments. In doing so, hearing officer  
2 denied Tenants sufficient opportunity to respond to opposing party

3 **E. O.M.C. 8.22.030(B)(1)(b) (exemption based on fraud or mistake.)**

4 Tenants submit that the Landlord's claim for exemption was based on fraud. Landlord  
5 claimed that the rear cottages were not legal or habitable, and therefore she had removed them  
6 from residential use. However, after Tenants moved out, Landlord advertised the Subject  
7 Property for rent. In the ads (listed on numerous websites), she referred to the rear cottages as  
8 "outside bedrooms" and a "guest retreat." While this may constitute "new evidence," the fact  
9 that Landlord claimed she had removed the units from use as dwelling space, and then  
10 subsequently advertised the cottages as dwelling space is evidence that the Landlord lied in the  
11 hearing when she said she had removed the rear cottages from residential use.  
12

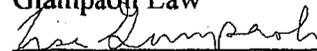
13  
14 Tenants have the right to contest the exemption based on Fraud or Mistake after the fact.  
15 (*Sherman v. Michelsen* T16-0258.) Here it is only logical that post facto evidence be provided,  
16 as Landlord was clearly not going to rent out the rear cottages before the RAP decision was  
17 issued, as doing so would jeopardize her case.

18 **CONCLUSION**

19 Pursuant to the foregoing, there is no basis for a finding the subject property was exempt  
20 from the RAP while Tenants were still in possession. For the reasons above, Tenants respectfully  
21 request that Landlord's request for exemption from the Rent Adjustment Program be denied and  
22 Tenant Petitioners' petitions for unlawful rent increases be granted or remanded for further  
23 consideration.  
24

25 Dated: January 13, 2020

26  
27 Giampaoli Law

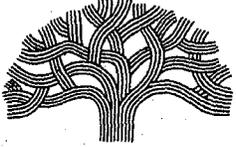


LISA GIAMPAOLI

Attorney for Tenants/Petitioners

KC/ECL

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	2019 JUN 27 PM 2:06
	<b><u>APPEAL</u></b>	

<b>Appellant's Name</b> Chester Martin & Kristen Ponger		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
<b>Property Address (Include Unit Number)</b> 5553 Kales Ave Oakland CA 94618		
<b>Appellant's Mailing Address (For receipt of notices)</b> 5553 Kales Ave Oakland, CA 94618		<b>Case Number</b> TB-0414; TB-0472
		<b>Date of Decision appealed</b> 4.30.2019
<b>Name of Representative (if any)</b>	<b>Representative's Mailing Address (For notices)</b>	

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

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

For more information phone (510) 238-3721.

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

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

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •  
 I declare under penalty of perjury under the laws of the State of California that on June 27, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Shery Zalabak
<u>Address</u>	402 Vermont Ave
<u>City, State Zip</u>	Berkeley, CA 94707
<u>Name</u>	Alana Grice Corner
<u>Address</u>	1901 Harrison Street, 14th floor
<u>City, State Zip</u>	Oakland, CA 94612

<u>Signature</u> C. Malt	<u>Signature</u> 	<u>DATE</u> 6.27.2019
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE		DATE

For more information phone (510) 238-3721.

Chester Martin & Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618  
June 27, 2019

Rent Adjustment Program (RAP)  
City of Oakland, CA  
Re: Appeal

**Case Number(s):**

T18-0414

T18-0472

**Tenant(s):**

Chester "Chase" Martin  
Kristen Ponger

**Landlord:**

Sherry Zalabak

**Rental Property Address:** 5553 Kales Avenue, Oakland, CA 94618

**Tenants Cause for Appeal:**

We are appealing the decision on the following grounds:

1. (a) The decision is inconsistent with OMC Chapter 8.22.060
  - A. Notice at the Commencement of Tenancy
  - C. Failing to Give Notice
2. (c) The decision raises a new policy issue that has not been decided by the Board
3. (e) The decision is not supported by substantial evidence

**Key Points:**

**1. (a) The decision is inconsistent with OMC Chapter 8.22.060:**

- As stated in Case T18-0414, Tenants never received notice of RAP at the commencement of our tenancy or 6 months prior to rent increase notice (OMC 8.22.060). The property was then being rented as a multi-unit property (confirmed by landlord). The first RAP notice was provided on November 4, 2018.

000097

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

- If an owner can remove an illegal unit from the rental market in order to restore their property's status to exempt for the purposes of evading OMC Chapter 8:22, so that the owner can then raise the remaining tenant's rent 70%, how does that foster the fair housing purpose of the program?

**3. (e) The decision is not supported by substantial evidence:**

- Hearing Decision Summary from March 5th hearing includes assessments contradictory to factual evidence filed in tenant petition
  - There is no evidence that the back unit was occupied when the owner inherited the property. No proof of occupancy was submitted for time prior to 2012
  - There is no evidence that the owner was unaware of the legal status of the back unit. The evidence shows the opposite. Owner claims that she had no knowledge of the legality of the unit until tenants filed a petition. As you can see in Exhibit H [attached] from T18-0414 petition, which is dated May 25th, 2018 discussion of the legality of the unit had been raised at this point. This had been discussed between landlord and tenant on many occasions.
  - There is no original permit for the "office", therefore the owner's application for a permit to "restore to office use" is invalid and the unit is still deemed a residential structure. Hearing officer accepted a verbal confirmation from the landlord who claimed to have permit at home. She accepted this as evidence despite the hard evidence provided by tenants proving there is no evidence or record of such permit. Records obtained from the City of Oakland.

**In Summary**

The landlord has strategically used certain tactics such as removal of the stove to evade rent control (The stove remains in the laundry room with the intention of reinstalling it to the back unit). This remains a bad faith rent increase and an attempt to force tenants out of the home. A single-family dwelling is not exempt and is considered a two-unit building if there is another residential structure on the same lot, regardless of the legality of the unit. Owners application for permit to "restore to office use" is invalid as there is no original permit. Therefore, the property remains as a two-unit property.



Chase Martin &lt;chasemartin5@gmail.com&gt;

## Print Kales Ave. Fwd: Lease Expiration and Offer to Purchase

2 messages

Kristen Ponger

Mon, Jul 23, 2018 at 11:53 AM

To: Chase Martin

----- Forwarded message -----

From: Chase Martin

Date: Fri, May 25, 2018 at 2:08 PM

Subject: Re: Lease Expiration and Offer to Purchase

To: Sherry Zalabak

Cc: kristen Ponger

Hi Sherry,

We have been thinking about you guys and really hope that John is hanging in there. I am sure you all are doing everything you can to make the best out of a difficult situation. We are hoping for the best.

We appreciate you getting that stained leaf glass back to us, it was a gift with sentimental value to us. You can leave it in our mailbox anytime. The weed whacker you saw was the Black & Decker one that our neighbor loaned us, but the one we are missing is a nice (also orange) STIHL whacker that Ron gifted to me when we move into Kales, and it's still missing. Can you please follow up with Maco about this? Thank you!

As far as planning for the future, I know you are eager to know where we stand on the house. Kristen and I absolutely love the Kales house and have cared for it as if it was our own the past 3.5 years. We are very interested in our collective dream of a mutually-beneficial purchasing agreement between the four of us. With that said, we had our realtor evaluate the house and give us comps on updated/renovated 1Br/1Baths in our neighborhood, which we would be happy to share with you. Our realtor's professional review of 17 comps in the area shows a current fair market value of 750K.

Based on this, knowing the ins and outs of the house, recognizing that this would be a direct sale for you without realtor and other fees, we would like to purchase the house "as is," without inspection at 750K. This is taking the current condition of the house into consideration, knowing that it needs major repairs, as well as the fact that the unit in the back is not legal and from a realtor's point-of-view is considered a liability, rather than an asset. We cannot go higher than this and don't have room for negotiation. But, we are very flexible to alternative financing arrangements that we've spoken about before such as a down-payment then renting to buy.

Our baby is due to arrive on July 9th, and as you can imagine we are entirely focused on preparations for the birth. Of course, settling on an agreement for the Kales house is also a major priority. Our apologies for not getting back to you sooner regarding the termination of lease agreement you dropped off. We wanted to let you know that we don't plan on signing this, but will do our best to work with you through the details of buying Kales.

We look forward to hearing your thoughts on this. We'd be happy to meet in person to talk more specifically about the details.

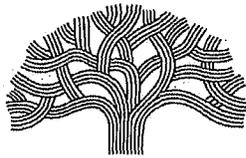
All the best,

Chase &amp; Kristen

On Thu, May 10, 2018 at 8:13 AM, Sherry Zalabak &lt;sherZ@comcast.net&gt; wrote:

Hi Chase,

I assumed that the stained glass leaf was left by the tenant. Yes, I have it here and will return it. Re. the two garden tools you described—I did see them during our work days there and Maco did use your red rake but we did not take them. Did you look in the basement crawl space? When I went back to water the plants a week after Maco and I finished I saw the weed-wacker. It was sitting to the left of the crawl-space door in the laundry room. I remember this as



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

2018 DEC -5 PM 4: 24

**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 18-0414**

Your Name Sherry Zalabak	Complete Address (with zip code) 402 Vermont Avenue Berkeley, CA 94707	Telephone:  Email:
Your Representative's Name (if any) Alana Grice Conner Fried & Williams LLP	Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612	Telephone: (510) 625-0100 Email: aconner@friedwilliams.com
Tenant(s) Name(s) Chester "Chase" Martin Kristen Ponger	Complete Address (with zip code) 5553 Kales Avenue Oakland, CA 94618	Telephone:  Email:
Property Address (If the property has more than one address, list all addresses) 5553 Kales Avenue, Oakland, CA 94618		Total number of units on property Single Family Residence

Have you paid for your Oakland Business License? Yes  No  Lic. Number: 00182031  
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:48A-7043-40  
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: 10/07/10

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.

CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
DEC 5 PM 4:24

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 November 24, 2014

The tenant's initial rent including all services provided was: \$ 2,600.00 / 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 X No \_\_\_\_\_ I don't know \_\_\_\_\_

If yes, on what date was the Notice first given? October 10, 2018 but unit is exempt

Is the tenant current on the rent? Yes X 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>	
10/10/18	12/15/18	\$ 2,652.00	\$ 4,500.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12/1/16	1/1/17	\$ 2,600.00	\$ 2,652.00	<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

**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:

CITY OF OAKLAND  
RENT ADJUSTMENT  
2018 DEC -5 PM 4: 24

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.

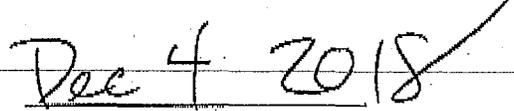
**IV. DECREASED HOUSING SERVICES**

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

CITY OF LOS ANGELES  
RENT ADJUSTMENT PROGRAM

2018 DEC - 5 PM 1:24

Landlord Narrative

The Tenants' petition must be dismissed because the Rent Adjustment Program doesn't have jurisdiction. The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code §1954.50 et seq.). See Attachment A, Property Assessment Information. Furthermore, the Tenants' petition is incomplete because the Tenants failed to sign the verification under penalty of perjury which is required. Nonetheless, if the hearing officer seeks to further review the petition, Landlord responds as follows:

To address the issues raised by Tenant in section I. Grounds for Petition, Landlord responds as follows:

(b) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The CPI Adjustment does not apply to the rental unit.

(c) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to receive approval from the Rent Adjustment Program for the contested rent increase.

(d) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to provide the Notice of the Rent Adjustment Program (RAP Notice) form.

(e) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The property owner is not required to provide the Notice of the Rent Adjustment Program (RAP Notice) form.

(k) The rental unit is exempt from rent control because it is a single-family residence exempted by the Costa-Hawkins Rental Housing Act (California Civil Code 1954.50). The limit for rent increases over 30% over a 5-year period does not apply to the rental unit.

(i) This exemption is based on a State law and there is no fraud or mistake.

ATTACHMENT A

ONLINE SERVICES

Assessor's Office | Treasurer-Tax Collector | New Query

PROPERTY ASSESSMENT INFORMATION

ASSESSOR'S OFFICE

2018 - 2019 Assessment Information

Parcel Number:	48A-7043-40
Assessor's Map: (Map image is not to scale)	<a href="#">Map</a> <a href="#">Disclaimer</a>
Use Code:	1100
Description	Single family residential homes used as such
Land	\$152,004.00
Improvements	\$354,677.00
Fixtures	0
Household Personal Property	0
Business Personal Property	0
Exemptions	
Homeowner	0
Other	0
<b>Total Taxable Value</b>	<b>\$506,681.00</b>
<b>Total Net Taxable Value</b>	<b>\$506,681.00</b>

[Additional Assessment Information](#) | [Property Tax Information](#)

Adobe Acrobat Reader is required to view the maps. Click [here](#) to download.



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2018

File only 2017  
50438 24 20  
2018 DEC - 5  
BZ

BUSINESS TAX RENEWAL  
510-238-3704

2018 RENEWAL TAX

Renew & Pay Online @ [HTTPS://LTSS.OAKLANDNET.COM](https://ltss.oaklandnet.com)

KALES

Delinquent if paid/postmarked after March 1, 2018

SECTION I - BUSINESS INFORMATION

1. ACCOUNT NUMBER: <b>00182031</b>	2. TAX RATE: <b>\$13.95 per \$1,000</b>	3. INDUSTRY CODE: <b>M</b>
4. Mailing Address:		
 <b>ZALABAK SHERRY D 402 VERMONT AVE BERKELEY, CA 94707-1722</b>		
5. Business Name: <b>ZALABAK SHERRY D</b>		
6. Business Location: <b>5553 KALES AVE, OAKLAND, CA 94618-1506</b>		
7. Business Phone Number: <b>(510) 292-8628</b>	8. Email Address: <b>SHERZ@COMCAST.NET</b>	
9. State Contractor's License Number:	10. Ownership Type: <b>Sole Proprietorship</b>	
11. 1st Owner's Name: <b>Sherry D Zalabak</b>	12. 2nd Owner's Name:	

Check the following applicable box(es):

4a: If you are making changes to Lines 4-12, see enclosed instructions.

4b. Claiming a Small Business Exemption: total gross receipts must be \$3,100 or less and you MUST submit a Form 4506T <http://irs.gov/pub/irs-pdf/f4506t.pdf>.  
Note: This exemption must be claimed on or before March 1, 2018 to qualify.

4c. If you discontinued/sold your business or rental property in 2017 or 2018: Complete Sections II and III. Return signed declaration with total payment.

4d. Requesting apportionment of your gross receipts: Complete worksheet in the enclosed instruction #13 (only Industry Codes A, B, C, D, E, F, G, I, T & Z may apply)

SECTION II - CALCULATE THE 2018 TAXES DUE: Please include dollars and cents (e.g. \$1,000.00)

13. 2018 TAX BASE (2017 Gross Rental Income)	13. \$ <u>30,000.00</u>
14. 2018 TAX DUE (Multiply Line 13 by .01395 OR enter \$13.95, whichever is greater)	14. \$ <u>418.50</u>
15. PENALTY DUE (see box at right if paying after 3/1/2018)	15. \$ _____
16. INTEREST DUE (see box at right if paying after 3/1/2018)	16. \$ _____
17. PRIOR AMOUNT DUE (Go to <a href="https://ltss.oaklandnet.com">HTTPS://LTSS.OAKLANDNET.COM</a> for the most current balance due)	17. \$ <u>670.18</u>
18. RECORDATION AND TECHNOLOGY FEE	18. \$ <u>2.00</u>
19. State Mandated Disability Access and Education Revolving Fund	19. \$ <u>4.00</u>
20. TOTAL AMOUNT DUE (Add Lines 14-19)	20. \$ _____

IF PAID AFTER MARCH 1, 2018.

**Penalty (on tax):**  
ADD 10% (if paid between 3/2/2018 and 5/1/2018) OR  
ADD 25% (if paid after 5/1/2018)

**Plus:**  
**Interest (on tax + penalty):**  
ADD 1% per month (on tax + penalty)  
from 3/2/2018 until paid

**Failure to file this declaration shall subject you to a \$50 Failure to File Fee**

\$ 2500 mo x 12 mos

PAYMENT OPTIONS - YOU CAN NOW PAY ONLINE!

ONLINE: VISA, MasterCard, Discover or eCheck at [HTTPS://LTSS.OAKLANDNET.COM](https://ltss.oaklandnet.com)  
Enter your account number: **00182031** and your personalized PIN: **775859**

BY MAIL: Send one check per account made payable to "Oakland Business Tax." DO NOT SEND CASH.

IN PERSON: Cash, Check or VISA, MasterCard or Discover (see reverse for hours & holidays).

PO 424 50  
2/21/18 # 723  
check W.F

SECTION III - HOW TO CLOSE YOUR ACCOUNT:

Was this business or rental property sold or the activity permanently discontinued?

To close your account, complete Section II and remit any applicable payment due. Check Box 4c (above) and complete Line 1 or 2 (below):

1. Business or Rental Property in Oakland was discontinued on:     /    /     To close the account, this declaration must be completed, signed and returned, with any payment that is due, on or before March 1, 2018.

If you would like to opt out of paper correspondence please check the box and update your email address on Line 8 above.

I hereby declare, under penalty of perjury, that the information contained herein is to the best of my knowledge, true and complete.

Signed: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

Renew & Pay online @ [HTTPS://LTSS.OAKLANDNET.COM](https://ltss.oaklandnet.com)

Office Visit by Sherry ZALABAK 2/21/18

Skip to main content  
Check Details

2018 DEC -5 PM 4: 24

Check Number

723

Date Posted

02/23/18

Check Amount

\$424.50

JOHN ZALABAK  
SHERI ZALABAK

723

Feb 21 2018  
Date

Pay to the Order of City of OAKLAND \$ 424<sup>50</sup>

four hundred & twenty-four & <sup>50</sup>/<sub>100</sub> Dollars

WELLS FARGO Wells Fargo Bank, N.A. California wells Fargo.com

For 00182031

powered by verifone

Micro Safe Deposit

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

[Skip to main content](#)  
**Check Details**

2018 DEC -5 PM 4:24

<b>Check Number</b>	722
<b>Date Posted</b>	02/26/18
<b>Check Amount</b>	\$68.00

**Company Check**

JOHN ZALABAK  
SHERI ZALABAK

722

Feb 21 2018  
Date

Pay to the Order of CITY OF OAKLAND \$ 68<sup>00</sup>

Sixty-eight dollars Dollars

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

For 00182032

Photo  
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For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

I. Justification for Rent Increase

Date of Contested Rent Increase: 10/10/18 effective 12/15/18

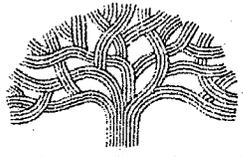
Justification: Single Family Home exemption

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RENT ARBITRATION DEPARTMENT  
2018 DEC -5 PM 4: 24

III. Exemption Attachment

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?  
**No**
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?  
**No**
3. Was the prior tenant evicted for cause?  
**No**
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?  
**No**
5. Is the unit a single family dwelling or condominium that can be sold separately?  
**Yes**
6. Did the petitioning tenant have roommates when he/she moved in?  
**No**
7. If the unit is a condominium, did you purchase it? **No**  
If so: 1) from whom? N/A 2) Did you purchase the entire building? N/A

T18-0414 RA/EL

 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: 11/10/17 10:41
	<b>TENANT PETITION</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 CHESTER "CHASE" MARTIN KRISTEN PONGER	Rental Address (with zip code) 5553 KALES AVENUE OAKLAND, CA 94618	Telephone: _____ E-mail: _____
Your Representative's Name	Mailing Address (with zip code)	Telephone: _____ Email: _____
Property Owner(s) name(s) SHERRY ZALABAK	Mailing Address (with zip code) 402 VERMONT AVENUE BERKELEY, CA 94707	Telephone: _____ Email: _____
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: _____ Email: _____

Number of units on the property: 2

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 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).
	(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.
<input checked="" type="checkbox"/>	(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).
<input checked="" type="checkbox"/>	(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: NOV. 24, 2014 Initial Rent: \$ 2,600 /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		
06/05/18	08/01/18	\$ 2,652	\$ 4,500	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12/1/16	1/1/17	\$ 2,600	\$ 2,652	<input type="checkbox"/> Yes <input checked="" 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).

C. Mark  
\_\_\_\_\_  
Tenant's Signature

8/2/18  
\_\_\_\_\_  
Date

## **VI. IMPORTANT INFORMATION:**

### **Time to File**

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit. Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor, Oakland; **RAP Online Petitioning System:** <http://rapwp.oaklandnet.com/petition-forms/>. For more information, please call: (510) 238-3721.

### **File Review**

Your property owner(s) will be required to file a response to this petition with the Rent Adjustment office within 35 days of notification by the Rent Adjustment Program. When it is received, the RAP office will send you a copy of the Property Owner's Response form. Any attachments or supporting documentation from the owner will be available for review in the RAP office by appointment. To schedule a file review, please call the Rent Adjustment Program office at (510) 238-3721. If you filed your petition at the RAP Online Petitioning System, the owner may use the online system to submit the owner response and attachments, which would be accessible there for your review.

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

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

Chester Martin & Kristen Ponger

August 3, 2018

Rent Adjustment Program (RAP)  
City of Oakland, CA  
Re: Tenant Petition

To Whom it May Concern:

Chester "Chase" Martin & Kristen Ponger, "Tenants"  
Sherry Zalabak, "Landlord"  
Rental Property Address: 5553 Kales Ave, Oakland, CA 94618

On June 5th, 2018 Landlord dropped off "Sixty Day Notice of Change in Terms of Tenancy" [Attachment A] raising tenants' rent 70% from \$2,652/month to \$4,500/month as of August 5th, 2018. Landlord's behavior has been erratic and contradictory over the past 6 months, and no justification for the rent increase has been provided. Tenants Martin & Ponger are choosing to proactively contest the increase via this petition on the following grounds.

1. Increase exceeds the CPI Adjustment and is greater than 10% without RAP approval
2. Tenants have never received notice of RAP
3. Wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud

**Key Points:**

- 5553 Kales Avenue is publicly listed as a Single-Family Residence, but has been rented as a duplex with two separate units since before current tenants Kristen & Chase signed a lease for front 1-BR unit in 2014 [Attachment B]
- Tenants entered lease for front unit in November 2014; no RAP notice provided [Attachment C]
  - a. Previous tenants were Holly and Steve
- Since 2014, the back unit has had two different sets of tenants paying rent under own respective leases
  - a. Mike and LeAnne Devol (maiden name Fowlkes); \$1,100/month
  - b. Lindsay Byrd and Isabel Avellan [Attachment D]; \$1,400/month
- Landlord raised both front & rear units' respective rents by 2% in January 2017 with no RAP notice [Attachment E]
- On March 28, 2018 Landlord states that tenants must vacate the property by July 1, 2018, so that she can make improvements to prepare for sale [Attachment F]
- On April 25, 2018, Landlord urged tenants repeatedly to sign agreement to terminate lease [Attachment G], misrepresenting document as "extension of tenancy" [Attachment H]

000113

- Tenants do not have access to back unit but it is currently vacant. Landlord has told tenants as recently as July 2018 that they are restricted from back unit and yard, as those are a separate unit.
- Tenants have always paid rent on time, cared for the property, maintained and performed minor upgrades and repairs at their own financial expense. Landlord stated in February 2018 that Martin & Ponger were "the best tenants she's ever had"

**Glossary of Attachments:**

Tenants are providing the following attached documentation outlining our historical rental agreement and series of events that led to this petition.

- **Attachment A:** Sixty-Day Notice of Change in Terms of Tenancy (Rent Increase)
- **Attachment B:** E-mail to back unit tenants announcing vacancy in front unit
- **Attachment C:** Martin & Ponger Lease Agreement
- **Attachment D:** Byrd & Avellan Lease Agreement
- **Attachment E:** Increase in rent for both units without RAP Notice, Jan. 2017
- **Attachment F:** Landlord states tenants must leave property to prepare for sale
- **Attachment G:** Landlord-Tenant Agreement to Terminate Lease
- **Attachment H:** Urging tenants to vacate and sign lease termination, misrepresenting document as an "extension"
- **Attachment J:** Offer of sale-of-property with Landlord's description of secondary unit

**Background:**

In February 2018, landlords of the 5553 Kales Avenue rental property, Sherry and John Zalabak, invited the tenants, Chase Martin & Kristen Ponger, over to their home in the Berkeley Hills to discuss the potential purchase of their Kales Ave rental property. The property at 5553 Kales includes two separate units: the 1-BR front house that Kristen & Chase have rented since November 2014, and the rear standalone studio cottage which the landlord refers to as a "Golden Duplex".

After tenants shared the news with the landlords that they were expecting their first child in July, both parties left the February meeting in agreement that there was no rush to action necessary and to reconvene in the Fall of 2018 to discuss further.

On Sunday, March 25th at 9am Landlord Sherry showed up to tenant's home unannounced to with a realtor friend named Julie Durkee. Landlord proceeded to barge into the house for an impromptu appraisal of the front unit, while accosting the tenants with questions on whether they were interested in buying another house down the street to move-in before baby arrives on July 9.

On March 27th, Tenants (Kristen & Chase) received an email and physical note from landlord (Sherry) apologizing for her unannounced visit the previous weekend. E-mail stated that circumstances had changed in respect to her husband's health, and tenants must vacate the unit by July 1, 2018 [Attachment F] in order to prepare the property for sale. Alternatively, landlord gave the tenants 30 days to make an offer to purchase the property. Landlord stated that tenants must make an offer or move out by July 1st.

On March 28th, Tenants Kristen & Chase replied to Landlord's email confirming interest in purchasing the property, but could not make an offer without the landlord first providing an asking price. Tenants also requested that landlord would reconsider the July 1st vacancy timeline since their baby was due that week.

On March 29th, Landlord dropped off a handwritten note [Attachment J] offering the property "as is" for \$1.3M through a private sale. At this point tenants took it upon themselves to contact a real estate agent to conduct a comparable evaluation of the property who also referred tenants to a lawyer, Jean Shrem.

On April 25th, Landlord begins to repeatedly urge tenants to sign a "Landlord-Tenant Agreement to Terminate Lease" document [Attachment G] without cause. Landlord misrepresents this as an "extension" [Attachment H] of lease and her offer of sale.

On May 25th, Tenants email Landlord with a purchase offer while giving notice of their refusal to sign "Termination of Lease" document.

On June 5th, 2018 Landlord shows up unannounced to drop off "Sixty Day Notice of Change in Terms of Tenancy" [Attachment A], raising tenants rent 70%, from \$2,652 to \$4,500 effective August 5, 2018. Tenant Chase Martin was present at the time and approached Landlord Sherry to discuss the legality of the notice, but was rebuffed by the landlord. Tenant verbally informed Landlord of intention to file with Rent Board if issue could not be resolved amicably in private, but as of August 1st no reply received from Landlord.

**SIXTY DAY NOTICE OF CHANGE IN TERMS OF TENANCY**

[Civil Code Section 827]

**TO:** CHASE MARTIN, KRISTEN PONGER,  
and all other persons claiming a right to possession of the premises described below

**PREMISES** 5553 Kales Avenue  
Oakland, CA 94618  
(hereinafter the "Subject Premises.")

**YOU ARE HEREBY NOTIFIED** that 60 days following service of this Notice on you, the terms of your tenancy for the Subject Premises will be changed, pursuant to California Civil Code Section 827, as follows:

**NEW MONTHLY RENT SHALL BE:** \$ 4,500

This new monthly rent represents the fair market rental value of the premises. Your new monthly rent shall be due and payable as of **August 5, 2018**.

Please continue to make your monthly rent payments to your Landlord according to the terms of your lease agreement.

Dated:

6/5/2018

Sherry Zalabak  
Sherry Zalabak, Landlord

A

000116

To: Kristen & Chase,

March 28, 2018

I'm NOT SURE if you got this e-mail  
so I'm leaving here on the door.

Sherry Z

Hi Kristen and Chase,

I'm sorry if I created any upset on Saturday as the timing of our ongoing discussions was intended to be leisurely.

We always planned to give you as much time as you needed to evaluate buying Kales. Recent events have changed our time line.

John's health is forcing us to make some unintended and difficult choices. I know that both of our lives are in a period of drastic change, both good and bad (just like real life). We would love for you to have the house. Just knowing that folks we like are there is comforting to me.

The upsetting reality is that we will need to prepare the house for sale by July 1 '18. As you can imagine I am emotionally attached to Kales and the neighborhood, as I know you are, which is why I thought you might want to see the other Kales house. I was there to verify comps, as a comp on the same street is the ideal comp. Julie Durkee contacted me late Friday night when she found about comp. But in retrospect I realize that my inviting you guys may have been upsetting and I apologize.

Let's see if we can work something out among us. Please get back to me within 30 days with an offer or let me know if you are not going to pursue one by then; April 27th, 2018.

I am trying to give you as much lead time as possible but need to let you know that I will need to have the house empty by July 1, 2018.

Please feel free to call me or e-mail me anytime with your questions.

Fondly, Sherry Zalabak

F

Tenants must  
leave property  
per landlord  
to prepare for  
sale of house

000117

Landlord-Tenant Agreement to Terminate Lease

Landlord: Sherry Zalabak + John Zalabak and

Tenant: Chester "Chase" Martin and Kristen Ponger

agree that the lease they entered into for the time period of November 24, 2014,

to November 24, 2015 for premises at 5553 Kales Ave.  
Oakland, California 94618

will terminate on November 1, 2018 (AND NOT ON JULY 1, 2018)

Additional conditions for cancellation of lease: TENANTS HAVE THE OPTION TO PURCHASE PROPERTY AND OWNER - FINANCE WILL BE CONSIDERED (UNTIL JUNE 1, 2018) (6/1/18) (SZ)

Sherry Zalabak  
Landlord's signature

April 25, 2018  
Date

SHERRY ZALABAK  
Print name

G

Tenant 1's signature

Date

Print name

Tenant 2's signature

Date

Print name

Tenant 3's signature

Date

Print name

## Appeal Attached Page

The ruling for T19-0272 and T19-0325 reads a restitution for decreased housing services valued at \$25,110.00. This amount is uneconomical. That is greater than the cash flow from operations for the entire year, and would exceed the budgeted cash flow for the next year. This would leave the operation of the property at a loss, and it would require a decrease in services for the other tenants at this property.

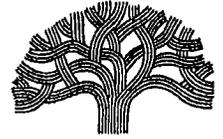
Additionally, from time to time units turn over and for an older building the units require significant capital expenses to completely refurbish the units. No income inhibits the ability of the property to generate any return on investment and generates no funds to pay to make necessary repairs and maintenance. Stretching the negative consequences over time as suggested in the decision only prolongs the financial impact. Such a decision may force the decision to shut down the property and cease providing affordable housing units to the market to stop the negative financial losses.

T19-0272 refers to a rent increase that does not abide by local and state laws. This increase, which was effective April 1, 2019, was rescinded and voided. Case T19-0325 refers to a rent increase that was effective July 1, 2019. This too was rescinded and voided.

The tenant had been provided an RAP Notice in a previous year, related to case T16-0526. In addition, the tenant had filed a petition leading to case T16-0526, making the tenant aware of their rights and opportunities to petition any changes in rent and services. This only leaves services provided to the tenant to be in question.

Conversations and inquiries were made with the tenant, Ms. Jeffers, after the notifications of petitions to the rent increase and alleged decrease in services were received. The tenant was asked if there were any outstanding items that needed repair or maintenance, and the tenant had clearly informed the management company that there were no items remaining. At the time, a contractor was painting the cabinets per the tenant's request. This does not coincide with what the tenant is claiming to be the current condition per the aforementioned cases. The deferred rent recovery itemizes repairs that have already been made to the property to the satisfaction of the tenant. Those rent reductions are punitive because there are no outstanding items according to the tenant, and therefore no reason to reduce the rental income further.

The decision is unnecessarily punitive since all the items claimed by the tenant had already been resolved to the tenant's satisfaction before the hearing.



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

Housing and Community Development Department  
Rent Adjustment Program

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

## Housing, Residential Rent and Relocation Board (HRRRB)

### APPEAL DECISION

**CASE NUMBER:** T18-0414 & T18-0472, Martin et al. v. Zalabak  
**APPEAL HEARING:** September 10, 2020  
**PROPERTY ADDRESS:** 5553 Kale Avenue, Oakland, CA  
**APPEARANCES:** Lisa Giampaoli Tenant Representative  
Alana Grice Conner Owner Representative

#### Procedural Background

The tenants filed a petition August 3, 2018, contesting a monthly rent increase from \$2,652.00 to \$4,000.00 purportedly effective August 1, 2018. The tenant and the owner representatives appeared at the Hearing on January 27, 2020.

The owner filed a timely response to the petition, claiming that the subject property was exempt from the Rent Adjustment Program as a single-family residence based on the Costa-Hawkins Act.

The tenants filed a second petition on November 9, 2018, alleging the claim but eliminating the claim of no concurrent notice with notice of the rent increase because they received a RAP notice on November 4, 2018, with a second notice of rent increase from \$2,652.00 to \$4,500.00.

The owner filed an untimely response to the tenant petition on February 15, 2019, again claiming an exemption from the Rent Adjustment Ordinance, as a single-family residence.

The hearing officer denied the tenants' petition on the grounds that the subject property was exempt from the Rent Adjustment Ordinance pursuant to Civil Code §1954.52(a)(3).

#### Grounds for Appeal

The tenants appealed the hearing decision on the following grounds:

1. The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations, or prior decisions of the Board.
2. The decision raises a new policy issue that has not been decided by the Board.
3. The decision is not supported by substantial evidence.

Additionally, the tenants contended that (1) they never received the RAP notice at the inception of their tenancy or 6 months prior to the rent increase notice, and first received the RAP notice on November 4, 2018, and the property was rented as a multi-family property, (2) if an owner can remove an illegal unit from the rental market to restore the property to exempt status, and raise a tenant's rent by 70% how does this foster the fair housing purpose of the RAP?, (3) there is no proof that the back unit was occupied when the owner inherited the property. No proof of occupancy was submitted prior to 2012. The owner claimed she had no knowledge of the legality of the back unit until the tenants filed a petition. Exhibit H to the T18-0414 petition dated May 25, 2018, indicates a discussion of the legality of the unit had been raised and has been discussed with the owner on many occasions. There is no original permit for an office and the owner's application to restore the unit to office use is invalid, and the unit is still a rental unit.

#### Appeal Decision

The tenant representative argued that the hearing officer relied on the owner's unreliable testimony that she removed the illegal rear unit from residential use. The tenants were forced out and the owner has posted subsequent ads for the property for rent as a 1+ bedroom including the illegal unit as a "plus" 1.

The tenant representative further argued that the hearing officer did not admit several tenant documents, failed to note there was no permit for the office in the back unit, and the owner committed fraud when she said she removed the illegal unit from residential use.

The owner representative argued that the landlord served two notices, the first notice was in error and was rescinded. The hearing officer held two hearings to investigate the former occupants' claims. There were several questions about the circumstances of their occupancy and the tenants in the rear unit moved out. A permit was pulled for electricity in the rear unit. The "plus" can be used as an office and the tenants are not permitted to introduce new evidence on appeal.

The owner representative also stated that Board cases have held that deference should be paid to the hearing officer's findings, and the hearing officer in this case weighed the credibility of the witnesses and determined the weight of the evidence. The

Rent Board cannot condone illegal conduct. The owner found that the unit was illegal and removed it from the rental market.

After arguments and rebuttal made by both parties, Board questions to the parties and Board discussion, Board Chair R. Stone moved to remand to the hearing officer, with direction to re-issue the hearing decision, considering Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal. App.4th 24 and Owens v. City of Oakland Housing, Residential Rent and Relocation Board (2020) 49 Cal.App.5th 739, with specific consideration of the testimony of the property as a multi-unit dwelling. R. Auguste seconded.

The Board voted as follows:

**Aye:** T. Hall, R. Auguste, A. Graham, R. Stone, S. Devuono-Powell, T. Williams, K. Friedman

**Nay:** None

**Abstain:** None

The motion was approved by consensus.

*Chanee Franklin Minor*  
*Program Manager*  
*HCD/Rent Adjustment Program*

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

*11/20/20*

DATE

**PROOF OF SERVICE**

**Case Numbers: T18-0414 & T18-0472**

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

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

**Documents Included**

Appeal Decision

**Owner**

Sherry Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner, Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenants:**

Chester Martin  
44 Belle Avenue  
San Rafael, CA 94901

Kristen Ponger  
44 Belle Avenue  
San Rafael, CA 94901

**Tenant Representative**

Lisa Giampaoli, Giampaoli Law  
100 Pine Street Suite 1250  
San Francisco, CA 94111

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 **November 20, 2020** in Oakland, CA.



Brittini Lothlen  
Oakland Rent Adjustment Program

**000123**

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

For date stamp.  
 RECEIVED  
 CITY OF OAKLAND  
 RENT ADJUSTMENT PROGRAM  
 2018 DEC 12 PM 4: 20  
**LANDLORD PETITION**  
**FOR CERTIFICATE OF EXEMPTION**  
**(OMC §8.22.030.B)**

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

**Section 1. Basic Information**

L19-0040 EJP/UC

Your Name Sherry Diane Zalabak		Complete Address (with zip code) 402 Vermont Avenue Berkeley, CA 94707		Telephone Day: 510-292-8628	
Your Representative's Name Alana Grice Conner Fried & Williams LLP		Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612		Telephone Day: 510-625-0100	
Property Address 5553 Kales Avenue, Oakland, CA 94618				Total number of units in bldg or parcel. SFR	
Type of units (circle one)	Single Family Residence <b>(SFR)</b>	Condominium	Apartment or Room		
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		<b>(Yes)</b>	No		
Assessor's Parcel No. 048A-7043-040					

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

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

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

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

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RENT ADJUSTMENT PROGRAM  
2018 DEC 12 PM 4:20

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

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

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

	New Construction
	Substantial Rehabilitation
X	Single Family Residence or Condominium (Costa-Hawkins)

**Section 4. Verification Each petitioner must sign this section.**

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

  
Owner's Signature

December 12, 2018  
Date

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

\_\_\_\_\_  
Date

**Important Information**

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

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

Section 2. Tenants

2018 DEC 12 PM 4:20

Chester "Chase" Martin  
5553 Kales Avenue  
Oakland, CA 94618

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

Section 3. Claim(s) of Exemption

Single-Family or Condominium (Costa-Hawkins)

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?  
**No**
2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?  
**No**
3. Was the prior tenant evicted for cause?  
**No**
4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?  
**No**
5. Is the unit a single family dwelling or condominium that can be sold separately?  
**Yes**
6. Did the current tenant have roommates when he/she moved in?  
**No**
7. If the unit is a condominium, did you purchase it? **No**  
If so: 1) from whom? **N/A** 2) Did you purchase the entire building? **N/A**
8. When did the tenant move into the unit?  
**November 24, 2014**

ONLINE SERVICES

Assessor's Office | Treasurer-Tax Collector | New Query

**PROPERTY ASSESSMENT INFORMATION**

ASSESSOR'S OFFICE  
01/16/2018 11:20

**2018 - 2019 Assessment Information**

Parcel Number:	48A-7043-40
Assessor's Map: (Map image is not to scale)	<a href="#">Map</a> <a href="#">Disclaimer</a>
Use Code:	1100
Description	Single family residential homes used as such
Land	\$152,004.00
Improvements	\$354,677.00
Fixtures	0
Household Personal Property	0
Business Personal Property	0
<b>Total Taxable Value</b>	<b>\$506,681.00</b>
<b>Exemptions</b>	
Homeowner	0
Other	0
<b>Total Net Taxable Value</b>	<b>\$506,681.00</b>

[Additional Assessment Information](#) | [Property Tax Information](#)

Adobe Acrobat Reader is required to view the maps. Click [here](#) to download.



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PC/EL

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RENT ARBITRATION PROGRAM

2019 JUL 25 PM 2:53

1 Alana Grice Conner, SBN 182676  
Fried & Williams LLP  
2 1901 Harrison Street  
Oakland, CA 94612  
3 Phone: (510) 625-0100  
Fax: (510) 550-3621  
4 aconner@friedwilliams.com

5 Attorneys for Petitioner and Owner  
Sherry Zalabak

8 **DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT AGENCY**  
9 **RENT ADJUSTMENT PROGRAM**  
10 **CITY OF OAKLAND**

11 SHERRY ZALABAK;  
12 Petitioner/Owner  
13 v.  
14 CHESTER "CHASE" MARTIN;  
15 KRISTEN PONGER;  
16 Respondents/Tenants.

CASE NO.: L19-0040  
**REQUEST FOR HEARING  
CONTINUANCE**  
HEARING DATE: OCTOBER 21, 2019  
TIME: 10:00 A.M.  
PLACE: 250 FRANK H. OGAWA PLAZA,  
STE. 5313, OAKLAND, CA 94612

19 Petitioner Sherry Zalabak, owner of 5553 Kales Avenue, Oakland, CA 94618, requests a  
20 hearing continuance for Landlord Petition for Certificate of Exemption filed on December 12,  
21 2018. Petitions T18-0414 and T18-0472 concern the same property and parties. A hearing  
22 decision was issued on May 31, 2019 in those cases and the Hearing Officer ordered a  
23 Certificate of Exemption to be issued once the decision became final. An appeal was filed by  
24 the tenants. A hearing on the appeal has not been set. To conserve administration resources for  
25 Petition L19-0040, Petitioner requests a continuance of the hearing on the Landlord Petition for  
26 Certificate of Exemption.

27 Once the hearing decision for T18-0414 and T18-0472 becomes final, a Certificate of  
28 Exemption will be issued therefore negating the need for a hearing on Petition L19-0040 and

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CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2019 JUL 25 PM 2:53

1 this Petition will be dismissed.

2 Dated: July 25, 2019

FRIED & WILLIAMS LLP



By: Alana Grice Conner,  
Attorneys for Petitioner and Owner  
Sherry Zalabak

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**Costa, Robert**

---

**From:** Marena Perez <mperez@friedwilliams.com>  
**Sent:** Tuesday, February 18, 2020 1:04 PM  
**To:** Costa, Robert  
**Cc:** Alana Conner  
**Subject:** L19-0040, T18-0414 & T180472 - hearings set

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

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Hello Mr. Costa

We have a landlord petition for certificate of exemption hearing scheduled for **February 25, 2020**. An appeal was filed by the tenants for tenant petitions T18-0414 & T180472 concerning the same property and parties. The appeal hearing was recently re-scheduled for March 12, 2020.

Will landlord petition L19-0040 hearing also be postponed? Depending on the results of the appeal, a Certificate of Exemption may be issued therefor negating the need for a hearing on Petition L19-0040.

Please update us at your earliest.

Thank you,

Marena Perez  
*Paralegal*

**Fried  
&Williams**  
Attorneys at Law

1901 Harrison Street, 14<sup>th</sup> Floor  
Oakland, CA 94612

Tel 510-625-0100  
Fax 510-550-3621

625 Market Street, 4<sup>th</sup> Floor  
San Francisco, CA 94105

Tel 415-421-0100  
Fax 415-762-5435

[www.friedwilliams.com](http://www.friedwilliams.com)

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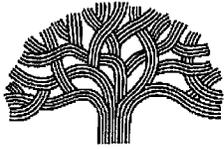


Please don't print this e-mail unless you really need to.

RC/EL

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2019 AUG 15 PM 1:21



CITY OF OAKLAND

**RENT ADJUSTMENT PROGRAM**

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

CASE NUMBER L 19-0040

**TENANT RESPONSE TO  
CLAIM OF PERMANENT EXEMPTION**

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

Your Name Chester Martin Kristen Ponger	Complete Address (with Zip Code) 533 22nd Street Apt. A Oakland, CA 94612	Telephone 301-785-7441 914-906-4765
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: 2

The unit I rent is:  a house  an apartment  a condo

**Rental History:**

Date you entered into the Rental Agreement for this unit: Nov. 2014

Date you moved into this unit: 11/24/14

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

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

**Exemption Contested:**

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

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

2019 AUG 15 PM 4:21

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

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?	
		From	To	Yes	No
11/4/18	1/03/19	\$2,652	\$4,500	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
6/5/18	8/01/18	\$2,652	\$4,500	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
12/01/16	1/01/17	\$2,600	\$2,652	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
		\$	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		\$	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		\$	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>
		\$	\$	Yes <input type="checkbox"/>	No <input type="checkbox"/>

**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.

*C. Mahi*  
Tenant's Signature

*[Signature]*  
Tenant's Signature

8/15/19  
Date

8/15/19  
Date

**Important Information**

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-3721.

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

**File Review**

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

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

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

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2019 AUG 15 PM 1:33

RC/EL  
RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

Chester Martin & Kristen Ponger  
533 22nd Street  
2019 AUG 15 PM 1:33  
Apt. A  
Oakland, CA 94612

August 15, 2019

Rent Adjustment Program (RAP)

City of Oakland, CA

Re: Contesting Landlord Petition for Certificate of Exemption

**Case Number:**

L19-0040

**Tenant(s):**

Chester "Chase" Martin

Kristen Ponger

**Landlord:**

Sherry Zalabak

**Rental Property Address:** 5553 Kales Avenue, Oakland, CA 94618

**Tenants Cause for Contesting this Petition:**

5553 Kales Avenue has been rented as a multi-unit property, with two dwelling units with separate leases since before tenants Kristen and Chase signed a lease for Unit A in 2014. Therefore, it is not exempt from the Rent Adjustment Ordinance.

Please refer to RAP cases T14-0414 and T14-0472, Martin et al v. Zalabak., for all tenant's submitted appeal information and evidence. These petitions are still open as we, the tenants, have appealed the decision.

000133

<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. <div style="text-align: center;">           RECEIVED            CITY OF OAKLAND            RENT ARBITRATION PROGRAM              2018 DEC 12 PM 4: 20    <b><u>LANDLORD PETITION</u></b>  <b><u>FOR CERTIFICATE OF EXEMPTION</u></b>            (OMC §8.22.030.B)         </div>
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**Please Fill Out This Form Completely As You Can.** Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

**Section 1. Basic Information**

*LI 19-0040 EJP/C*

Your Name Sherry Diane Zalabak		Complete Address (with zip code) 402 Vermont Avenue Berkeley, CA 94707		Telephone Day: 510-292-8628
Your Representative's Name Alana Grice Conner Fried & Williams LLP		Complete Address (with zip code) 1901 Harrison Street, 14th Floor Oakland, CA 94612		Telephone Day: 510-625-0100
Property Address 5553 Kales Avenue, Oakland, CA 94618			Total number of units in bldg or parcel. SFR	
Type of units (circle one)	Single Family Residence <b>(SFR)</b>	Condominium	Apartment or Room	
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		<b>(Yes)</b>	No	
Assessor's Parcel No. 048A-7043-040				

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

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

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

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

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
2018 DEC 12 PM 4:20

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

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

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

	New Construction
	Substantial Rehabilitation
X	Single Family Residence or Condominium (Costa-Hawkins)

**Section 4. Verification Each petitioner must sign this section.**

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

Sherry Zelen  
Owner's Signature

December 12, 2018  
Date

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

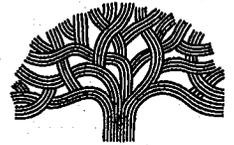
\_\_\_\_\_  
Date

**Important Information**

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

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

CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

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

Re: Case#L19-0040 Coronavirus (COVID-19) - Rescheduling of June 2020 Hearings

To the Parties:

The Rent Adjustment Program will resume hearings on June 1, 2020. However, due to the continuation of the shelter-in-place orders imposed by the County and the Governor, Hearings that are scheduled June 1, 2020 to June 30, 2020, will not be in-person hearings, but will be conducted remotely.

There is an appeal pending that may affect your case. Therefore, your case will be postponed.

An Amended Notice of Hearing with your new hearing date will be sent to you as soon as the Board hears and makes a decision on the appeal. We apologize for any inconvenience but believe this is the most responsible action at this time.

Thank you for your understanding. If you have any questions you may contact me at [RCosta@OaklandCA.gov](mailto:RCosta@OaklandCA.gov) email address.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F Costa", written over a white background.

Robert F Costa  
City of Oakland  
Housing and Community Development Department  
Rent Adjustment Program

000136

**PROOF OF SERVICE**

**Case Number L19-0040**

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, 5<sup>th</sup> Floor, Oakland, California 94612.

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

**Owner:**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative:**

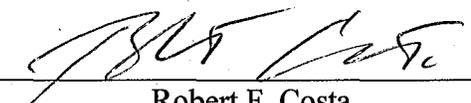
Alana Grice Conner.  
Fried & Williams LLP  
1901 Harrison Street, 14<sup>th</sup> Floor  
Oakland, CA 94612

**Tenants:**

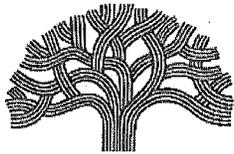
Kristen Ponger & Chester Martin  
533 22<sup>nd</sup> Street, Apt. #A  
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 26, 2020 in Oakland, California.

  
\_\_\_\_\_  
Robert F. Costa  
Oakland Rent Adjustment Program

**000137**



CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program  
250 Frank Ogawa Plaza, Suite 5313  
Oakland, CA 94612

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

## NOTICE OF SETTLEMENT CONFERENCE AND HEARING

File Name: Zalabak v Tenants  
Property Address: 5553 Kales Avenue Oakland, CA 94618  
Case Number: L19-0040

The Hearing Officer will conduct a Settlement Conference to attempt to resolve this matter. The Settlement Conference in your case will begin on:

Date: June 8, 2020  
Time: 10:00AM  
Place: 250 Frank H. Ogawa Plaza, Ste. #5313, Oakland, CA 94612

If the Settlement Conference is not successful, the Hearing will begin immediately after the Settlement Conference.

### **Order to Produce Evidence**

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

### **Request to Change Date**

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

### **Hearing Record**

The Rent Adjustment Program makes an audio recording of the Hearing. Either party may bring a court reporter to record the hearing at their own expense. The Settlement Conference is not recorded. If the settlement is reached, the Hearing Officer will draft a Settlement Agreement to be signed by the parties.

### **Inspections**

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

**000138**

### **Representatives**

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

### **Interpreter**

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

### **Failure to Appear for Hearing**

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

### **Accessibility**

This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, 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.

### **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.

**PROOF OF SERVICE**  
**Case Number L19-0040**

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

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

**Documents Included**

Notice of Settlement Conference and Hearing

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner, Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant(s)**

Chester Martin  
533 22nd Street Apt. # A  
Oakland, CA 94612

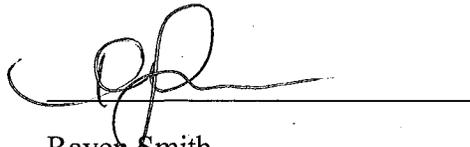
Kristen Ponger  
533 22nd Street Apt. # A  
Oakland, CA 94612

Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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

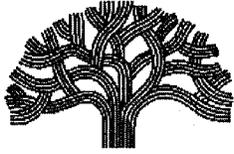
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **February 21, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

**000140**



CITY OF OAKLAND

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

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

### **AMENDED NOTICE OF HEARING**

File Name: Zalabak v Tenants  
Property Address: 5553 Kales Avenue Oakland, CA 94618  
Case Number: L19-0040

The Hearing in your case will begin:

**Date:** February 25, 2020  
**Time:** 10:00AM  
**Place:** 250 Frank H. Ogawa Plaza, Ste. #5313 , Oakland, CA 94612

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

#### **Order to Produce Evidence**

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

#### **Request to Change Date**

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

#### **Hearing Record**

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

#### **Inspections**

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

**000141**

### **Representatives**

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

### **Interpreter**

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

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### **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, Cantones, 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**

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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.

**PROOF OF SERVICE**  
**Case Number L19-0040**

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

**Documents Included**

Amended Notice of Hearing

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner, Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant(s)**

Chester Martin  
533 22nd Street Apt. # A  
Oakland, CA 94612

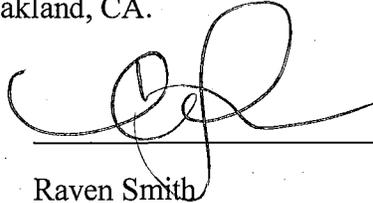
Kristen Ponger  
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Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

Kristen Ponger  
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Oakland, CA 94618

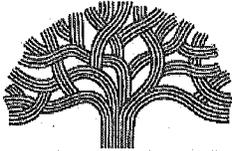
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **February 04, 2020** in Oakland, CA.

  
\_\_\_\_\_  
Raven Smith

Oakland Rent Adjustment Program

**000144**



CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program  
250 Frank Ogawa Plaza, Suite 5313  
Oakland, CA 94612

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

## **AMENDED NOTICE OF SETTLEMENT CONFERENCE AND HEARING**

File Name: Zalabak v Tenants  
Property Address: 5553 Kales Avenue Oakland, CA 94618  
Case Number: L19-0040

The Hearing Officer will conduct a Settlement Conference to attempt to resolve this matter. The Settlement Conference in your case will begin on:

Date: February 24, 2020  
Time: 10:00AM  
Place: 250 Frank H. Ogawa Plaza, Ste. #5313, Oakland, CA 94612

If the Settlement Conference is not successful, the Hearing will begin immediately after the Settlement Conference.

### **Order to Produce Evidence**

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

### **Request to Change Date**

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

### **Hearing Record**

The Rent Adjustment Program makes an audio recording of the Hearing. Either party may bring a court reporter to record the hearing at their own expense. The Settlement Conference is not recorded. If the settlement is reached, the Hearing Officer will draft a Settlement Agreement to be signed by the parties.

### **Inspections**

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

**000145**

### **Representatives**

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

### **Interpreter**

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

### **Failure to Appear for Hearing**

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

### **Accessibility**

This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, 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.

### **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.

**PROOF OF SERVICE**

**Case Number L19-0040**

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

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

**Documents Included**

Amended Notice of Settlement Conference and Hearing

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner, Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant(s)**

Chester Martin  
533 22nd Street Apt. # A  
Oakland, CA 94612

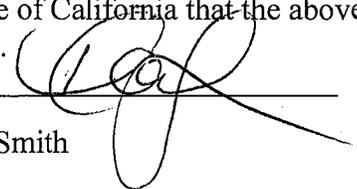
Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

Kristen Ponger  
533 22nd Street Apt. # A  
Oakland, CA 94612

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **October 04, 2019** in Oakland, CA.

  
\_\_\_\_\_  
Raven Smith

Oakland Rent Adjustment Program

**000147**

**PROOF OF SERVICE**  
**Case Number L19-0040**

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, 5<sup>th</sup> Floor, Oakland, California 94612.

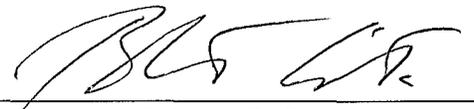
Today, I served the attached **TENANT RESPONSE** by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5<sup>th</sup> Floor, Oakland, California, addressed to:

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

Alana Grice Conner  
Fried & Williams LLP  
1901 Harrison Street, 14<sup>th</sup> Floor  
Oakland, CA 94612

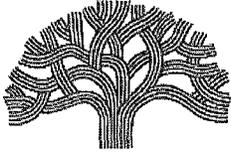
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on August 16, 2019 in Oakland, California.



---

Roberto F. Costa  
Oakland Rent Adjustment Program



CITY OF OAKLAND

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

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

### NOTICE OF HEARING

File Name: Zalabak v Tenants  
Property Address: 5553 Kales Avenue, Oakland, CA 94618  
Case Number: L19-0040

The Hearing in your case will begin:

**Date:** October 21, 2019  
**Time:** 10:00AM  
**Place:** 250 Frank H. Ogawa Plaza, Ste. #5313, Oakland, CA 94612

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

#### **Order to Produce Evidence**

All proposed tangible evidence, including but not limited to documents and pictures, must be submitted to the Rent Adjustment Program not less than fourteen (14) days prior to the Hearing. Black out all sensitive information on the documents you submit, like bank or credit card account numbers and Social Security numbers. Proposed evidence presented later may be excluded from consideration. The Hearing Officer can also use the official records of the City of Oakland and Alameda County Tax Assessor as evidence if provided by the parties for consideration.

#### **Request to Change Date**

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

#### **Hearing Record**

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

#### **Inspections**

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

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### **Representatives**

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

### **Interpreter**

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

### **Failure to Appear for Hearing**

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

### **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**

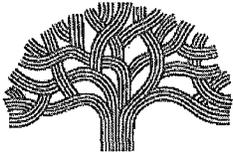
The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use service animals or emotional support animals.

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.

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CITY OF OAKLAND

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

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

July 17, 2019

**Tenant**

Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant**

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

The Rent Adjustment Program received the petition(s) attached to this letter on December 12, 2018. Your Landlord(s) is/are petitioning for a Certificate of Exemption from the Rent Adjustment Ordinance (Oakland Municipal Code Chapter 8.22). For details please see the attached copy of the petition.

Your case has been assigned Case No. **L19-0040**  
The case title and file name is **Zalabak v Tenants**  
The Analyst assigned to your case is **Robert Costa at (510) 238-2079**

**IF YOU WANT TO CONTEST THIS PETITION, YOU MUST FILE A WRITTEN RESPONSE TO THE ATTACHED LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION WITHIN THIRTY-FIVE (35) DAYS FROM THE DATE OF MAILING OF THIS NOTICE OR A DECISION MAY BE MADE AGAINST YOU. THE RESPONSE MUST BE FILED ON THE PROPER FORM AND MUST BE RECEIVED AT THE CITY OF OAKLAND'S RENT ADJUSTMENT PROGRAM OFFICE ON OR BEFORE THE DUE DATE.**

**EXEMPTION**

The landlord may prove an exemption from the application of the Oakland Rent Adjustment Ordinance. The exemptions are found in the Rent Adjustment Ordinance (O.M.C. Section 7.22.030). Permanent exemptions under the Rent Adjustment Ordinance include units constructed after January 1, 1983 (new construction) and single family houses exempt under the Costa

**000152**

Hawkins Rental Housing Act. See the Ordinance at the Rent Adjustment Program website for a complete list of exemptions and details:

**Additional Requirements**

**In order to contest this petition a tenant must:**

- 1. Be current on his/her rent; and**
- 2. File a timely response to the Rent Adjustment Program on the Tenant Response form.**

If you wish to review all documents filed, you are entitled to review the file at the Rent Adjustment Program Office. **Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment ONLY.** For an appointment to review a file call (510) 238-3721.

If you have questions not answered by this notice, please contact the Residential Rent Adjustment Office at (510) 238-3721 between the hours of 8:30 a.m. and 5:00 p.m.

**PROOF OF SERVICE**  
**Case Number L19-0040**

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

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

**Documents Included**

Tenant Notification of Property Owner Petition for Certificate of Exemption Filed  
Copy of Owner Petition for Certificate of Exemption  
Tenant Response Form  
Notice of Hearing

**Tenant**

Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant**

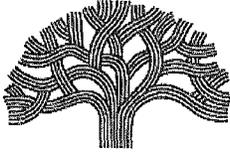
Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **July 17, 2019** in Oakland, CA.

  
\_\_\_\_\_  
Maxine Visaya  
Oakland Rent Adjustment Program

**000154**



CITY OF OAKLAND

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

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

July 17, 2019

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner  
Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

Dear Petitioner:

The Rent Adjustment Program has received a petition filed by you.

**Your case has been assigned Case No. L19-0040.**

**The case title and file name is Zalabak v Tenants.**

**The Analyst assigned to your case is Robert Costa at (510) 238-2079.**

The tenants who are affected by the Certificate of Exemption will be notified of your petition and will have the opportunity to submit a written response. If any responses are filed, they will be mailed to you. However, we only send the actual response and not any accompanying documentation.

If you wish to review all documents filed, you are entitled to review the file at the Rent Adjustment Program Office. **Files are available for review by appointment ONLY.** For an appointment to review a file call (510) 238-3721.

If you have questions or need additional information, please contact the Rent Adjustment Program at (510) 238-3721.

**000155**

**PROOF OF SERVICE**  
**Case Number L19-0040**

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

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

**Documents Included**

Landlord Notification Letter of Request for Certificate of Exemption Petition Filed  
Notice of Hearing

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner  
Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **July 17, 2019** in Oakland, CA.

  
\_\_\_\_\_  
Maxine Visaya  
Oakland Rent Adjustment Program

**000156**





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

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION AFTER REMAND**

**CASE NUMBERS:** T18-0414, Martin et al v. Zalabak  
T18-0472, Martin et al v. Zalabak  
L19-0040, Zalabak v. Tenants

**PROPERTY ADDRESS:** 5553 Kales Avenue, Oakland, CA

**DATES OF HEARING:** March 5, 2019, and April 22, 2019

**DATE OF DECISION:** April 30, 2019

**DATE OF APPEAL HEARING:** September 10, 2020

**DATE OF APPEAL DECISION:** November 20, 2020

**DATE OF REMAND DECISION:** March 4, 2021

### **PROCEDURAL BACKGROUND**

The tenants, Chester Martin and Kristen Ponger, filed two separate petitions contesting a rent increase effective August 1, 2018 (T18-0414) and a rent increase effective December 15, 2018 (T18-0472).<sup>1</sup> Although the owner withdrew the rent increase effective August 1, 2018, the tenants declined to withdraw their initial petition. The petitions were consolidated and a hearing was conducted by Rent Adjustment Program Hearing Officer Élan Lambert on March 5, 2019, and April 22, 2019. On April 30, 2019, the Hearing Officer issued a decision denying the tenants' petitions on the basis that the unit was a single family residence exempt from the Rent Adjustment Ordinance pursuant to California Civil Code Section 1954.52(a)(3).

The tenants then filed an appeal, which was heard by the Housing, Residential Rent and Relocation Board (HRRRB) on September 10, 2020. The Board remanded the case to the Hearing Officer "with direction to re-issue the hearing decision, considering Da

<sup>1</sup> Although the petition filed by the tenants in T18-0472 actually provides an effective date of January 3, 2019, the response filed by the owner provides an effective date of December 15, 2018.

Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal.App.4<sup>th</sup> 24 and Owens v. City of Oakland Housing, Residential Rent and Relocation Board (2020) 49 Cal.App.5<sup>th</sup> 739, with specific consideration of the testimony of the property as a multi-unit dwelling.”

On December 12, 2018, the owner filed a *Landlord Petition for Certificate of Exemption* (L19-0040) regarding the subject property. The case was originally set for hearing on October 21, 2019, but the hearing was continued several times. Case L19-0040 was ultimately combined with Cases T18-0414 and T18-0472 because they raise the same issues. The combined cases were set for hearing on January 25, 2021.

On January 11, 2021, an *Order Reassigning Hearing Officer and Canceling Hearing* was issued, reassigning the joint cases to the undersigned Hearing Officer and stating that the decision would be issued “based on the written evidence and testimony previously provided, and consideration of the California Court of Appeal decisions cited by the Oakland HRRRB.”

### **ISSUES**

1. Is the unit exempt from the Rent Adjustment Ordinance because it is a single family residence or condominium that can be sold separately?
2. Is the unit exempt from the Just Cause for Eviction Ordinance because it is a single family residence or condominium that can be sold separately?
3. Is the unit exempt from the Rent Program Service fee?

### **EVIDENCE**

As the original Hearing Decision explained, the tenants moved into the unit in November 2014. At the inception of their tenancy, it was a multi-unit property. The front unit and rear unit were rented out to separate tenants, with separate leases. Tenants Martin and Ponger lived in the front unit. On the last day of February 2018, the tenants in the rear unit moved out voluntarily.

The current owner acquired the property as an inheritance in 2010. The rear unit was occupied at the time she acquired the property. After the tenants filed their initial petition (T18-0414), the owner retained counsel and subsequently learned that the rear unit could not legally be rented out as a separate unit. She then removed the stove from that unit and discontinued renting it out as a separate residential unit after the rear unit tenants moved out in February 2018.

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## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

- 1. Is the subject unit exempt from the Rent Adjustment Ordinance because it is a single family residence or condominium that can be sold separately?**

The Rent Adjustment Ordinance exempts single family residences and condominiums pursuant to the Costa-Hawkins Act, California Civil Code § 1954.52, provided they are separately alienable from any other rental unit.<sup>2</sup> However, a single family residence can function as a multi-unit building when the owner rents out separate “dwelling units” to individual tenants.<sup>3</sup>

As Hearing Officer Lambert found in her original decision, 5553 Kales Avenue is a single family residence. The owner did rent out a separate “illegal” unit in the rear of the residence through February 2018, but she ceased renting out that unit when the tenants living in that unit voluntarily moved out. As of December 15, 2018, the date the contested rent increase was to take effect, the owner was only renting out the subject property as a single family residence. Therefore, as of December 15, 2018, the unit was not functioning as a multi-unit building.

This case can be distinguished from the California Court of Appeals decisions the HRRRB directed the Hearing Officer to consider. In Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal.App.4<sup>th</sup> 24, the tenant moved into a unit advertised by a previous tenant as a “live-in warehouse” and the owner obtained a certificate of occupancy more than five years later, after spending money to make improvements on the property.

The San Francisco Residential Rent Stabilization and Arbitration Board found that the units were not exempt from the Residential Rent Stabilization and Arbitration Ordinance Rent as “new construction” or “substantial rehabilitation.” As the decision upholding this finding pointed out:

Da Vinci’s units were not newly constructed, nor was the building restructured to permit new residential use. Existing residential use was made legal by bringing the building up to code and obtaining a certificate of occupancy. While this is a commendable undertaking, it does not bring the premises within the Ordinance’s “new construction” exemption. (5 Cal.App.4<sup>th</sup> 30.)

Whereas, in the Da Vinci case, “existing residential use was made legal,” in the present case, the “existing residential rental use” at the time the tenants moved in (namely, two separate units) was never made legal. The owner in this case did not obtain a certificate of occupancy for the rear unit. Instead, the rear unit became

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<sup>2</sup> O.M.C. § 8.22.030(A)(7).

<sup>3</sup> Owens v. City of Oakland Housing, Residential Rent, and Relocation Board (2020) 49 Cal.App.5<sup>th</sup> 739.

voluntarily vacant after February 2018, and the owner did not continue to rent it out as a separate unit.

The case of Owens v. City of Oakland Housing, Residential Rent and Relocation Board (2020) 49 Cal.App.5<sup>th</sup> 739 likewise has facts quite different from the current one. In Owens, the owner both owned and resided in a single-family home. He rented individual rooms in the home to three unrelated tenants. The Hearing Officer found that: “the owner has chosen to rent rooms out separately to a number of people, thereby transferring a single-unit dwelling into a multi-unit dwelling.” (49 Cal.App.5<sup>th</sup> 743.) This decision was upheld by the HRRRB, the trial court, and the Appellate Court.

Owens denied the owner an exemption from the Oakland Rent Adjustment Ordinance because he had in effect turned his single-family residence into a multi-unit rental. The multi-unit rental existed at the time the original hearing in Owens was conducted. By contrast, in this case, the owner discontinued the rental of the rear unit after she became aware that this practice was not legal; any multi-unit rental ceased as of March 1, 2018. The owner was renting out only a single-family residence to the tenants at the time the rent increase went into effect.<sup>4</sup> Therefore, the original Hearing Decision was correct in denying the tenants’ petitions based on the subject property being exempt from the Oakland Rent Adjustment Ordinance as a single family residence.

**2. Is the unit exempt from the Just Cause for Eviction Ordinance because it is a single family residence or condominium that can be sold separately?**

The Just Cause for Eviction Ordinance applies to all residential rental units, and provides limited exemptions.<sup>5</sup> None of the exemptions are based on the fact that a unit is solely a single family residence; it must meet one of the other exemptions. There is no evidence to support that any of these exemptions apply to this unit.

Therefore, the unit is not exempt from the Just Cause for Eviction Ordinance.

**3. Is the unit exempt from the Rent Program Service fee?**

Oakland Municipal Code § 8.22.500(A) provides that the rent program service fee is to be “charged against any residential rental unit that is subject to either the Rent Adjustment Ordinance, the Just Cause for Eviction Ordinance, or both.” This dwelling is subject to the Just Cause for Eviction Ordinance, and thus is not exempt from the Rent Adjustment Program Service fee.

Therefore, the rent program service fee applies.

---

<sup>4</sup> Holding that a rental property is subject to the Oakland Rent Adjustment Ordinance even when it is no longer being used as a multi-unit rental based on the fact that it was at one time a multi-unit rental would be contrary to public policy, as it would discourage owners from discontinuing illegal rentals.

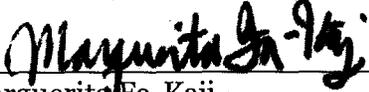
<sup>5</sup> O.M.C. § 8.22.350.

**ORDER**

1. Petitions T18-0414 and T18-0472 are denied and L19-0040 is granted because the subject property is exempt from the Rent Adjustment Ordinance pursuant to Costa-Hawkins (California Civil Code Section 1954.52). The unit is not exempt from the Rent Program Service fee.
2. A Certificate of Exemption will be issued upon this Decision becoming final.

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

Dated: March 4, 2021

  
\_\_\_\_\_  
Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Numbers T18-0414, T18-0472, and L19-0040**

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

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

**Documents Included**

Hearing Decision After Remand

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner  
Fried & Williams LLP  
1901 Harrison Street, 13th Floor  
Oakland, CA 94612

**Tenants**

Chester Martin and Kristen Ponger  
44 Belle Avenue Apt. # A  
San Rafael, CA 94901

Chester Martin and Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant Representative**

Lisa Giampaoli  
Giampaoli Law  
100 Pine Street, Suite 1250  
San Francisco, CA 94111

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.

**000163**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **March 09, 2021** in Oakland, CA.

A handwritten signature in black ink, appearing to read "Teresa Brown-Morris". The signature is written in a cursive style with a horizontal line underneath the name.

Teresa Brown-Morris

Oakland Rent Adjustment Program

1 Lisa Giampaoli, SBN 291234  
Giampaoli Law  
2 100 Pine Street, Suite 1250  
San Francisco, CA 94111  
3 Telephone: (415) 890-6529  
4 Attorneys for Tenants/Appellants  
Chester Martin & Kristen Ponger  
5

6  
7 OAKLAND RENT ADJUSTMENT BOARD  
8 CITY OF OAKLAND  
9

10 RE: 5553 Kales Ave.

Consolidated petitions: **T18-0414, T18-0472**

11 CHESTER MARTIN & KRISTEN PONGER

MEMORANDUM IN SUPPORT OF  
APPEAL OF HEARING DECISION  
AFTER REMAND OF TENANT-  
APPELLANTS CHESTER “CHASE”  
MARTIN AND KRISTEN PONGER

12 Tenant-Appellants,

13 v.

14 SHERRY ZALABAK,

Hearing Date: TBD

15 Landlord-Respondent.  
16

17  
18 **INTRODUCTION**

19  
20 Tenants appeal the hearing decision after remand in the matter of their petition for  
21 unlawful rent increase and the decision that the Subject Property was exempt from the RAP as a  
22 single family residence at the time the rent increase was noticed. The decision after remand is  
23 essentially the same as the original decision and fails to address any of the issues raised at appeal  
24 nor does it comport in any meaningful way with the decision of appeal issued November 20, 2020.  
25 The decision, like the first, still relies primarily upon the unreliable testimony of Landlord, despite  
26 her proven lack of credibility; further, the decision fails to apply the legal principles or reasoning  
27 of either *Owens v. CITY OF OAKLAND HOUSING, RESIDENTIAL RENT & RELOCATION BD.*,  
28



1 heater and an *interior* locking deadbolt.<sup>1</sup> In 2014 Tenant-Appellants (“Tenants”) entered into a two  
2 year written rental agreement with Landlord-Respondent (“Landlord”) for the front cottage  
3 (hereinafter “subject premises”) for a monthly rent of \$2600.<sup>2</sup> At the time that Tenants entered into  
4 the agreement for the subject premises, the two rear cottages (“rear cottages”), were already being  
5 rented to another couple as a single dwelling unit. Based on Landlord’s representation and their  
6 own observations and research, Tenants had every reason to believe that the subject premises was  
7 part of multi-unit property protected by rent control.<sup>3</sup> A 2% rent increase imposed on both units by  
8 Landlord in 2017 was in line with the allowable CPI and reinforced Tenants’ understanding that  
9 their unit was covered by the RAP.<sup>4</sup> At no time during their tenancy did Tenants have use of the  
10 rear cottages or rear yard.<sup>5</sup> When the tenants in the rear cottages vacated in June 2017, Landlord  
11 immediately re-rented the rear cottages to another couple.<sup>6</sup> In November 2017, Landlord asked  
12 Tenants if they would be interested in purchasing the Subject Property, stating Tenants could rent  
13 out the “rear cottages” for income.<sup>7</sup> In February 2018 the tenants in the rearcottages vacated.<sup>8</sup> In  
14 March 2018, Landlord gave Tenants a letter stating her intent to sell the Subject Property with a  
15 demand that Tenants vacate by July 1, 2018.<sup>9</sup> When Tenants protested the eviction notice,  
16 Landlord gave Tenants a document that she misrepresented as a “lease extension,” but which was  
17 actually a document purporting to terminate Tenants/Appellants’ tenancy.<sup>10</sup> When Tenants  
18  
19  
20

---

21 <sup>1</sup> 3/5/19 Hearing Exh.1: Photos of interiors of rear cottages at 5553 Kales Ave

22 <sup>2</sup> 3/5/19 Hearing Exh. 3: Rental Agreement between Sherry Zalabak and Chester Martin & Kristen Ponger.

23 <sup>3</sup> 3/5/19 RAP Hearing, Part 1: 23:30-23:47; 56:15- 56:23.

24 <sup>4</sup> 3/5/19 RAP Hearing, Part 1: 23:47-23:55.

25 <sup>5</sup> 3/5/19 RAP Hearing, Part 1: 56: 56:34-56:40.

26 <sup>6</sup> 3/5/19 Hearing Exh. 4: July, 2017 lease agreement between Sherry & John Zalabak and Lindsay Byrd &  
27 Isabel Avellan.

28 <sup>7</sup> 3/5/19 Hearing Exh. 9: November 14, 2017 email from Sherry Zalabak to Kristen Ponger.

<sup>8</sup> 3/5/19 RAP Hearing, Part 1: 55:08-55:23.

<sup>9</sup> 3/5/19 Hearing Exh. 10: March 28, 2018 letter from Sherry Zalabak to Kristen Ponger and Chase Martin.

<sup>10</sup> 3/5/19 RAP Hearing, Part 1: 46:05.-46:12

1 refused to sign the document, Landlord served Tenants a notice of a rent increase from \$2652 to  
2 \$4500.<sup>11</sup> Tenants then filed petition T18-0414 for unlawful rent increase. Upon learning of the  
3 petition, Landlord came to Tenants' home pleading for them to rescind the petition. Tenants  
4 agreed to rescind with the understanding that Landlord had withdrawn the rent increase notice.<sup>12</sup>  
5 For reasons unknown, the RAP failed to dismiss petition T18-0414.<sup>13</sup> Within weeks of giving  
6 notice that they had rescinded the petition, Tenants discovered the stove from the rear cottages had  
7 been placed in the common laundry room of the Subject Property.<sup>14</sup> Shortly thereafter tenants  
8 received from Landlord a 60 Day Notice of change in terms of tenancy, which claimed that  
9 Tenants lived in a single family residence and landlord was increasing the rent from \$2652 to  
10 \$4500. The new notice was dated October 10, 2018, less than two weeks after the stove had been  
11 removed from the rear cottage. Tenants filed new petition T18-0472 for unlawful rent increase.  
12 Landlord then filed a response contending that the Subject Premises was a single family residence  
13 exempt from the RAP under the state Costa Hawkins Act.  
14  
15

### 16 PROCEDURAL HISTORY

17  
18 The first RAP hearing on Tenants' petitions was held March 5, 2019 with hearing officer  
19 Elan Consuela Lambert ("Lambert"). Tenants, Landlord and Landlord's counsel were present.  
20 Tenants did not have legal representation. Tenant Petitions T18-0414 and T18-0472 were based on  
21 two separate rent increase notices but only the second rent increase notice was still in effect at the  
22 time of the hearing.<sup>15</sup>  
23

---

24 <sup>11</sup> Tenant Petition T18-0414, Exh. A.

25 <sup>12</sup> 3/5/19 RAP Hearing, Part 1: 52:28-52:44.

26 <sup>13</sup> 3/5/19 RAP Hearing, Part 1: 2:28-2:40.

27 <sup>14</sup> 3/5/19 RAP Hearing recording, Part 1: 27:56-28:00) (See Also: Exh. 1, p. 3, photo of stove in laundry  
28 room.

<sup>15</sup> Both Tenant Petitions and Landlord responses included copies of the Rent Increase Notices, but for reasons unknown, they were not entered into the hearing record.

1 A summary of the earlier hearings are provided in detail in Tenant/Appellants' first Appeal  
2 brief.

3 During the hearings it was established that Landlord had been renting out the property as a  
4 multi-unit property for years, including throughout Tenants' occupancy.<sup>16,17,18,19</sup> Landlord freely  
5 admitted that she rented out the rear cottages for residential use from the time she inherited the  
6 Subject Property in 2010 until February 2018.<sup>20</sup>

7 Landlord admitted that Tenants were not served a RAP notice upon commencement of  
8 their tenancy.<sup>21</sup>

9 Also undisputed was the fact that Landlord had served Tenants a notice to vacate so she  
10 could sell the property.<sup>22</sup>

11 Throughout both hearings Tenants testified that they believed Landlord sought a 70% rent  
12 increase to circumvent Just Cause eviction protections and force them out of the property so she  
13 could sell it vacant for maximum profit, as she had repeatedly made clear to them she wanted to  
14 do. Tenants also testified to their belief that Landlord had only removed the stove from the rear  
15 cottage temporarily in order to claim it was no longer a dwelling unit and therefore exempt from  
16 the RAP.<sup>24</sup> Tenants provided photo evidence showing that the stove from the rear cottages was  
17 still in the laundry room at the subject property, and that the cottages otherwise remained in the  
18 same state as when occupied.<sup>25</sup>

19  
20  
21  
22 <sup>16</sup> March 5, 2019 Hearing Exhibit 1.

23 <sup>17</sup> March 5, 2019 Hearing Exhibit 2.

24 <sup>18</sup> March 5, 2019 Hearing Exhibits 5 & 9.

25 <sup>19</sup> March 5, 2019 Hearing Record, Part 1: 24:46-34:15.

26 <sup>20</sup> March 5, 2019 Hearing Record, Part 2: 4:05-4:19.

27 <sup>21</sup> March 5, 2019 Hearing Record, Part 1: 17:19-7:29.)

28 <sup>22</sup> March 5, 2019 Hearing Record, Part 1: 39:27-40:11; 55:08.

<sup>24</sup> March 5, 2019 Hearing Recording, Part 1: 57:00-57:09.

<sup>25</sup> March 5, 2019 Hearing Recording, Part 1: 56:05- 57:15.

1 Landlord/Respondent gave inconsistent and unconvincing testimony throughout the  
2 hearings. Landlord is a long-time Bay Area property owner and landlord who has repeatedly and  
3 publicly demonstrated her opposition to rent control<sup>26,27,28,29,30</sup>, as well as knowledge of real estate  
4 matters<sup>31</sup>, yet she claimed that she did not know that the rear cottages were illegal until after  
5 Tenants filed their first RAP petition (T18-0414).<sup>32</sup>

6 Landlord also testified that upon learning that the rear cottages were illegal, she sought to  
7 remove them from use as dwelling units, but she offered no credible evidence in support of her  
8 testimony.<sup>33</sup> After Landlord testified that she had reverted the rear cottage back to its “permitted”  
9 use as an office, and that she had the permit at home,<sup>34</sup> Tenants provided city records showing no  
10 such permit had ever been issued, and therefore Landlord’s testimony was false.<sup>35</sup>

12 Landlord also made repeated references to the former owner of the property as her  
13 brother,<sup>36</sup> though they were actually former lovers. While not material to the issue of rent control,  
14 Tenants pointed out that it was further evidence that Landlord lacked credibility.<sup>37</sup>

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16 <sup>26</sup> See: <https://www.mercurynews.com/2016/07/14/richmond-voters-to-decide-on-rent-control-in-november/>

17 <sup>27</sup> See: <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/128910>

18 <sup>28</sup> See p. 23: <https://www.ci.richmond.ca.us/DocumentCenter/View/46334/Item-H-2--4-18-18-Mtg?bidId=>

19 <sup>29</sup> See p. 27: [https://www.cityofberkeley.info/uploadedFiles/Rent\\_Stabilization\\_Board/Level\\_3\\_-\\_General/May%2029,%202020\\_Special%20Board%20Meeting%20agenda%20PACKET.pdf](https://www.cityofberkeley.info/uploadedFiles/Rent_Stabilization_Board/Level_3_-_General/May%2029,%202020_Special%20Board%20Meeting%20agenda%20PACKET.pdf)

20 <sup>30</sup> See p. 2: <http://www.kcrt.com/DocumentCenter/View/46333/Item-H-1-4-18-2018-Mtg?bidId=>

21 <sup>31</sup> See p.2: [https://www.cityofberkeley.info/uploadedFiles/Planning\\_and\\_Development/Level\\_3\\_-\\_ZAB/2014-01-23\\_ZAB\\_ATT3\\_404%20Vermont\\_Appeals%20Received%2011-01-13.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2014-01-23_ZAB_ATT3_404%20Vermont_Appeals%20Received%2011-01-13.pdf)

22 <sup>32</sup> March 5, 2019 Hearing Record, Part 2: 6:55- 7:09 and 13:17-13:32.)

23 <sup>33</sup> March 5, 2019 Hearing Record, Part 2: 19:28-19:48; 3/5/19 Hearing Exh. 11: Zalabak Permit  
24 Application Worksheet.)

25 <sup>34</sup> March 5, 2019 Hearing Record, Part 2: 19:37-19:49

26 <sup>35</sup> April 22, 2019 Hearing Recording, 9:25-10:00

27 <sup>36</sup> April 22, 2019 Hearing Recording, 17:56-18:32.

28 <sup>37</sup> April 22, 2019 Hearing Recording, 2:35-22:46.

1           Despite providing no credible evidence that the rear cottages had been restored to non-  
2 habitable space, Landlord nonetheless contended that by ceasing her illegal conduct of renting out  
3 illegal and uninhabitable dwelling units, the entire property had become a single family home.<sup>38</sup>  
4 Landlord went so far as to falsely claim that the subject property had been used as a single family  
5 home by Tenants, though she provided no evidence that Tenants were ever given use or access to  
6 any portion of the rear cottages or rear yard at any time during their tenancy.<sup>39</sup>  
7

8           At no time throughout the hearings did Landlord provide evidence that she had removed  
9 the rear cottages from residential dwelling use. Nor did Landlord provide any legal authority to  
10 support her argument that simply ceasing to rent out an illegal dwelling unit automatically divests  
11 from rent control all other occupied units on the property.

12           Throughout the hearing Tenants sought from the hearing officer recognition of Landlord's  
13 lack of credibility. Though the hearing officer said she understood the argument Tenants were  
14 "attempting to make," she refused to acknowledge that Landlord's repeated lies made all of her  
15 testimony suspect, instead stating on the record that nothing about Landlord's testimony  
16 contradicted the "operative facts" of the case.<sup>40</sup> In an interesting twist, Lambert went on to state  
17 that residential use, not the presence of a stove, is an operative fact for determination of a  
18 residential unit.<sup>41</sup> A statement apparently overlooked in the Decision on Remand for  
19 determination of fraud or misrepresentation, since Landlord advertised and re-rented the rear  
20 cottages for residential use shortly after Tenants vacated.<sup>42</sup>  
21  
22

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23           <sup>38</sup> March 5, 2019 Hearing Recording, Part 2: 41:12-41:27.

24           <sup>39</sup> March 5, 2019 Hearing Recording, Part 2: 41:51-42:19.

25           <sup>40</sup> April 22, 2019 Hearing Recording 22:47-24:24.

26           <sup>41</sup> April 22, 2019 Hearing Recording 31:53-32:30.

27           <sup>42</sup> See: Exhibits A and B.  
28

1           Despite all evidence to the contrary and the proven lack of credibility of Landlord, the  
2 initial decision that was issued relied primarily upon Landlord’s testimony that she had removed  
3 the illegal rear cottages from residential use.

4           Tenants appealed the Lambert decision for lack of substantial evidence, et al., and on  
5 September 2020, the matter came before the full Rent Board as a matter of first impression.  
6 During the hearing several board members expressed disbelief that a landlord could unilaterally  
7 remove a property with its existing tenants from the protections of the Rent Adjustment Program  
8 simply by claiming to have removed an illegal unit for which they had been collecting rent for  
9 years. The board voted unanimously to remand the decision with an order to pay special  
10 consideration to testimony regarding the property as a multiunit dwelling and to two California  
11 Appellate decision, *Owens v. City of Oakland Rent Adjustment Program*, and *DaVinci Group v.*  
12 *SF Rent Board* (1992) 5 Cal.App. 4<sup>th</sup> 24. Hearing officer Lambert was subsequently replaced by  
13 hearing officer Marguerita Fa-Kaji.  
14

15           The Fa-Kaji decision on remand was issued on March 4, 2021. According to the proof of  
16 service, the decision was served via mail on March 9, 2021. The decision was virtually the same as  
17 the initial decision issued by Lambert. The remanded decision referenced the two cases cited in the  
18 decision of appeal order, but only to distinguish the facts of those cases from the present matter.  
19 The decision provides no legal analysis or even an attempt to apply the legal principles discussed  
20 at length in either decision to the matter at hand. The decision also fails to address the landlord’s  
21 lack of evidentiary support for her claim that she had removed the rear cottages from residential  
22 use. Instead, the decision relies entirely on the erroneous conclusions of the first decision which,  
23 remarkably and without explanation, accepts as true Landlord’s unsubstantiated testimony that she  
24 had removed the rear cottages, as well as misstates and misappropriates statements made by  
25 Tenants. The most recent decision provides no legal authority or reasoning to support a  
26 conclusion that a pre-existing, rent controlled tenancy in a multi-unit property could suddenly be  
27  
28

1 subject to a drastic rent increase as a single family home simply because the other units on the  
2 property were not being rented *at the time* the rent increase notice was issued.

3  
4 **I. THE RAP HAS JURISDICTION TO HEAR THE APPEAL**

5 The decision on remand was served by mail on March 9, 2021. Appellants timely filed  
6 their appeal within twenty days pursuant to O.M.C. 8.22.120 and pursuant to the decision itself,  
7 which states “The appeal must be received within twenty (20) days after service of the decision.”  
8 A copy of this appeal has been served upon Landlord’s representative via email in accordance  
9 with California Emergency Rule of Court #12.  
10

11 The RAP can and must consider this appeal because “[i]n general, a party must exhaust  
12 administrative remedies before resorting to the courts.” (*Coachella Valley Mosquito and Vector*  
13 *Control Dist. v. California Public Employment Relations Bd.* (2005) 35 Cal.4th 1072, 1080.)  
14 “[A]n administrative remedy is exhausted only upon ‘termination of all available, nonduplicative  
15 administrative review procedures.’” *Id.* (citing to *California Correctional Peace Officers Assn. v.*  
16 *State Personnel Bd.* (1995) 10 Cal.4th 1133, 1151.)  
17

18 Here the RAP has, again, issued a decision for which Tenants have ample grounds to  
19 appeal. Tenants must exhaust all administrative remedies before resorting to the courts. Tenants  
20 must therefore be afforded the opportunity to exhaust all administrative remedies before they file  
21 their writ to the Superior Court. This is a matter of public interest and import that has the potential  
22 to impact thousands of Oakland tenants.

23 **II. GROUNDS FOR APPEAL**

24 **A. THE DECISION FAILS TO FOLLOW THE INSTRUCTIONS IN THE**  
25 **ORDER OF APPEAL AND COMPLETELY DISREGARDS THE LEGAL**  
26 **PRINCIPLES AND ANALYSIS OF *OWENS* AND *DAVINCI***

27 The decision of appeal instructed the hearing officer to consider the decisions in *Owens v.*  
28 *CITY OF OAKLAND HOUSING, RESIDENTIAL RENT & RELOCATION BD.*, 49 Cal. App. 5th

1 739, and *DaVinci Group v. SF Rent Board* (1992) 5 Cal.App. 4<sup>th</sup> 24. Yet the decision on remand  
2 refers to both cases only to distinguish the facts from the present matter, and, unbelievably, fails to  
3 address any of the legal principles. While the facts of both cases can be distinguished from the  
4 present matter, the legal principles and analysis provided by the Court in both decisions is  
5 applicable and scathingly on point.

6           In *Owens v. CITY OF OAKLAND HOUSING, RESIDENTIAL RENT & RELOCATION*  
7 *BD.*, 49 Cal. App. 5th 739, a tenant in Oakland was one of several people renting individual rooms  
8 in a single family home. The tenant filed a petition for an unlawful rent increase, and the landlord  
9 argued that because the rooms being rented were in a single-family home that was "'alienable,  
10 separate from the title of any other dwelling unit'" the entire property was exempt under the local  
11 rent control provisions pursuant to the Costa Hawkins Act. *Id.* at 745. The Court aptly noted that  
12 the problem with the landlord's argument was that "the plain language of the statute focuses on the  
13 rent set for the "dwelling" or "unit". The relevant question is instead whether the "dwelling" or  
14 "unit" separately rented by [the landlord] and for which [tenant] claims the right to establish the  
15 amount of rent, was itself separately alienable from the title to any other dwelling or unit." *Id.* The  
16 Court found that the room being rented was not alienable separate from the rest of the house, and  
17 therefore not exempt from the rent control ordinance.

18           Like the room in *Owens*, the rear cottages of the subject property are not separately  
19 alienable from the title to any other dwelling unit at the subject property. They had been rented  
20 separately from the front cottage to a series of tenants for years pursuant to rental agreements  
21 completely separate and apart from the rental agreement for the front cottage. Yet the current  
22 decision simply and simplistically concludes that this matter is distinguishable because unlike in  
23 *Owens*, here Landlord was not renting out the rear cottages *at the time* the rent increase notice was  
24 to take effect. But such a distinction is absurd and unsupported by law. Nowhere in *Owens* does  
25  
26  
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28

1 the Court mention an exception where one or more units is temporarily vacant, let alone carve out  
2 an exemption for periods of vacancy of illegal units.

3 In *DaVinci* a landlord sought a new construction exemption from rent control for a  
4 occupied dwelling units in a warehouse that had been illegally rented as a residential dwelling for  
5 years prior to the landlord obtaining a certificate of occupancy. The *DaVinci* court affirmed a Rent  
6 Board decision denying the landlord's petition for exemption, stating that the Ordinance's  
7 "explicit mandate is to protect tenants, especially from excessive rent increases" (emph. added),  
8 and that "a policy which removes such protection from tenants already in occupancy is  
9 contraindicated." *Id.* at 30. When the landlord in *Da Vinci* argued that the new construction  
10 exemption was meant to promote development of housing that met standards of the local housing  
11 code, and therefore the exemption should be broadly interpreted to include newly legalized units  
12 with pre-existing tenancies, the Court disagreed, pointing out "exemptions must be construed  
13 narrowly, not broadly." *Id.* at 31.

14  
15 Here, as in *Da Vinci*, there is a pre-existing tenancy in a property where Landlord had been  
16 renting out illegal units for residential use for years; there is a rent control ordinance with a stated  
17 purpose of "providing relief to residential tenants in Oakland by limiting rent increases for  
18 existing tenants[".] (O.M.C. 8.22.010(C) (Emph. added.); and there is a Landlord claiming a new  
19 status for the property as a basis for exemption. The underlying facts are strikingly similar to *Da*  
20 *Vinci*, yet somehow the decision on remand blatantly disregards any of the analysis or legal  
21 principles set forth in *DaVinci*, instead nonsensically concluding that the analysis and legal  
22 principles do not apply because the illegal units in *DaVinci* were legalized, whereas the rear  
23 cottages in this matter were not. (See: Hearing Decision on Remand, p.3.: "Whereas, in the Da  
24 Vinci [sic] case, 'existing residential use was made legal,' in the present case, the 'existing  
25 residential use' at the time the tenants moved in (namely, two separate units) was never made  
26 legal.") The remanded decision goes on to state that Landlord did not continue to rent out the rear  
27  
28

1 cottages as a separate unit after February 2018, but provides nothing further on the matter. It gives  
2 no finding of law or legal authority at all. It just states facts that have already been ascertained,  
3 gives the most bare bone facts of the *DaVinci* case, and nothing more.

4 While *Da Vinci* is distinguishable in that it deals with a new construction exemption rather  
5 than an exemption for a single family residence, the basic tenet applies: granting an exemption  
6 from rent control that would remove protections from pre-existing tenancies is contrary to the  
7 purpose and intent of the law. Even more egregious, and absurd, would be granting an exemption  
8 to a landlord that has admitted to renting out illegal units for years with no repercussions, but now  
9 claims to have stopped, though pre-existing tenants still occupy the property. As the *Da Vinci*  
10 Court so aptly recognized: “To permit landlords to rent out illegal units but to avoid the  
11 obligations imposed by the Ordinance is contrary to the purpose and intent of the Ordinance.” *Da*  
12 *Vinci*. at 30.

14 In analyzing and applying legal principles, it would be wise to pay heed to the *Owens*’  
15 Court, which reiterated a principle that has been stated time and again in our Courts: “[w]e will not  
16 follow the plain meaning of the statute `when to do so would ‘frustrate[] the manifest purposes of  
17 the legislation as a whole or [lead] to absurd results.’” but will “‘interpret legislation reasonably  
18 and ... attempt to give effect to the apparent purpose of the statute.’” *Owens* at 744-745. (Citations  
19 omitted.) There is nothing in the law to suggest the legislators of the Oakland RAP or Costa  
20 Hawkins intended for a single family home exemption to apply where a landlord has been illegally  
21 renting out unpermitted dwelling units for years, or where the exemption would result in an  
22 excessive rent increase to pre-existing tenants. To apply an exemption under either of those  
23 circumstances would clearly frustrate the purpose of both law and ordinance. To apply the  
24 exemptions where both those circumstances exist would be patently absurd.

27 There is simply nothing in *Owens* or *DaVinci*, nor any legal authority, which supports a  
28 conclusion that a pre-existing tenancy protected by rent control can suddenly be divested of rent

1 control protections simply by landlord ceasing the rental of illegal units on the same property. Nor  
2 does the decision on remand provide any legal authority for such a conclusion. The only thing to  
3 be concluded from the decision on remand is that either the appellate decisions were not read in  
4 their entirety, or the legal concepts were not comprehended. Regardless, the decision fails in every  
5 way to consider and apply *Owens* or *DaVinci*.

6  
7 **B. O.M.C. 8.22.120(B)(4) THE DECISION VIOLATES FEDERAL, STATE, OR  
8 LOCAL LAW**

9 **i. There is No Exemption for Cessation of Rental of Illegal Units Under  
10 O.M.C. 8.22.030**

11 The decision on remand suggests that Landlord's decision not to rent out the rear cottages  
12 in 2018 changed the status of the subject property from that of a multi-unit property covered by  
13 the RAP, to a single family residence not covered by the RAP. The decision cites to the Costa  
14 Hawkins Act (California Civil Code § 1954.52) as the basis for exemption without providing any  
15 explanation as to why or how the Costa Hawkins exemption is applicable. The RAP exemption  
16 based on Costa Hawkins [(O.M.C. 8.22.030(A)(7))] simply says: "Dwelling units exempt pursuant  
17 to Costa-Hawkins (California Civil Code § 1954.52)."

18 California Civil Code § 1954.52 does not mention anything about illegally renting out  
19 single family dwellings as multi-unit properties. or an exemption upon cessation of the illegal  
20 conduct. The Costa Hawkins Act states:

21  
22 Notwithstanding any other provision of law, an owner of residential real property  
23 may establish the initial and all subsequent rental rates for a dwelling or a unit  
24 about which any of the following is true:

25 (1) It has a certificate of occupancy issued after February 1, 1995.

26 (2) It has already been exempt from the residential rent control ordinance of a  
27 public entity on or before February 1, 1995, pursuant to a local exemption for  
28 newly constructed units.

(3) (A) It is alienable separate from the title to any other dwelling unit or is a  
subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of  
Section 11004.5 of the Business and Professions Code.

1 (B) This paragraph does not apply to either of the following:

2 (i) A dwelling or unit where the preceding tenancy has been terminated by the  
3 owner by notice pursuant to Section 1946.1 or has been terminated upon a change  
4 in the terms of the tenancy noticed pursuant to Section 827.

5 (ii) [paragraph on condominiums omitted]

6 The subject property was built long before 1995. The subject property was not newly  
7 constructed or exempted as new construction. The subject property does not contain  
8 condominiums. That leaves “alienable separate from the title to any other dwelling unit [...]” But  
9 in fact, throughout Tenants’ occupancy, the property contained two dwelling units on a single  
10 parcel pursuant to a single title. The two units are not condominiums, there is no separate deed,  
11 and they cannot be sold separately.

12  
13 The landlord claims to have “removed” the rear cottages, but in fact, she did not remove it  
14 at all. Tenants Chase and Kristen testified that the cottages were there up until the day they  
15 vacated. And *after* they vacated, the subject property was advertised for rent with a description  
16 and photos of the two rear structures, which were referred to in the ad as “outdoor bedrooms” or  
17 “guest quarters.” The unit was still there, it had never been removed, and it was not alienable  
18 separate from the title.

19  
20 **Oakland Planning Code §17.09.040** defines “**dwelling unit**” as: “...a room or suite of  
21 rooms including only one kitchen, except as otherwise provided in Section 17.102.270, and  
22 **designed or occupied** as separate living quarters for one person or family;” (emph. added.) The  
23 unit need not be occupied, only *designed* as separate living quarters. The pictures posted of the  
24 unit after Tenants moved out show a kitchen area, including a kitchen sink, countertops,  
25 cabinets, and even a microwave. The landlord never testified to removing the bathroom, the  
26 kitchen, or any other portion of the rear cottages. She only claimed to have stopped renting  
27 them.  
28

1 The “rear cottages” met the definition of a dwelling unit throughout the time Tenants’ lived  
2 at the Subject Property. Nothing in the Costa Hawkins Act, the Oakland RAP, or the Oakland  
3 Planning Code require a dwelling unit to be rented out to qualify as a dwelling unit. Therefore  
4 nothing in the RAP, or Costa Hawkins, creates an exemption from rent control for properties  
5 where an illegal unit is temporarily vacant any more than it creates an exemption when there is  
6 vacant unit in a legal duplex. If the landlord wanted to benefit from a single family exemption  
7 after years of benefitting from her illegal rentals, she had several options- provide a buyout to  
8 Tenants, then remove the illegal unit and seek an exemption, or offer the tenants full use of the  
9 property and allow them to sublet the rear units; or simply wait until the Tenants voluntarily  
10 vacated. But Landlord did none of those things. She chose instead to keep the illegal unit and  
11 further profit from it by hawking it as extra bedrooms or guest quarters even after she had ample  
12 knowledge that the units were not permitted for any residential use and were per se uninhabitable.  
13 She chose to continue violating the law by maintaining the illegal units. And so long as those  
14 dwelling units exist at the subject property, the subject property meets no definition of exemption.  
15  
16

17 **ii. The Decision Blatantly Disregards the Purpose of the RAP**

18 The very first stated purposed of the Oakland Rent Adjustment Ordinance is “providing  
19 relief to residential tenants in Oakland *by limiting rent increases for existing tenants[.]*” O.M.C.  
20 8.22.010(C) (Emph. added.) The Oakland RAP was created because, among other things, the City  
21 found that “[s]tability in their housing situation is important for individuals and families in rental  
22 housing. In particular, tenants desire to be free from the fear of eviction motivated by a rental  
23 property owner's desire to increase rents.” The City Council recognized the importance of safe,  
24 stable housing; they understood that in the Bay Area, where housing is scarce, people could not  
25 feel safe and secure under a constant threat of eviction or huge rent increases (which is often the  
26 functional equivalent of an eviction). So they enacted the RAP to ensure that Oakland residents  
27 could feel secure in their housing knowing that they could not be kicked out simply because the  
28

1 severe lack of housing meant the landlord could always find someone willing to pay more rent.  
2 The purpose is clear: keep tenants in their homes by protecting them from huge rent increases.

3 Chase Martin and Kristen Ponger were living in San Francisco when they learned about  
4 the subject premises for rent. Before renting it, they looked up the Oakland Rent Ordinance  
5 because they wanted to be sure they would not be subjected to a giant rent increase. They did their  
6 research, and based on the landlord's representation of the property as multi unit, one of which  
7 was already occupied, Tenants had every reason to believe they were entering into a rental  
8 agreement for rent-controlled cottage. And they were correct. As evidenced by the landlord's own  
9 testimony, the statements by landlord's attorney, the initial Lambert decision, and the most recent  
10 decision at issue. [See **March 4, 2021 decision on remand**: "the 'existing residential rental use' at  
11 the time the tenants moved in" was "(namely, two separate units)."] There is no question that  
12 Tenants moved into a multi-unit property. So four years later, when Landlord decided not to re-  
13 rent the rear cottages, whatever her motive, Chase and Kristen were already "existing tenants" of  
14 the property. As existing tenants in a multi-unit property that was built before 1980 and did not  
15 meet the criteria for new construction, Chase and Kristen were supposed to be afforded the relief  
16 of eviction protections and limited rent increases as stated in the RAP's "purposes." Instead they  
17 were subjected to a demand to vacate because Landlord wanted to sell the property, and then,  
18 when they asserted their right to Just Cause protection, they were subjected to a 70% rent increase.  
19 When they sought help from the RAP, instead of assistance they had to endure hours of belittling  
20 and dismissive commentary by a hearing officer who ignored the undisputed evidence Tenants  
21 presented, and then, even after acknowledging the Landlord's lack of credible testimony, found in  
22 favor of the landlord anyway, stating in the decision that the landlord had testified she had  
23 removed the rear units and therefore the property was a single family residence not subject to rent  
24 control. No legal authority was given for the conclusion that a landlord can simply change the  
25 status of a property from rent controlled to non-rent controlled. The decision relied on the  
26  
27  
28

1 property's "legal" classification, despite the long line of RAP decisions holding that a property's  
2 legal real property classification is not dispositive of its rent control status. In the decision on  
3 remand, not only did Ka-Ji rely on the same false testimony of the landlord, but the same "logic"  
4 was applied, i.e. a landlord need only stop renting an illegal unit to revert the entire property to a  
5 single family residence in order to be free of rent control, regardless of whether pre-existing  
6 tenancies remain in occupancy at the property. There was no weight given to the stated purpose of  
7 the RAP, or Tenants evidence that landlord had not removed the rear cottages, only to the  
8 landlord's claim that she should be rewarded for temporarily ceasing her illegal conduct.  
9

10 Despite the clearly stated purpose of the RAP and the obvious qualifications for coverage,  
11 by the RAP, the decision on remand somehow found the property qualified for exemption from  
12 the RAP and found lawful an outrageous 70% rent increase imposed on existing Tenants. The  
13 decision lacks both merit and logic, and calls into question the neutrality of the hearing officers.  
14 There is simply no way to reconcile the decision with the RAP's stated purposes.  
15

16 **C. O.M.C. 8.22.120(B)(5) THE DECISION IS NOT SUPPORTED BY**  
17 **SUBSTANTIAL EVIDENCE**

18 Hearing decisions must be supported by substantial evidence. (RAP Hearing Officer  
19 Policies and Procedures Manual, p. 7.) "Substantial evidence means that the evidence must be of  
20 ponderable legal significance...It must be reasonable in nature, credible, and of solid value; it must  
21 actually be substantial proof of the essentials that the law requires in a particular case." *Id.*  
22 paraphrasing *In Re Alcala*, 222 Cal. App. 3d 345.

23 It is clear that the decision on remand is based primarily on the erroneous factual  
24 conclusions of the first decision. Tenants provided credible testimony and submitted evidence that  
25 was dismissed, ignored, and in some instances, not even entered into the record. Further, post-  
26 hearing it became apparent that Landlord had lied about removing the rear cottages from  
27 residential use, as was obviated by ads all over the internet for the property, which described ther  
28

1 rear cottages as “2 lower/outside bedrooms and 1 bathroom.” Further, the landlord never testified  
2 that she removed the rear cottages or even that she would be removing them. To the contrary,  
3 tenants both testified that landlord had stated she was going to use the rear cottages for her office  
4 (though she lived elsewhere). There was simply nothing in the testimony or evidence to support a  
5 conclusion that the rear units had been, or would be, removed. The lack of substantial, or any  
6 evidence to support the conclusions stated in either decision, are grounds enough for overturning  
7 the decision. It certainly is sufficient for filing a writ of mandamus and having the matter  
8 remanded to the RAP.  
9

10 **D. O.M.C. 8.22.030(B)(1)(B) (EXEMPTION BASED ON FRAUD OR**  
11 **MISTAKE.)**

12 Tenants submit that the Landlord’s claim for exemption was based on fraud. Landlord  
13 claimed that the rear cottages were not legal or habitable, and therefore she had removed them  
14 from residential use. However, after Tenants moved out, Landlord advertised the Subject  
15 Property for rent. In the rental ads (See Exhibits A & B), she referred to the rear cottages as  
16 “outside bedrooms” and a “guest retreat.” While this may constitute “new evidence,” the fact  
17 that Landlord claimed she had removed the units from use as dwelling space, and then  
18 subsequently advertised the cottages as dwelling space is evidence that the Landlord lied in the  
19 hearing when she said she had removed the rear cottages from residential use.  
20

21 Tenants have the right to contest the exemption based on Fraud or Mistake after the fact.  
22 (*Sherman v. Michelsen* T16-0258.) Here it is only logical that post facto evidence be provided,  
23 as Landlord was clearly not going to rent out the rear cottages before the RAP decision was  
24 issued, as doing so would jeopardize her case.

25 **CONCLUSION**

26 Pursuant to the foregoing, there is no basis for a finding the subject property was exempt  
27 from the RAP while Tenants were still in possession. No legal authority, or even legal analysis or  
28

1 principles, have been cited in the decision on remand to support a conclusion that a property can  
2 lose rent control status as a result of a landlord decision to stop breaking the law, temporarily or  
3 permanently. Nothing in the decision supports a conclusion that the legislature intended for the  
4 absurd result of granting a landlord an exemption from rent control simply for stopping their  
5 illegal conduct, particularly when granting an exemption would result in rent increases to  
6 existing tenants. In light of the stated purpose of the RAP, a decision granting a 70% rent  
7 increase on existing tenants in a property that has been rent controlled throughout their  
8 occupancy, is completely untenable. To come to such a conclusion defies common sense and  
9 flies in the face of public policy.  
10

11 For the reasons above, Tenants respectfully request that Landlord's request for exemption  
12 from the Rent Adjustment Program be denied and Tenant Petitioners' petitions for unlawful rent  
13 increases be granted or remanded for further consideration.

14 Dated: April 12, 2021

15  
16 Giampaoli Law  
17   
18 LISA GIAMPAOLI  
19 Attorney for Tenants/Appellants  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **EXHIBIT A**



EAST BAY REAL ESTATE SPECIALISTS  
 OAKLAND OFFICE | MORAGA OFFICE  
 BRE# 01517082

Join Our Newsletter / Become a Member / Member Log In

BUY	SELL	LEASE	INVEST	RELOCATION	ABOUT
-----	------	-------	--------	------------	-------

5553 KALES AVENUE | OAKLAND

THIS PROPERTY HAS BEEN LEASED



CLICK TO VIEW LISTING INFORMATION

Rent \$5,100/mo  
 Type Single Family Home  
 Neighborhood Rockridge  
 Bedrooms 1+  
 Bathrooms 2  
 Sq. Ft. 1,290  
 Parking Driveway/ Off Street  
 Date Leased November 2019

RENTAL APPLICATION

**REQUEST MORE INFO**

DESCRIPTION

5553 Kales Avenue, Oakland California 94618  
 Rockridge 1++/2, 950++ SF

A charming traditional Craftsman amongst a serene private green backdrop.

Come home to this magnificent architectural masterpiece in the heart of Rockridge on one of Oakland's most desirable streets and right off of Broadway. This property is a serene retreat with relaxing tropical nature at your fingertips. Escape away from the hustle and bustle, yet minutes to all the East Bay has to offer. With 1 large bedroom, 1 large bathroom and 950 square feet in the Main house, the 100 sq. ft. Studio and separate 250 sq. ft. Office outside offer a perfect retreat ideal for indulging the painter or sculptor, extra storage or perhaps a guest retreat. This home is fully fenced and pet friendly.

Lots of Shopping just blocks away plus bars, restaurants and grocery. Close to Rockridge Market Hall, Trader Joe's, fine dining and boutique shops on College Avenue.

Close proximity to Highlands Country Club with tennis courts, pools and event space. Near Claremont Club & Spa. 4 minute stroll to College Avenue. Just a 9-minute drive to Montclair Village with its fine dining, cafes and boutique shops. Easy access to 24, 13, 580 and 880 freeways. Nearby parks include Rockridge-Temescal Greenbelt, Colby Park, Frog Park, Bushrod Park and many more.

Short 9-minute walk to Rockridge BART, many Transbay Bus lines nearby.

CONTACT	ADDITIONAL INFORMATION	CALDECOTT TOOLBOX
---------	------------------------	-------------------



Natasha Doktorova

Features include:

- Open kitchen with refrigerator, gas range and dishwasher with ample storage and counter space
- Office nook/ breakfast nook off kitchen
- 2 outdoor/ lower-level bedrooms and 1 full bathroom
- Spacious master bedroom
- Laundry room in basement with ample storage
- Outdoor access from kitchen, side garden perfect for barbequing and entertaining. Owner is leaving all patio

request more info

map it

print-friendly

save listing

send to a friend

become a member

000185

510.594.2400x221  
[email Natasha](#)



Rachael  
Kemper510.872.1225  
[email Rachael](#)

furniture for all decks and Artist studio  
• Clerestory windows and natural lighting throughout offering views of the front yard, street and neighborhood without sacrificing any privacy  
• Spectacular living room with wood-burning fireplace and tray ceiling  
• Spacious open dining area with built-in bookshelves, original wainscoting and stunning wood trim details  
• Mature landscaping

Terms:  
\$5,100/ Month  
\$6,000/ Deposit  
1-2 Year Lease  
Tenant pays all utilities  
2+ off street parking spaces  
Non-smokers only  
Tenant to carry Renter's Insurance & Liability Policy  
Not furnished, however if interested the owner is willing to leave pieces

\$39.95 Rental Application fee per applicant over 18 years old.  
Prospective tenants must have a 720 Fico Score and make 3x the monthly rental amount. Two years of positive landlord rental history.

Please contact Rachael Reese by phone or text at 510.872.1225 or [rachael@caldecott.com](mailto:rachael@caldecott.com) to schedule a viewing appointment.



school districts

[About Caldecott Properties](#) | [Contact Us](#) | [Site Map](#)

# **EXHIBIT B**



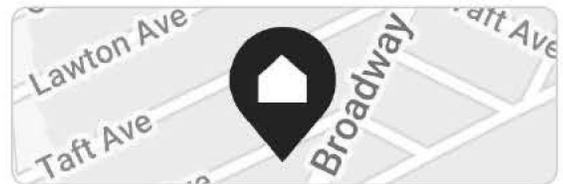
# 5553 Kales Ave

Oakland, CA 94618 [Rockridge](#)

🏠 3 Beds 🛁 2 Baths 📏 1,300 sqft

## \$1,477,293

Trulia Estimate ⓘ  
as of Apr 9, 2021



### Homes for Sale Near 5553 Kales Ave



**\$708,999** ↑  
 🏠 2bd 🛁 1ba 📏 792 sqft  
 2618 E 20th St  
 Meadow Brook, Oakland, CA



**\$1,999,950**  
 🏠 6bd 🛁 4ba 📏 2,841 sqft  
 2471 Cordova St  
 Sausal Creek, Oakland, CA



**\$2,195,000**  
 🏠 3bd 🛁 3ba 📏 2,452 sqft  
 1877 Trestle Glen Rd  
 Glenview, Piedmont, CA

### Local Information

[← Oakland](#)

trulia



### Map View

Explore the area around 5553 Kales Ave.



### Street View

Take a virtual walk around the neighborhood.

### Schools

1 Elementary

1 Middle

1 High

## Description

**This property is not currently for sale or for rent on Trulia. The description and property data below may have been provided by a third party, the homeowner or public records.**

5553 Kales Avenue, Oakland California 94618 Rockridge 1

2, 950++ SF A charming traditional Craftsman amongst a serene private green backdrop. Come home to this magnificent architectural masterpiece in the heart of Rockridge on one of Oakland's most desirable streets and right off of Broadway. This property is a serene retreat with relaxing tropical nature at your fingertips. Escape away from the hustle and bustle, yet minutes to all the East Bay has to offer. With 1 large bedroom, 1 large bathroom and 950 square feet in the Main house, the 100 sq. ft. Studio and separate 250 sq. ft. Office outside offer a perfect retreat ideal for indulging the painter or sculptor, extra storage or perhaps a guest retreat. This home is fully fenced and pet friendly. This home also offers a wood burning fireplace and ample off-street parking. Features include: Open kitchen with refrigerator, gas range and dishwasher with ample storage and counter space Office nook/ breakfast nook off kitchen 2 outdoor/ lower-level bedrooms and 1 full bathroom Spacious master bedroom Laundry room in basement with ample storage Outdoor access from kitchen, side garden perfect for barbequing and entertaining. Owner is leaving all patio furniture for all decks and Artist studio Clerestory windows and natural lighting throughout offering views of the front yard, street and neighborhood without sacrificing any privacy Spectacular living room with wood-burning fireplace and tray ceiling Spacious open dining area with built-in bookshelves, original wainscoting and stunning wood trim details Mature landscaping Lots of Shopping just blocks away plus bars, restaurants and grocery. Close to Rockridge Market Hall, Trader Joe's, fine dining and boutique shops on College Avenue. Close proximity to Highlands Country Club with tennis courts, pools and event space. Near Claremont Club & Spa. 4 minute stroll to College Avenue. Just a 9-minute drive to Montclair Village with its fine dining, cafes and boutique shops. Easy access to 24, 13, 580 and 880 freeways. Nearby parks include Rockridge-Temescal Greenbelt, Colby Park, Frog Park, Bushrod Park and many more. Short 3-minute walk to Rockridge BART, many Transbay Bus lines nearby. Terms: \$5,100/ Month \$6,000/ Deposit

1-2 Year Lease

Tenant pays all utilities



**CITY OF OAKLAND**  
**RENT ADJUSTMENT PROGRAM**  
 250 Frank H. Ogawa Plaza, Suite 5313  
 Oakland, CA 94612-0243  
 (510) 238-3721  
 CA Relay Service 711  
[www.oaklandca.gov/RAP](http://www.oaklandca.gov/RAP)

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

**NOTICE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION OR RESPONSE PLUS AN ADDITIONAL DOCUMENT TO EACH OPPOSING PARTY.**

- Use this PROOF OF SERVICE form to indicate the date and manner in which service took place, as well as the person(s) served.
- Provide a copy of this PROOF OF SERVICE form to the opposing parties together with the document(s) served.
- File the completed PROOF OF SERVICE form with the Rent Adjustment Program together with the document you are filing and any attachments you are serving.
- Please number sequentially all additional documents provided to the RAP.

**PETITIONER FILED WITH OUT A PROOF OF SERVICE WILL BE CONSIDERED INCOMPLETE AND MAY BE DISMISSED.**

served a copy of  (insert name of document served)  
 And Additional Documents

and (write number of attached pages)  attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one)

- a. United States mail.  enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. 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 listed below.
- c. Personal Service. (1) By Hand Delivery  personally delivered the document(s) to the person(s) at the address(es) listed below  or (2)  left the document(s) at the address(es) with some person not younger than 18 years of age.

X d. Email pursuant to California Emergency Rule of Court #12

**PERSONS SERVED:**

Name	Alana Grice Conner
Address	aconner@friedwilliams.com
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

To serve more than 8 people, copy this page as many times as necessary and insert in your proof of service document. If you are only serving one person, you can use just the first and last page.

declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on  (insert date served).

PRINT YOUR NAME

SIGNATURE

DATE

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

<b>Appellant's Name</b> Chase Martin and Kristen Ponger		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
<b>Property Address (Include Unit Number)</b> 5553 Kales Ave.			
<b>Appellant's Mailing Address (For receipt of notices)</b> Please send all communications to Tenants' Legal Representative		<b>Case Number</b> Consolidated petitions: T18-0414, T18-0472	
		<b>Date of Decision appealed</b> March 9, 2021 (Date of service)	
<b>Name of Representative (if any)</b> Lisa Giampaoli		<b>Representative's Mailing Address (For notices)</b> Giampaoli Law 100 Pine Street, Suite 1250 San Francisco, CA 94111	

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

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

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

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

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

**• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •**  
 I declare under penalty of perjury under the laws of the State of California that on MARCH 26, 2021, 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: **VIA EMAIL**

<b><u>Name</u></b>	ALANA GRICE CONNER
<b><u>Address</u></b> EMAIL	aconner@friedwilliams.com
<b><u>City, State Zip</u></b>	VIA EMAIL PER CALIFORNIA EMERGENCY RULE OF COURT #12
<b><u>Name</u></b>	
<b><u>Address</u></b>	
<b><u>City, State Zip</u></b>	

	3/26/21
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 the information required, or your appeal cannot be processed and may be dismissed.
- 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 jurisdiction issues, 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.**



**CITY OF OAKLAND**  
**RENT ADJUSTMENT PROGRAM**  
 250 Frank H. Ogawa Plaza, Suite 5313  
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 CA Relay Service 711  
[www.oaklandca.gov/RAP](http://www.oaklandca.gov/RAP)

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

**NOTICE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION OR RESPONSE PLUS AN ADDITIONAL DOCUMENT TO EACH OPPOSING PARTY.**

- Use this PROOF OF SERVICE form to indicate the date and manner in which service took place, as well as the person(s) served.
- Provide a copy of this PROOF OF SERVICE form to the opposing parties together with the document(s) served.
- File the completed PROOF OF SERVICE form with the Rent Adjustment Program together with the document you are filing and any attachments you are serving.
- Please number sequentially all additional documents provided to the RAP.

**PETITIONS FILED WITHOUT A PROOF OF SERVICE WILL BE CONSIDERED COMPLETE AND MATTERS DISMISSED.**

served a copy of  Appeal form - Petitions T18-0414 and T18-0472  
 (insert name of document served)  
 And Additional Documents

and (write number of attached pages)  attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one)

- a. United States mail.  enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. 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 listed below.
- c. Personal Service. (1) By Hand Delivery  personally delivered the document(s) to the person(s) at the address(es) listed below  or (2)  left the document(s) at the address(es) with some person not younger than 18 years of age.

d. Email pursuant to California Emergency Rule of Court #12

**PERSONS SERVED:**

Name	Alana Grice Conner
Address	aconner@friedwilliams.com
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
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Name	
Address	
City, State, Zip	

To serve more than 8 people, copy this page as many times as necessary and insert in your proof of service document. If you are only serving one person, you can use just the first and last page.

declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on  (insert date served).

PRINT YOUR NAME

SIGNATURE

DATE

**Fried  
&Williams** LLP  
Attorneys at Law

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APR 20 2021

RENT ADJUSTMENT PROGRAM  
OAKLAND

Marena Perez  
mperez@friedwilliams.com

April 26, 2021

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

Re: Response to Appeal / 5553 Kales Avenue, Oakland, CA 94618  
Case Name: *Martin, et. al. v. Zalabak*  
Consolidated Case Nos. T18-0414 & T18-0472

To Whom it May Concern:

Enclosed for filing please find Property Owner's Response to Appeal, Proofs of Service, and Consent to Electronic Service form for the above-referenced matter.

Please provide us with a filed stamped copy of each document for our records. Extra copies of the Response, Proofs of Service and consent form are enclosed along with a self-addressed stamped envelope.

Thank you.

Sincerely,  
FRIED & WILLIAMS LLP

*Marena Perez*

Marena Perez  
*Paralegal*

Encls. [as stated]

1901 Harrison Street, 13<sup>th</sup> Floor, Oakland, CA 94612  
Tel 510-625-0100 Fax 510-550-3621

625 Market Street, 4<sup>th</sup> Floor, San Francisco, CA 94105  
Tel 415-421-0100 Fax 415-762-5435

www.friedwilliams.com

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RECEIVED

APR 29 2021

RENT ADJUSTMENT PROGRAM  
OAKLAND

1 Alana Grice Conner, Esq., SBN 182676  
2 Fried & Williams LLP  
3 1901 Harrison Street, 13<sup>th</sup> Floor  
4 Oakland, CA 94612  
5 Telephone: 510-625-0100  
6 Facsimile: 510-550-3621  
7 aconner@friedwilliams.com

8 Attorney for Respondent and Owner  
9 Sherry Zalabak

10  
11 COMMUNITY AND HOUSING DEVELOPMENT AGENCY  
12 RENT ADJUSTMENT PROGRAM

13 Chester "Chase" Martin;  
14 Kristen Ponger;

15 Appellants/Tenants,

16 v.

17 Sherry Zalabak;

18 Respondent/Owner.

CONSOLIDATED CASE NOS: T18-0414 &  
T18-0472

**PROPERTY OWNER'S RESPONSE TO  
APPEAL**

HEARING DATE: TBD  
TIME: 7:00 P.M.

PLACE: 250 FRANK H. OGAWA PLAZA,  
STE. 5313, OAKLAND, CA 94612

**I. PROCEDURAL BACKGROUND**

19 On October 10, 2018 the Sherry Zalabak ("Respondent") served a Costa-Hawkins rent  
20 increase notice. While not required, the owner included a RAP notice. After two hearings, a  
21 decision was issued on the petitions filed finding that the Rent Adjustment Program did not  
22 have jurisdiction to hear the petitions. The Order was served by mail on June 7, 2019. A true  
23 and correct copy of that decision is attached hereto as Exhibit A. The tenants filed and served  
24 an Appeal on June 27, 2019. The tenants vacated on or before July 30, 2019. An appeal  
25 hearing was held thereafter on September 10, 2020. The appeal decision was issued on  
26 November 20, 2020, remanding to the hearing officer, with direction to re-issue the hearing  
27 decision, considering *Da Vinci Group V. San Francisco Residential Rent Stabilization and*  
28 *Arbitration Board ("Da Vinci")* and *Owens v. City of Oakland Housing, Residential Rent and*

1 *Relocation Board (“Owens”)*. (A copy of the Appeal Decision is attached as Exhibit B). On  
2 March 4, 2021, hearing officer Marguerita Fa-Kaji issued an order denying Petitions T18-0414  
3 and T18-0472 and granted the subject property exempt from the Rent Adjustment Ordinance  
4 pursuant to Costa Hawkins. On March 26, 2021, Appellants, through their attorney, submitted  
5 an incomplete second Appeal to the rent board and respondent’s attorney. On April 12, 2021,  
6 Appellants submitted their appeal brief to the rent board and our office.

7 In the Appellants’ brief they include an unnecessary diatribe against the Owner  
8 complaining that irrelevant facts were not considered. They attempt to characterize the Owner’s  
9 relationship with the former owner to distract from the facts of the matter. The Appellant  
10 dislikes the outcome reached by the hearing officer and argues that she did not consider  
11 *Da Vinci* or *Owens*. And, again despite its lack of relevance wants to discuss O.M.C.  
12 8.22.030(B)(1)(b).

## 13 **II. UNDERLYING CASE FACTS**

14 Respondent is the owner of the real property commonly known as 5553 Kales Avenue,  
15 Oakland, CA 94618 (the “Premises”), having acquired it in October 2010 following the prior  
16 owner’s, Stephen Lage’s death. Prior to Mr. Lage’s death, he used the detached garage as an  
17 office space. A permit was issued on May 19, 1993 to provide heat and a new 100 AMP  
18 electricity service to the garage for use as an office. During the latter stages of his illness, Mr.  
19 Lage allowed his full-time caregiver to use the office as a residential studio space. Soon  
20 thereafter, in 2010, Mr. Lage was living in the house and Respondent, who was then providing  
21 full time care, was using the studio. After Mr. Lage passed away, Respondent rented the house,  
22 moved out of the studio and rented the studio.

23 On or around November 24, 2014 Respondent rented the Premises to Chester “Chase”  
24 Martin and Kristen Ponger (“Petitioners”). The “studio” was occupied at the time the Petitioners  
25 moved in. In July 2018, the tenants renting the studio voluntarily moved out. Soon thereafter,  
26 the Respondent discovered the studio did not have a separate certificate of occupancy. Since  
27 then, the studio has not been rented separately.

28



1 determined that a rent increase was moot when the tenant moved out without paying the  
2 increased rent and the pending appeal was dismissed.

3 **A. The decision is inconsistent with OMC Chapter 8.22.060.A. & 8.22.060.C.**

4 Oakland's RAP Regulation 8.22.060.A requires an owner to serve a Notice of Rent  
5 Adjustment Program on tenants occupying covered units. When Respondents first began  
6 occupying the single family home, they were not served the RAP notice. After the tenants who  
7 were occupying the studio moved out in December 2017, the owner ceased using the space for  
8 residential rental use which restored the single family home status. Single family homes are  
9 exempt from Oakland's rent adjustment ordinance. See O.M.C. 8.22.030A.7.

10 The Notice to Tenants of the Rent Adjustment Program ("RAP Notice") was not served  
11 at the commencement of the tenancy however, this argument is irrelevant. First, Respondent  
12 cured this deficiency by serving the RAP Notice to tenants on October 10, 2018. Second, the  
13 property is a single family home and thus not covered by the ordinance. Third, the Appellants  
14 never paid the increased rent. Fourth, the Appellants have vacated the premises.

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

16 There need not be a policy on this specific point. Use of a space that is not intended for  
17 residential use is illegal. It is undisputed that the ordinance intended to extend rent protection to  
18 tenants occupying illegal units. Oakland Municipal Code Section 8.22.020 states that rent  
19 control covers "...any dwelling unit, ... used or occupied in consideration of payment of rent  
20 with the exception of those units designated in Section 8.22.030 A. as exempt. The City of  
21 Oakland Rent Adjustment Program cannot encourage or condone any illegal act. Upon  
22 discovering the studio unit was not intended for separate residential use, the Respondent ceased  
23 such use thus restoring the single family dwelling to its exempt condition.

24 The instructions to consider *Owens* and *DaVinci* were followed by the hearing officer.  
25 Appellants ask the board to consider the policies articulated by the courts in these cases and that  
26 was done. In *Owens*, this board affirmed a decision that held when a owner rents out multiple  
27 bedrooms in a single family home, the single family home is transmuted into a multi-unit  
28 property and thus rent control applies. If that remains the case, then the reverse must be true. If

1 a single family home is being used as a multi-unit dwelling, when that use ceases, so does rent  
2 control.

3 In *DaVinci*, the court found that a commercial building that had been used for residential  
4 purposes was not exempt as either new construction because it had previously been used for  
5 residential purposes. The court held that tenants renting illegal units were entitled to the  
6 protections of the rent ordinance. Here, the tenants in the illegal unit voluntarily vacated and the  
7 unit was not rented separately again.

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

9 The appeal board applies the substantial evidence standard when considering the hearing  
10 officer's ruling. The board's function is not to decide whether it would have reached the same  
11 factual conclusions as the hearing officer. Instead the board's task it to decide whether a  
12 reasonable fact-finder could have come to the same conclusion based on the facts in the record.  
13 Because the hearing officer saw the witnesses and heard what they said, she was in a better  
14 position to decide what actually happened, who was telling the truth and how much weight to  
15 give to all the evidence presented. The evidence presented by Respondent demonstrated that the  
16 office unit had been previously used as a residential space, that the occupants in that space  
17 voluntarily vacated and that she ceased using that as separate residential space.

18 **VI. CONCLUSION**

19 The rent board's policies to preserve the rent control housing must be weighed against the  
20 health and safety of tenants. The Respondent, upon discovering that the studio could not be  
21 rented separately, ceased this action. The effect was to restore its character to single family  
22 home status. Furthermore, the rent board has no jurisdiction over this matter because the unit is  
23 exempt from rent control and because the tenants no longer occupy the premises.

24 Date: April 26, 2021

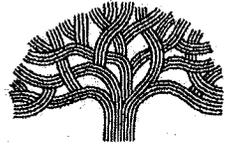
Fried & Williams LLP

25 

26 By: Alana Grice Conner  
27 Attorney for Respondent  
28 Sherry Zalabak

EXHIBIT A

**000205**



## HEARING DECISION

**CASE NUMBERS:** T18-0414, Martin et. al. v. Zalabak  
T18-0472, Martin et al. v. Zalabak

**PROPERTY ADDRESS:** 5553 Kales Avenue, Oakland, CA

**DATES OF HEARING:** March 5, 2019  
April 22, 2019

**DATE OF DECISION:** April 30, 2019

**APPEARANCES:** Chester Martin, Tenant  
Kristen Ponger, Tenant  
Sherry Zalabak, Owner  
Alana Grice Conner, Attorney for Owner

## SUMMARY OF DECISION

The Tenant's petitions are dismissed.

## INTRODUCTION

The tenant filed the initial petition on August 3, 2018, T18-0414, which contests a rent increase effective August 1, 2108, raising their rent from \$2,652.00 to \$4,500.00, on the following grounds:

- Rent Increase Exceeds CPI or more than 10%;
- No Pre-Approval of Increase;
- No Concurrent RAP Notice;
- No RAP Notice 6 Months prior to the effective date of the increase;
- Rent Increase exceeds an overall increase of 30% in 5 years.

The tenant filed a second petition on November 9, 2018, T18-0472, which contests a rent increase effective December 15, 2108, raising their rent from \$2,652.00 to \$4,500.00, on the following grounds:

- Rent Increase Exceeds CPI or more than 10%;
- No Pre-Approval of Increase;
- No RAP Notice 6 Months prior to the effective date of the increase;
- Rent Increase exceeds an overall increase of 30% in 5 years.

The owner filed a timely response in T18-0414 and an untimely response in T18-0472. The owner attended the hearing and was represented. The matter proceeded to hearing on March 5, 2019. Subsequently, the undersigned re-opened the matter for further hearing on the construction of the back unit, including but not limited to whether the second unit is new construction under the ordinance.

### **ISSUE(S) PRESENTED**

1. Is the subject unit exempt from the Rent Adjustment Ordinance?

### **EVIDENCE**

March 5, 2019

#### Rental History

The tenants moved into the unit November 24, 2014, for \$2600.00 per month. At the inception of their tenancy, it was a multi-unit property. The front unit and the back unit were rented out to separate tenants, with separate leases.<sup>1</sup>

In January 2017, their rent was increased by the CPI, 2%, to \$2652.00. They believe the back unit was raised by the same amount. They received a notice of rent increase indicating the rent would be \$4,500.00, effective January 3, 2019. They have paid the uncontested portion of their rent, 2652.00 per month, pending the outcome of their petition.

The tenants were first given a RAP Notice on November 4, 2018. They live in a house; they dispute the designation as a single-family residence. When they moved

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<sup>1</sup> The owner property response acknowledges that the owner had an unpermitted use of the second unit.

in, there was a unit in the back. Subsequently, they removed the stove from the other unit and applied for a permit to use it as a non-residential space. The stove is currently being stored in the basement. The tenant claims the owner will put it back in the unit when she lists the property for sale.

In 2018, the tenants in the rear unit moved. The back unit is unoccupied, but they do not have access to it.

The owner testified that she received the property as an inheritance in 2010. Her property is assessed as a single-family residence.<sup>2</sup> At the time she inherited the property, the back unit was occupied. In June 2018, she served a rent increase notice. The petitioners filed a petition with the Rent Adjustment Program. The owner retained counsel to respond to the petition. Subsequently, she became aware that the studio unit was impermissible, which was confirmed with the permit department.

After finding out that the space was permitted for an office, she returned the space to non-residential use and removed the stove.<sup>3</sup>

The owner testified that she does have the original permit for creating the office space but did not bring it to the hearing.

The tenants argued that they rented what was by all intents and purposes a rent-controlled unit and that the owner's unilateral change to comply with the law was motivated by bad faith.

The property owner argued that by the removal of the illegal unit restored the single-family residence to its proper use and therefore restored its status as an exempt unit.

April 22, 2019

The undersigned re-opened the hearing to determine if the second unit qualified as new construction under the ordinance. At the hearing, the tenant provided documentation from the City of Oakland, which established that there was a second structure on the property, which was a garage in the 1930s.<sup>4</sup>

---

<sup>2</sup> Exhibit A, March Hearing. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence.

<sup>3</sup> Exhibit 11, March Hearing.

<sup>4</sup> Exhibit A, April Hearing.

The tenant testified that there was no permit to convert the garage structure to an office. The records indicated that in 1993, the new amp circuits went out to the garage.<sup>5</sup>

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### **Exemption**

Costa-Hawkins: The Costa-Hawkins Rental Housing Act<sup>6</sup> provides that a dwelling or unit which is separately alienable from any other dwelling or unit is exempt from local rent control, except under certain circumstances. The Oakland Rent Adjustment Ordinance specifically states that if a unit is covered under Costa-Hawkins, it is exempt from the Ordinance.<sup>7</sup>

### Exceptions to the Application of Costa-Hawkins:

A single-family residence is exempt from local rent control laws unless one or more of the following situations applies:

- (1) The tenancy began before January 1, 1996
- (3) The prior tenant was evicted for no cause
- (4) The prior tenant vacated after being given a notice of rent increase
- (5) There were serious health, safety, fire or building code violations for which the owner was cited, and which were not corrected for six months before the start of the current tenancy.

The tenants' testimony that she initially rented a multi-unit property and that the tenant in the back unit moved out and that the owner has not allowed subsequent illegal residential use is credited. Accordingly, the subject unit has been restored to a single-family residence. Therefore, the house is exempt from the application of the Oakland Rent Adjustment Ordinance. Because the subject unit is exempt from the Ordinance, no other issues raised in the tenant petition can be addressed.

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<sup>5</sup> Exhibit B, April Hearing.

<sup>6</sup> Civil Code Section 1954.52(a)(3)

<sup>7</sup> O.M.C. Section 8.22.030(A)(7)

## ORDER

1. Petitions T18-0414 and T18-0472 are denied.
2. The subject unit is exempt from the Rent Adjustment Ordinance pursuant to Civil Code §1954.52(a)(3).
3. The unit is not exempt from payment of the Rent Adjustment Service fee.
4. A Certificate of Exemption for the subject unit will be issued when this Decision becomes final.

**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: May 31, 2019



Elan Consuella Lambert  
Hearing Officer  
Rent Adjustment Program

000210

**PROOF OF SERVICE**

**Case Number T18-0414**

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

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

**Documents Included**

Hearing Decision

**Owner**

Sherry Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner, Fried & Williams LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant**

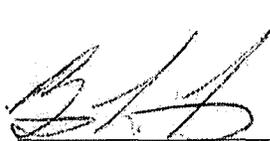
Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant**

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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 **June 07, 2019** in Oakland, CA.



---

Brittini Lothlen

Oakland Rent Adjustment Program

**000211**

**PROOF OF SERVICE**

**Case Number T18-0472**

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

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

**Documents Included**

Hearing Decision

**Owner**

Sherry Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner,  
Fried & Williams, LLP  
1901 Harrison Street 14th Floor  
Oakland, CA 94612

**Tenant**

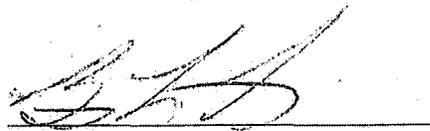
Chester Martin  
5553 Kales Avenue  
Oakland, CA 94618

**Tenant**

Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

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 **June 07, 2019** in Oakland, CA.



Brittini Lothlen

Oakland Rent Adjustment Program

**000212**

EXHIBIT B

**000213**



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

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION AFTER REMAND**

**CASE NUMBERS:** T18-0414, Martin et al v. Zalabak  
T18-0472, Martin et al v. Zalabak  
L19-0040, Zalabak v. Tenants

**PROPERTY ADDRESS:** 5553 Kales Avenue, Oakland, CA

**DATES OF HEARING:** March 5, 2019, and April 22, 2019

**DATE OF DECISION:** April 30, 2019

**DATE OF APPEAL HEARING:** September 10, 2020

**DATE OF APPEAL DECISION:** November 20, 2020

**DATE OF REMAND DECISION:** March 4, 2021

### **PROCEDURAL BACKGROUND**

The tenants, Chester Martin and Kristen Ponger, filed two separate petitions contesting a rent increase effective August 1, 2018 (T18-0414) and a rent increase effective December 15, 2018 (T18-0472).<sup>1</sup> Although the owner withdrew the rent increase effective August 1, 2018, the tenants declined to withdraw their initial petition. The petitions were consolidated and a hearing was conducted by Rent Adjustment Program Hearing Officer Élan Lambert on March 5, 2019, and April 22, 2019. On April 30, 2019, the Hearing Officer issued a decision denying the tenants' petitions on the basis that the unit was a single family residence exempt from the Rent Adjustment Ordinance pursuant to California Civil Code Section 1954.52(a)(3).

The tenants then filed an appeal, which was heard by the Housing, Residential Rent and Relocation Board (HRRRB) on September 10, 2020. The Board remanded the case to the Hearing Officer "with direction to re-issue the hearing decision, considering Da

<sup>1</sup> Although the petition filed by the tenants in T18-0472 actually provides an effective date of January 3, 2019, the response filed by the owner provides an effective date of December 15, 2018.

Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal.App.4<sup>th</sup> 24 and Owens v. City of Oakland Housing, Residential Rent and Relocation Board (2020) 49 Cal.App.5<sup>th</sup> 739, with specific consideration of the testimony of the property as a multi-unit dwelling.”

On December 12, 2018, the owner filed a *Landlord Petition for Certificate of Exemption* (L19-0040) regarding the subject property. The case was originally set for hearing on October 21, 2019, but the hearing was continued several times. Case L19-0040 was ultimately combined with Cases T18-0414 and T18-0472 because they raise the same issues. The combined cases were set for hearing on January 25, 2021.

On January 11, 2021, an *Order Reassigning Hearing Officer and Canceling Hearing* was issued, reassigning the joint cases to the undersigned Hearing Officer and stating that the decision would be issued “based on the written evidence and testimony previously provided, and consideration of the California Court of Appeal decisions cited by the Oakland HRRRB.”

### **ISSUES**

1. Is the unit exempt from the Rent Adjustment Ordinance because it is a single family residence or condominium that can be sold separately?
2. Is the unit exempt from the Just Cause for Eviction Ordinance because it is a single family residence or condominium that can be sold separately?
3. Is the unit exempt from the Rent Program Service fee?

### **EVIDENCE**

As the original Hearing Decision explained, the tenants moved into the unit in November 2014. At the inception of their tenancy, it was a multi-unit property. The front unit and rear unit were rented out to separate tenants, with separate leases. Tenants Martin and Ponger lived in the front unit. On the last day of February 2018, the tenants in the rear unit moved out voluntarily.

The current owner acquired the property as an inheritance in 2010. The rear unit was occupied at the time she acquired the property. After the tenants filed their initial petition (T18-0414), the owner retained counsel and subsequently learned that the rear unit could not legally be rented out as a separate unit. She then removed the stove from that unit and discontinued renting it out as a separate residential unit after the rear unit tenants moved out in February 2018.

///

///

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

- 1. Is the subject unit exempt from the Rent Adjustment Ordinance because it is a single family residence or condominium that can be sold separately?**

The Rent Adjustment Ordinance exempts single family residences and condominiums pursuant to the Costa-Hawkins Act, California Civil Code § 1954.52, provided they are separately alienable from any other rental unit.<sup>2</sup> However, a single family residence can function as a multi-unit building when the owner rents out separate “dwelling units” to individual tenants.<sup>3</sup>

As Hearing Officer Lambert found in her original decision, 5553 Kales Avenue is a single family residence. The owner did rent out a separate “illegal” unit in the rear of the residence through February 2018, but she ceased renting out that unit when the tenants living in that unit voluntarily moved out. As of December 15, 2018, the date the contested rent increase was to take effect, the owner was only renting out the subject property as a single family residence. Therefore, as of December 15, 2018, the unit was not functioning as a multi-unit building.

This case can be distinguished from the California Court of Appeals decisions the HRRRB directed the Hearing Officer to consider. In Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal.App.4<sup>th</sup> 24, the tenant moved into a unit advertised by a previous tenant as a “live-in warehouse” and the owner obtained a certificate of occupancy more than five years later, after spending money to make improvements on the property.

The San Francisco Residential Rent Stabilization and Arbitration Board found that the units were not exempt from the Residential Rent Stabilization and Arbitration Ordinance Rent as “new construction” or “substantial rehabilitation.” As the decision upholding this finding pointed out:

Da Vinci’s units were not newly constructed, nor was the building restructured to permit new residential use. Existing residential use was made legal by bringing the building up to code and obtaining a certificate of occupancy. While this is a commendable undertaking, it does not bring the premises within the Ordinance’s “new construction” exemption. (5 Cal.App.4<sup>th</sup> 30.)

Whereas, in the Da Vinci case, “existing residential use was made legal,” in the present case, the “existing residential rental use” at the time the tenants moved in (namely, two separate units) was never made legal. The owner in this case did not obtain a certificate of occupancy for the rear unit. Instead, the rear unit became

---

<sup>2</sup> O.M.C. § 8.22.030(A)(7).

<sup>3</sup> Owens v. City of Oakland Housing, Residential Rent, and Relocation Board (2020) 49 Cal.App.5<sup>th</sup> 739.

voluntarily vacant after February 2018, and the owner did not continue to rent it out as a separate unit.

The case of Owens v. City of Oakland Housing, Residential Rent and Relocation Board (2020) 49 Cal.App.5<sup>th</sup> 739 likewise has facts quite different from the current one. In Owens, the owner both owned and resided in a single-family home. He rented individual rooms in the home to three unrelated tenants. The Hearing Officer found that: "the owner has chosen to rent rooms out separately to a number of people, thereby transferring a single-unit dwelling into a multi-unit dwelling." (49 Cal.App.5<sup>th</sup> 743.) This decision was upheld by the HRRRB, the trial court, and the Appellate Court.

Owens denied the owner an exemption from the Oakland Rent Adjustment Ordinance because he had in effect turned his single-family residence into a multi-unit rental. The multi-unit rental existed at the time the original hearing in Owens was conducted. By contrast, in this case, the owner discontinued the rental of the rear unit after she became aware that this practice was not legal; any multi-unit rental ceased as of March 1, 2018. The owner was renting out only a single-family residence to the tenants at the time the rent increase went into effect.<sup>4</sup> Therefore, the original Hearing Decision was correct in denying the tenants' petitions based on the subject property being exempt from the Oakland Rent Adjustment Ordinance as a single family residence.

**2. Is the unit exempt from the Just Cause for Eviction Ordinance because it is a single family residence or condominium that can be sold separately?**

The Just Cause for Eviction Ordinance applies to all residential rental units, and provides limited exemptions.<sup>5</sup> None of the exemptions are based on the fact that a unit is solely a single family residence; it must meet one of the other exemptions. There is no evidence to support that any of these exemptions apply to this unit.

Therefore, the unit is not exempt from the Just Cause for Eviction Ordinance.

**3. Is the unit exempt from the Rent Program Service fee?**

Oakland Municipal Code § 8.22.500(A) provides that the rent program service fee is to be "charged against any residential rental unit that is subject to either the Rent Adjustment Ordinance, the Just Cause for Eviction Ordinance, or both." This dwelling is subject to the Just Cause for Eviction Ordinance, and thus is not exempt from the Rent Adjustment Program Service fee.

Therefore, the rent program service fee applies.

---

<sup>4</sup> Holding that a rental property is subject to the Oakland Rent Adjustment Ordinance even when it is no longer being used as a multi-unit rental based on the fact that it was at one time a multi-unit rental would be contrary to public policy, as it would discourage owners from discontinuing illegal rentals.

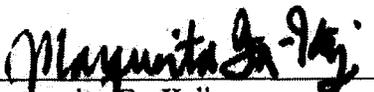
<sup>5</sup> O.M.C. § 8.22.350.

**ORDER**

1. Petitions T18-0414 and T18-0472 are denied and L19-0040 is granted because the subject property is exempt from the Rent Adjustment Ordinance pursuant to Costa-Hawkins (California Civil Code Section 1954.52). The unit is not exempt from the Rent Program Service fee.
2. A Certificate of Exemption will be issued upon this Decision becoming final.

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

Dated: March 4, 2021

  
\_\_\_\_\_  
Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**

**Case Numbers T18-0414, T18-0472, and L19-0040**

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

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

**Documents Included**

Hearing Decision After Remand

**Owner**

Sherry Diane Zalabak  
402 Vermont Avenue  
Berkeley, CA 94707

**Owner Representative**

Alana Grice Conner  
Fried & Williams LLP  
1901 Harrison Street, 13th Floor  
Oakland, CA 94612

**Tenants**

Chester Martin and Kristen Ponger  
44 Belle Avenue Apt. # A  
San Rafael, CA 94901

Chester Martin and Kristen Ponger  
5553 Kales Avenue  
Oakland, CA 94618

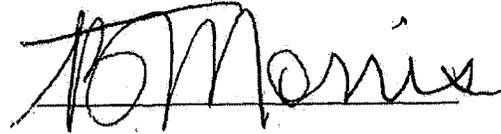
**Tenant Representative**

Lisa Giampaoli  
Giampaoli Law  
100 Pine Street, Suite 1250  
San Francisco, CA 94111

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.

**000219**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **March 09, 2021** in Oakland, CA.

A handwritten signature in black ink, appearing to read "T. Brown-Morris". The signature is written in a cursive style with a horizontal line drawn through the middle of the letters.

Teresa Brown-Morris

Oakland Rent Adjustment Program

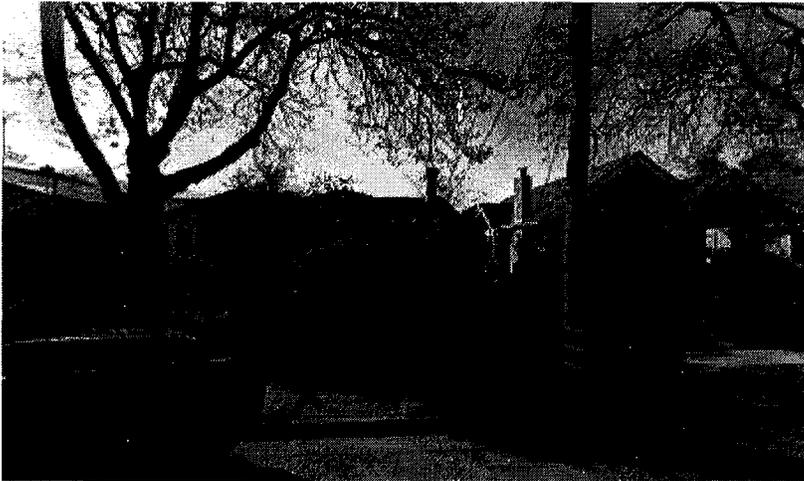
EXHIBIT C

**000221**

# 5553 Kales Ave



Map data ©2021, Map data ©2021 20 ft



## 5553 Kales Ave

Building



Directions



Save



Nearby



Send to your phone



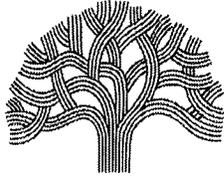
Share



5553 Kales Ave, Oakland, CA 94618

### Photos

000222



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

CONSOLIDATED CASE NOS:  
T18-0414 & T18-0472

**PROOF OF SERVICE**

**NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION OR RESPONSE (PLUS ANY ADDITIONAL DOCUMENTS) ON THE OPPOSING PARTIES.**

- Use this PROOF OF SERVICE form to indicate the date and manner in which service took place, as well as the person(s) served.
- Provide a copy of this PROOF OF SERVICE form to the opposing parties together with the document(s) served.
- File the completed PROOF OF SERVICE form with the Rent Adjustment Program together with the document you are filing and any attachments you are serving.
- Please number sequentially all additional documents provided to the RAP.

**PETITIONS FILED WITHOUT A PROOF OF SERVICE WILL BE CONSIDERED INCOMPLETE AND MAY BE DISMISSED.**

**PROPERTY OWNER'S RESPONSE TO APPEAL**

(CONSOLIDATED CASE NOS: T18-0414 & T18-0472)

(insert name of document served)

And Additional Documents

I served a copy of:

and (write number of attached pages) 18 attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. 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 listed below.
- c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- d. Email Service: See attached Proof of Service.

**PERSON(S) SERVED:**

Name	Lisa Giampaoli
Address	Giampaoli Law, 100 Pine Street, Suite 1250
City, State, Zip	San Francisco, CA 94111

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

To serve more than 8 people, copy this page as many times as necessary and insert in your proof of service document. If you are only serving one person, you can use just the first and last page.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on 4 /26/ 2021(insert date served).

**Marena Perez**

PRINT YOUR NAME

DocuSigned by:

*Marena Perez*

SIGNATURE

9F29DC3E89EF43F...

April 26, 2021

DATE

PROOF OF SERVICE BY EMAIL  
PROOF OF ELECTRONIC SERVICE

I, the undersigned, declare and state:

I am employed in the county of Oakland, California. I am over the age of eighteen years and not a party of the within entitled cause. My business address is 1901 Harrison Street, 13<sup>th</sup> Floor, Oakland, CA 94612.

My electronic service address is: [mperez@friedwilliams.com](mailto:mperez@friedwilliams.com)

On April 26, 2021, I emailed a true digital copy of the following documents in *Martin, et. al. v. Zalabak*, City of Oakland Rent Adjustment Program Consolidated Case Nos. T18-0414 & T18-0472:

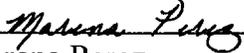
**PROPERTY OWNER'S RESPONSE TO APPEAL**

to:

Lisa Giampaoli  
[lisa@giampaolilaw.com](mailto:lisa@giampaolilaw.com)

*Attorney for Appellants/Tenants*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on April 26, 2021, at Oakland, California.

DocuSigned by:  
  
Mariana Perez  
9F29DC3E89EF43F...

000226

Representative or Self-Represented Party Name/Type: Alana Grice Conner, SBN 182676 FRIED & WILLIAMS LLP 1901 Harrison Street, 13th Floor Oakland, California 94612 Telephone: (510) 625-0100 Facsimile: (510) 550-3621 Email Address: aconner@friedwilliams.com  Representative for: Respondent/Owner Sherry Zalabak	Case Number: Consolidated Nos. T18-0414 & T18-0472 Case Name: Martin v. Zalabak
<b>RENT ADJUSTMENT PROGRAM</b> 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612	Staff Analyst: Ava Silveira; Chaneé Franklin Minor
<b>CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC SERVICE ADDRESS</b>	Hearing Officer: Barbara Kong-Brown (Appeals Hearing Officer); Marguerita Fa-Kaji (Hearing Officer)

1.  The following party or  the representative for:
- a.  tenant(name)
  - b.  owner (name): Sherry Zalabak
  - c.  other (name):

consents to electronic service of notices and documents in the above-captioned case.

2. The electronic service address of the person identified in item 1 is (specify):

aconner@friedwilliams.com; mperez@friedwilliams.com

Date: April 26, 2021

Alana Grice Conner



TYPE OR PRINT NAME

SIGNATURE OF PARTY OR REPRESENTATIVE

000227

## CHRONOLOGICAL CASE REPORT

Case No.: L19-0163

Case Name: Lake 1925 LP v. Tenants

Property Address: 1924 9<sup>th</sup> Avenue, Oakland, CA

Parties: George Shafazand, Owner Representative  
Kimberly Roehn, Owner Representative  
Lake 1925 LP, Owner  
Gokce Sencan, Tenant  
Devin Schaefferkoetter, Tenant  
Adam Yohannes, Tenant  
Antonio Castellanos-Herrera, Tenant  
Sureshkumar Sivaloganathan, Tenant  
Kamalraj Nalliah, Tenant  
Ademola Raji, Tenant  
Gizachew Tessema, Tenant  
Corliss Ard, Tenant  
Kisha Walton, Tenant  
Karim Chibane, Tenant  
Katalina Balawaniotu, Tenant  
Alexander Endrenyi, Tenant  
Jeremy Roland, Tenant  
Salvador Nunez, Tenant  
Erika Cummings, Tenant  
Eva Nunez, Tenant  
Daniel Fieldman, Tenant  
Angela Emerson, Tenant  
Alan Bailey, Tenant  
Sophia Steward, Tenant  
Lai Wu , Tenant  
Ralph Glenn, Tenant

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	June 18, 2019
Tenant Responses filed	November 13-22, 2019
Hearing Decision mailed	April 26, 2021
Owner Appeal filed	May 7, 2021

000228



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

2019 JUN 18 AM 9:24

**PROPERTY OWNER  
PETITION FOR  
APPROVAL OF RENT  
INCREASE**

BC/MS 119-0163

**Please Fill Out This Form Completely As You Can.** Failure to provide needed information may result in your petition being rejected or delayed. Attach copies of the documents that support your petition. Before completing this petition, please read the Rent Adjustment Ordinance (Oakland Municipal Code 8.22), sections 8.22.010 through 8.22.190, and the Rent Adjustment Program Regulations.

Your Name LAKE1925 LP	Complete Address (with zip code) 2941 TELEGRAPH AVE, BERKELEY, CA 94705	Daytime Telephone: [REDACTED]
		E-mail: MGMT@HAPPYHOMEPARTNERS.COM
Your Representative's Name (if any) HAPPY HOME PARTNERS LLC GEORGE SHAFAZAND GENERAL MANAGER	Complete Address (with zip code) 2941 TELEGRAPH AVE, BERKELEY, CA 94705	Daytime Telephone: [REDACTED]
		E-mail: MGMT@HAPPYHOMEPARTNERS.COM
Property Address (If the property has more than one address, list all addresses) <b>1924 9TH AVE, OAKLAND, CA 94606</b>		

Total number of units on property: 30

Date on which you acquired the building: MARCH 7, 2006

Type of units (circle one)      House      Condominium      Apartment, Room, or Live-Work

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 the tenants in each unit affected by the petition?	<u>Yes</u>	No
On what date was the RAP Notice first given?	<u>1/1/2009</u>	
Have you paid your Oakland Business License? The property owner must have a current Oakland Business License. If it is not current, an Owner Petition may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.)	<u>Yes</u>	
Oakland Business License number.	<u>0008</u>	

000229  
Owner set.

<p>Have you paid the Rent Adjustment Program Service Fee (\$68 per unit)? The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.) Note: If RAP fee is paid on time, the property owner may charge the tenant one-half of the \$68 per-unit RAP Service fee (\$34).</p>	<p>Yes</p>	<p>No</p>
<p>Use the table on the next page to list each tenant who is affected by this petition.</p>		

**REASON(S) FOR PETITION.**

**Note: Justifications for Rent Increases other than the annual allowable rate are discussed in the Rent Adjustment Program Regulations – Appendix A, Sec. 10.**

**You must attach organized documentation clearly showing the rent increase justification(s) and detailing the calculations to which the documentation pertains. All documents submitted to the Rent Adjustment Program become permanent additions to the file. (Regs. 8.22.090.C)**

**I (We) petition for approval of one or more rent increases on the grounds that the increase(es) is/are justified by (check all that apply):**

- Banking (Reg. App. 10.5)
- Capital Improvements (Reg. App. 10.2)
- Fair return (Reg. App. 10.6)
- Increased Housing Service Costs (Reg. App. 10.1)
- Uninsured Repair Costs (Reg. App. 10.3)

Have you ever filed a petition for this property?

- Yes
- No

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

---

**Uninsured Repair Costs:** Uninsured repair costs are casualty losses that are not reimbursed to the property owner. See Regulations for details. An increase for uninsured repairs is calculated the same way as an increase for capital improvements.

**Increased Housing Service Costs:** Housing Service Costs are expenses for services provided by the property owner. The costs are related to the use of a rental unit and also known as "operating expenses". The most recent two years of operating expenses are compared to determine if a rent increase greater than the CPI is justified. The calculation in both years must provide a reasonable comparison of all expenses. Evidence is required to prove each of the claimed expenses.

**Fair Return:** A property owner may submit evidence to show that without the requested rent increase he or she is being denied a fair return on the investment. A fair return will be measured by maintaining the net operating income (NOI) produced by the property in a base year (2014), subject to CPI related adjustments. Permissible rent increases will be adjusted upon a showing that the NOI in the comparison year is not equal to the base year NOI.

**Banking:** "Banking" refers to deferred allowed annual rent increases. These annual rent increases are known as CPI increases. CPI rent increases that were not given, or were not given in full, can be carried forward to future years. Subject to certain limitations, property owners may defer giving CPI increases up to ten years. CPI increases that were not imposed within ten years expire. No banked increase can exceed three times the then current CPI allowable increase. If your petition includes a request for a banked increase, **attach a rent history for the current tenant(s) in each affected unit.**

You do not need to petition the Rent Adjustment Program for approval to increase rent based on banking. Rents can be increased for banked CPI rent increases by giving the Tenant a rent increase notice. (Note that the Tenant can file a petition contesting the increase if the Tenant believes the banking is incorrect or unjustified.) If you do choose to petition for approval of a banked rent increase, provide the documentation and calculations as required by this petition.

List each tenant and requested information for each unit affected by this petition. Increases based on increased housing service costs and fair return affect all of the units on the property. Attach additional sheets if necessary.

Address	Unit #	Tenant Name(s)	Phone	E-mail	Current Rent
1924 9TH AVE, OAKLAND, CA 94606	101	DEVIN M.B. SCHAEFFERKOETTER	[REDACTED]	[REDACTED]	1010.28
1924 9TH AVE, OAKLAND, CA 94606					
1924 9TH AVE, OAKLAND, CA 94606	103	ADAM YOHANNES	[REDACTED]	[REDACTED]	982.22
1924 9TH AVE, OAKLAND, CA 94606	105	ANTONIO CASTELLANOS-HERRE RA	[REDACTED]	[REDACTED]	1132.88
1924 9TH AVE, OAKLAND, CA 94606	106	SURESHKUMAR SIVALOGANATHAN	[REDACTED]	[REDACTED]	1044.41
1924 9TH AVE, OAKLAND, CA 94606	201	KAMALRAJ NALLIAH	[REDACTED]	[REDACTED]	1456.56
1924 9TH AVE, OAKLAND, CA 94606	202	ADEMOLA I. RAJI	[REDACTED]	[REDACTED]	1795
1924 9TH AVE, OAKLAND, CA 94606	203	GIZACHEW D. TESSEMA	[REDACTED]	[REDACTED]	1456.56

List each tenant and requested information for each unit affected by this petition. Increases based on increased housing service costs and fair return affect all of the units on the property. Attach additional sheets if necessary.

Address	Unit #	Tenant Name(s)	Phone	E-mail	Current Rent
1924 9TH AVE, OAKLAND, CA 94606	409	CORLISS ARD			985.47
1924 9TH AVE, OAKLAND, CA 94606	206	KISHA R. WALTON			982.78
1924 9TH AVE, OAKLAND, CA 94606	207	KARIM CHIBANE			1071.96
1924 9TH AVE, OAKLAND, CA 94606	208	KATALINA BALAWANILOTU			913.82
1924 9TH AVE, OAKLAND, CA 94606	301	ALEXANDER A. ENDRENYI			989.38
1924 9TH AVE, OAKLAND, CA 94606	302	JEREMY L. ROLAND			1925
1924 9TH AVE, OAKLAND, CA 94606	303	SALVADOR C. NUNEZ			1031.91
1924 9TH AVE, OAKLAND, CA 94606	304	ERIKA M. CUMMINGS			1010.36

List each tenant and requested information for each unit affected by this petition. Increases based on increased housing service costs and fair return affect all of the units on the property. Attach additional sheets if necessary.

Address	Unit #	Tenant Name(s)	Phone	E-mail	Current Rent
1924 9TH AVE, OAKLAND, CA 94606	305	EVA C. NUNEZ			1040.98
1924 9TH AVE, OAKLAND, CA 94606	306	DANIEL A. FIELDMAN			1007.30
1924 9TH AVE, OAKLAND, CA 94606	307	ANGELA EMERSON			906.55
1924 9TH AVE, OAKLAND, CA 94606	308	ALAN M. BAILEY			1639.56
1924 9TH AVE, OAKLAND, CA 94606	309	SOPHIA STEWARD			1048.92
1924 9TH AVE, OAKLAND, CA 94606	407	LAI WA WU			1024.99
1924 9TH AVE, OAKLAND, CA 94606	408	RALPH GLENN			912.26
1924 9TH AVE, OAKLAND, CA 94606	411	GOKCE SENCAN			1645

**Capital Improvements:** Capital improvements increases may be taken to reimburse the property owner for property improvements. Reimbursement is limited to 70% of the cost of the improvement spread out over an amortization period as set forth in the Amortization Schedule below. The property owner must show the costs incurred were to improve the property and benefit the tenants. Property owners must also show that these costs were paid. Examples include: copies of receipts, invoices, bid contracts or other documentation.

- If your petition contains capital improvements for which permits are first issued on or after February 1, 2017, capital improvements will be amortized according to an amortization schedule (attached at the end of this form).
- If the petition includes only work where permits were issued before February 1, 2017, improvements will be amortized over five years unless the increase causes a rent increase over 10 percent in one year or 30 percent in five years, in which case the amortization period will be extended until the rent increase is smaller than 10 percent in one year or 30 percent in five years.

<b>Building-Wide Capital Improvements</b> CATEGORY (attach separate sheet if needed)	TOTAL COSTS	DATE COMPLETED	DATE PAID FOR
STRUCTURAL IMPROVEMENTS	\$182,337	3/20/2018	3/20/2018
SPECIAL INSPECTIONS	\$7961.64	4/19/2018	4/19/2018
STRUCTURAL DESIGN	\$23,957	8/15/2018	8/15/2018
RE-ROOFING	\$34,050	6/23/2017	6/23/2017
PARKING LOT RE-PAVING	\$19,996.24	1/4/2019	1/4/2019
<b>SUBTOTAL:</b>	<b>\$200,201.88</b>		

<b>Unit-Specific Capital Improvements</b> CATEGORY (attach separate sheet if needed)	TOTAL COSTS	DATE COMPLETED	DATE PAID FOR	AFFECTED UNITS
<b>SUBTOTAL:</b>				

**Verification (Each petitioner must sign this section):**

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



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



\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**File Review**

Your tenant(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 Tenant's Response. Copies of attachments submitted with the Response form are not sent, out, but can be reviewed in person at the Rent Adjustment Program office by calling (510) 238-3721 to schedule a file review.** 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.

**Mediation Program**

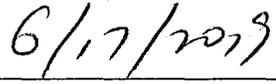
If you are interested in submitting your dispute to mediation, please read the following information carefully. To request mediation, all petitioners must sign the form that follows. Voluntary mediation of rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both you and your tenant(s) agree and after both a petition and a response have been filed with the Rent Adjustment Program. You may elect to use a Rent Adjustment Program staff Hearing Officer acting as mediator or an outside mediator. Staff Hearing Officers are available to conduct mediation free of charge. Any fees charged by an outside mediator for mediation of rent disputes will be the responsibility of the parties requesting the use of their services. If you are unable to resolve your dispute after a good faith attempt at mediation, you will be given a priority hearing presided by a Hearing Officer other than your mediator.

**IF YOU WANT TO SUBMIT YOUR CASE TO MEDIATION, PLEASE CHECK THE APPROPRIATE BOX AND SIGN.**

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

I agree to have my case mediated by an outside mediator (fees to be paid by the parties).

  
\_\_\_\_\_  
Owner's Signature (for mediation request)

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner's Signature (for mediation request)

\_\_\_\_\_  
Date

THIS DOCUMENT HAS A POLYMER MASK AND WILL BE DIFFICULT TO REPRODUCE FROM COPY FILES

### CITY OF OAKLAND BUSINESS TAX CERTIFICATE

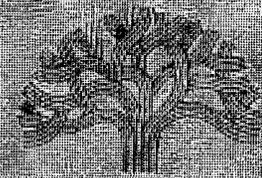
ACCOUNT NUMBER  
00183586

In return for the Business Tax Certificate for business purposes only, the City of Oakland hereby certifies that the holder of this certificate is exempt from the responsibility of compliance with the provisions of the other sections of the City of Oakland Code that apply to the holder of this certificate, as required by the City of Oakland or any other governmental agency. The Certificate is valid for one year from the date of issuance. The fee for this certificate is \$100.00 per year. Per Section 8.04.010, the City of Oakland will not be liable for a refund of any amount paid for this certificate.

DEPARTMENT OF PROPERTY MANAGEMENT

BUSINESS LOCATION

974 9TH AVE  
OAKLAND, CA 94616-2668



EXPIRES ON DATE  
1/31/2019

BUSINESS TYPE

M - Rental Apartment



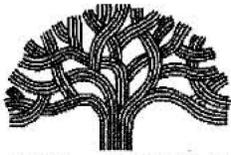
DEPARTMENT OF PROPERTY MANAGEMENT  
2341 TELEGRAPH AVE  
BERKELEY, CA 94705-2017

THIS DOCUMENT IS ALTERATION PROTECTED AND REFLECTS FLUORESCENT FIBERS UNDER UV LIGHT

A BUSINESS TAX CERTIFICATE IS REQUIRED FOR EACH BUSINESS LOCATION AND IS NOT VALID FOR ANY OTHER ADDRESS.

ALL OAKLAND BUSINESSES MUST OBTAIN A VALID ZONING CLEARANCE TO OPERATE YOUR BUSINESS LEGALLY. RENTAL OF REAL PROPERTY IS EXCLUDED FROM ZONING.

PUBLIC INFORMATION ABOVE THIS LINE TO BE CONSPICUOUSLY POSTED!



CITY OF OAKLAND

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM  
2019 NOV 18 PM 12:04

MS/BC

### RENT ADJUSTMENT PROGRAM

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

**CASE NUMBER L19-0163**

### TENANT RESPONSE CONTESTING RENT INCREASE

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

Your Name <i>Katalina Balawanikta</i>	Complete Address (with Zip Code) <i>1924 9th Ave #208 Oakland, CA 94606</i>	Telephone [REDACTED]
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: \_\_\_\_\_

Are you current on your rent?  Yes \_\_\_\_\_ No \_\_\_\_\_

#### **Rental History:**

Date you entered into the Rental Agreement for this unit: \_\_\_\_\_

Date you moved into this unit: \_\_\_\_\_

Is your rent subsidized or controlled by any government agency, including HUD (section 8)?

Yes \_\_\_\_\_  No \_\_\_\_\_

Initial Rent: *\$550.00 a MONTH*

Initial rent included (please check all that apply)

Gas  Electricity  Water  Garbage  Parking  Storage  Cable TV

Other (if other please specify): \_\_\_\_\_

000239  
T-Response 208



**Important Information**

This form must be received at the following address within the time limits prescribed by Oakland Municipal Code, Chapter 8.22. City of Oakland, Housing Residential Rent & Relocation Board, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. For more information, please call: 510-238-3721.

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

**File Review**

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

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

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

**MEDIATION PROGRAM**

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

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).

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.

  
Tenant's Signature (for Mediation)

Nov. 18. 2019  
Date

\_\_\_\_\_  
Tenant's Signature (for Mediation)

\_\_\_\_\_  
Date

TO  
City of Oakland  
Rent Adjustment Program  
250 Frank H. Ogawa Plaza, Suite 5313  
Oakland CA. 94606-0234

FROM  
Katalina Balawanilotu  
1924 9<sup>th</sup> Avenue #208  
Oakland CA 94606

CASE NUMBER LP19-0163  
Contesting

DATE  
November 18<sup>th</sup> 2019

---

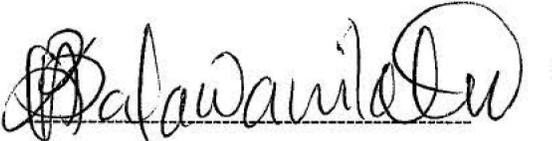
The Landlord did not provide me with  
justified proof re: expenses listed under capital improvements.

How much are they asking increase amount to be

Unclear if incremental yearly increases will return to 3.5% at the end of repayments sought

Parking Lot re-paving included (\$19,996.24) is included in landlord's petition but am paying already  
\$50.00 a month for parking when in the past 18 years since moving in, I have always parked on assigned  
spot for free.

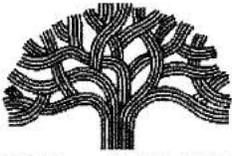
Special Inspections – This operation did not happen  
Structural Improvements – This did not happen  
Structural Design – This did not happen

  
Katalina Balawanilotu

000242

2019 NOV 22 PM 1:37

MS/BL



CITY OF OAKLAND

**RENT ADJUSTMENT PROGRAM**

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

**CASE NUMBER L19-0163**

**TENANT RESPONSE CONTESTING RENT INCREASE**

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

Your Name <i>Alan Bailey</i>	Complete Address (with Zip Code) <i>1924 9TH AVE APT 308 OAKLAND, CA, 94606</i>	Telephone 
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: 1

Are you current on your rent? Yes \_\_\_\_\_ No

**Rental History:**

Date you entered into the Rental Agreement for this unit: 12/11/2015

Date you moved into this unit: 12/13/2015

Is your rent subsidized or controlled by any government agency, including HUD (section 8)?

Yes \_\_\_\_\_ No

Initial Rent: \$ 1550.00 + 35.00 parking = 1585.00

Initial rent included (please check all that apply)

( ) Gas ( ) Electricity ( Water ( Garbage ( Parking ( ) Storage ( ) Cable TV ( )

Other (if other please specify): \_\_\_\_\_

PAID EXTRA FOR PARKING

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

Yes  No

Please list the date you first received the Notice to Tenants \_\_\_\_\_

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?	
		From	To	Yes	No
7/17/19	9/1/19			Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
7/17/18	9/1/18	\$ 1639.56	\$ 1696.94	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
		\$ 1585.65	\$ 1639.56	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
7/17/16	9/1/17	\$ 1550.00	\$ 1585.65	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"/>

**Contested Justification(s) for Rent**

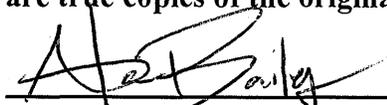
Please attach a brief statement explaining why the owner is not entitled to the proposed increase. The legal justifications are Banking, Capital Improvements, Increased Housing Service Costs, Debt Service, Uninsured Repair Costs, and Necessary to Meet Constitutional Fair Return requirements.

- Banking**
- Capital Improvements**
- Increased Housing Service Costs**
- Debt Service**
- Uninsured Repair Costs**
- Constitutional Fair Return**

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. The property owner has the burden of proving the contested rent increase is justified.

**Verification**

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

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

11/11/19  
 \_\_\_\_\_  
 Date

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

\_\_\_\_\_  
 Date

**Important Information**

This form must be received at the following address within the time limits prescribed by Oakland Municipal Code, Chapter 8.22. City of Oakland, Housing Residential Rent & Relocation Board, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. For more information, please call: 510-238-3721.

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

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

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

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

**MEDIATION PROGRAM**

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

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).

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.

*A. Bailey*  
Tenant's Signature (for Mediation)

11/11/19  
Date

\_\_\_\_\_  
Tenant's Signature (for Mediation)

\_\_\_\_\_  
Date

# 30 Day Notice of Change of Monthly Rent

To Alan M. Bailey, Erika S. Nadreau (Resident) for the

(And all other occupants in possession)

premises located at: 1924 9th Avenue

(Address)

Unit 308, (if applicable) Oakland

, California 94606

(City)

(Zip)

NOTICE IS HEREBY GIVEN, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or 9/1/2018, whichever is later, your monthly rent is payable in advance on or before the

(Date)

1st day of each month, will be the sum of \$ 1,696.94, instead of \$ 1,639.56, the current monthly rent.

A copy of the Oakland RAP form is on reverse for your convenience.

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



7/17/2019

Date

Owner/Agent

Alan M. Bailey, Erika S. Nadreau

1924 9th Avenue

Unit # 308

Oakland, CA 94606

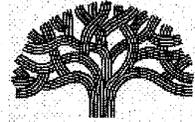


Form provided by the East Bay Rental Housing Association®

[www.ebrha.com](http://www.ebrha.com)

Form 30 Day Notice of Change of Monthly Rent© (02/12)





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

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

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

#### TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or  IS NOT permitted in Unit 308, the unit you intend to rent.
- Smoking (circle one) IS or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant's building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or  IS NOT a designated outdoor smoking area. It is located at \_\_\_\_\_.

I received a copy of this notice on 7/17/19  
 (Date)

[Signature]  
 (Tenant's signature)

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

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

MS/BC

RENT ADJUSTMENT PROGRAM  
2019 NOV 18 AM 9:26



CITY OF OAKLAND

**RENT ADJUSTMENT PROGRAM**

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

**CASE NUMBER L19-0163**

**TENANT RESPONSE CONTESTING RENT INCREASE**

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

Your Name Ralph Glenn Reynetta Glenn	Complete Address (with Zip Code) 1924 9th Avenue APT 408 OAKLAND, CA 94606	Telephone [REDACTED]
Your Representative's Name	Complete Address (with Zip Code) /	Telephone

Number of Units on the parcel: 1

Are you current on your rent? Yes X No \_\_\_\_\_

**Rental History:**

Date you entered into the Rental Agreement for this unit: Feb 1998

Date you moved into this unit: Feb 1998

Is your rent subsidized or controlled by any government agency, including HUD (section 8)?

Yes \_\_\_\_\_ No X

Initial Rent: \$ 944 monthly

Initial rent included (please check all that apply)

( ) Gas ( ) Electricity X Water X Garbage ( ) Parking ( ) Storage ( ) Cable TV ( )

Other (if other please specify): \_\_\_\_\_

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

Yes X No \_\_\_\_\_

Please list the date you first received the Notice to Tenants \_\_\_\_\_

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

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?	
		From	To		
8/1/19	9/1/19	\$ 912 <sup>00</sup>	\$ 944 <sup>00</sup>	Yes <u>X</u>	No
		\$	\$ <del>912</del>	Yes	No
		\$	\$	Yes	No
		\$	\$	Yes	No
		\$	\$	Yes	No
		\$	\$	Yes	No
		\$	\$	Yes	No

**Contested Justification(s) for Rent**

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

- Banking
- Capital Improvements
- Increased Housing Service Costs

- Debt Service
- Uninsured Repair Costs
- Constitutional Fair Return

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. The property owner has the burden of proving the contested rent increase is justified.

**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.

Ralph Glenn  
Tenant's Signature

11/18/19  
Date

Rafaela Glenn  
Tenant's Signature

11/18/19  
Date

**Important Information**

This form must be received at the following address within the time limits prescribed by Oakland Municipal Code, Chapter 8.22. City of Oakland, Housing Residential Rent & Relocation Board, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. For more information, please call: 510-238-3721.

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**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.

\_\_\_\_\_  
**Tenant's Signature (for Mediation)**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Tenant's Signature (for Mediation)**

\_\_\_\_\_  
**Date**

11/18/19

This statement is a request to deny owner of property at 1924 4th Avenue Oakland, CA 94606 rent increases for units of this property for the following reasons:

1. Receive rate increases every year 3% since 1999 without yearly pay raise at employment.
- \* 2. Owner charges \$25<sup>00</sup> for monthly parking additional to rent. (Previous owners did not charge)
3. Patio deck needs safety repairs. We were told by owners that the patio cannot be fixed because city of Oakland said patio was not city approved. But yet, the patio still is up at my unit. not fixed or torn down.
4. It takes 30 days to respond to simple request for improvements (painting, sink & general unit repairs)
5. Owner charges to use laundry machines. Must pay machines to wash.
6. They let tenants bring in people who are not on lease. (safety issue).

000251

1 of 2

17. Owner lets cars who didn't pay <sup>25<sup>00</sup></sup> monthly fee park in spaces for free. while residents have to pay. Parking rules not enforced.

Tenants of 1924 9th Ave #408  
OAKLAND CA 94606

---

Ralph Glenn  
Deputa Glenn

Residents at this building  
since Feb 1998.



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

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

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- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Tenants in subsidized units are not required to pay the tenant portion of the fee.
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- The owner \_\_\_ is \_\_\_ is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act). If the owner is not permitted to set the initial rent without limitation, the rent in effect when the prior tenant vacated was \_\_\_\_\_.

#### TENANTS' SMOKING POLICY DISCLOSURE

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

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

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

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

# 30 Day Notice of Change of Monthly Rent

To Ralph Glenn, Reynetta N. Glenn (Resident) for the

(And all other occupants in possession)

premises located at: 1924 9th Avenue

(Address)

Unit 408, (if applicable) Oakland, California 94606

(City)

(Zip)

NOTICE IS HEREBY GIVEN, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or 9/1/2018, whichever is later, your monthly rent is payable in advance on or before the

(Date)

1st day of each month, will be the sum of \$ 944.19, instead of \$ 912.26, the current monthly rent.

A copy of the Oakland RAP form is on reverse for your convenience.

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

*SRM/jm.*

7/17/2019

Date

Owner/Agent

Ralph Glenn, Reynetta N. Glenn  
1924 9th Avenue Unit # 408  
Oakland, CA 94606

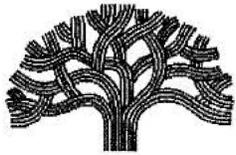
\*DATE of 9/1/2018 as effective date is incorrect. Actual date is 9/1/19.

*Ralph Glenn*  
*11/18/19*



2019 NOV 13 PM 12:43

MS/BL



CITY OF OAKLAND

**RENT ADJUSTMENT PROGRAM**

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

**CASE NUMBER L19-0163**

**TENANT RESPONSE CONTESTING RENT INCREASE**

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

Your Name <b>Gokce Sencan</b>	Complete Address (with Zip Code) <b>1924 9th Ave #411 Oakland, CA 94606</b>	Telephone <b>[REDACTED]</b>
Your Representative's Name <b>Gokce Sencan</b>	Complete Address (with Zip Code) <b>same as above</b>	Telephone <b>same as above</b>

Number of Units on the parcel: 30

Are you current on your rent? Yes  No

**Rental History:**

Date you entered into the Rental Agreement for this unit: 9/13/2018

Date you moved into this unit: 10/12/2018

Is your rent subsidized or controlled by any government agency, including HUD (section 8)?

Yes  No

Initial Rent: \$ 1645

Initial rent included (please check all that apply)

( ) Gas ( ) Electricity  Water  Garbage ( ) Parking ( ) Storage ( ) TV ( )

Other (if other please specify): \_\_\_\_\_

T. Res #000255411

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

Yes  No

9/13/2018

Please list the date you first received the Notice to Tenants \_\_\_\_\_

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

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

**Contested Justification(s) for Rent**

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

**Banking  
Capital Improvements  
Increased Housing Service Costs**

**Debt Service  
Uninsured Repair Costs  
Constitutional Fair Return**

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. The property owner has the burden of proving the contested rent increase is justified.

**Verification**

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

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

11/11/2019  
\_\_\_\_\_  
Date

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

11/11/2019  
\_\_\_\_\_  
Date

**Important Information**

This form must be received at the following address within the time limits prescribed by Oakland Municipal Code, Chapter 8.22. City of Oakland, Housing Residential Rent & Relocation Board, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. For more information, please call: 510-238-3721.

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

**File Review**

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

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

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

**MEDIATION PROGRAM**

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

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).

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.

  
\_\_\_\_\_  
Tenant's Signature (for Mediation)

11/11/2019  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Tenant's Signature (for Mediation)

\_\_\_\_\_  
Date

November 11, 2019

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

To whom it may concern,

I have been residing in unit 411 of the apartment complex located on 1924 9th Avenue, managed by Happy Home Partners since October 12, 2018. I was notified by the City of Oakland's Rent Adjustment Program of the rent increase proposed by the owner of the apartment complex. In response, I am filing a contest against Case Number L19-0163 on the following grounds:

1. Despite having moved into the apartment complex after most improvements were completed and paid for, I was not informed of neither these expenses nor the possibility of these expenses being passed onto the tenant. At no stage before or after I signed my contract was I provided with this information.
2. I moved to the apartment unit after all the capital improvements except for the parking lot repavement were completed and paid for by the owner. Since the rent that I agreed to pay one year ago was at the market rate, the expenses from improvements prior to my move are presumptively embedded in my current rental rate.
3. I do not own a car, and because of this, do not own a parking spot in the parking lot. Therefore, I argue that I do not receive benefits from the parking lot repavement and that my unit be exempt from the costs incurred related to parking lot improvements.

I am confident that my case will be considered by the Rent Adjustment Program staff with due diligence and attention. I would be happy to provide more information and documents if needed. You can find my contact information below this petition.

Sincerely,

Gokce Sencan



Contact information:

Gokce Sencan  
1924 9th Avenue  
#411  
Oakland, CA 94606

Phone:

E-mail:

000258

**HAPPY HOME PARTNERS, LLC.**

2941 Telegraph Avenue, Berkeley, CA 94705

**NEW TENANT MOVE-IN FORM**

Move-In Date: 10/12/2018 Property: 1924 9th Avenue, 411, Oakland, CA 94606

Tenant(s): Gokce Sencan

Rent: \$ 1,645.00 Parking:  Yes, Space # \_\_\_\_\_  No  
Parking is \$50.00 / month with a \$50.00 Gate Opener Deposit (if applicable)

**KEY RECORD**

Front Gate Key	1
Apartment Key	1
Mailbox Key	1
Gate Opener	0
Misc. Key	0

There is a minimum fee of \$10.00 for the loss or replacement of each of the above keys.

Disclosure: Happy Home Partners, LLC does not provide lock-out service. If resident(s) loses his or her keys, the resident is responsible for the cost of regaining access and/or replacing locks. Resident(s) is/are fully responsible for any locksmith costs. If management is called and available, there will be a minimum charge of \$50 due at the time of service.

**RENT AND DEPOSIT PAYMENTS**

First Month's Rent\* from 10/12/2018 to 11/11/2018 \$ 1,645.00  
 Security Deposit \$ 500.00  
 Total amount paid on 9/13/2018 \$ 500.00

*\*First month's rent due in full prior to moving in. Pro-rated rents are due the second month of tenancy.*

Next Month's Rent/Pro-rated amount due on 10/1/2018 \$ 1137.00

PGE Account # 7515726508-5 (PGE: 800-743-5000)

Renter's Insurance Policy # H47-268-290329-70

DocuSigned by:  
Gokce Sencan 14.9.2018 16:44:46 PDT  
Resident Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Resident Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Resident Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Resident Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**000259**

# Holding Deposit Agreement

On 9/13/2018 (date), Owner/Agent received \$ 500.00 as a holding deposit from the undersigned, hereinafter called "Applicant" as consideration for the Owner/Agent's agreement to take off the rental market the premises located at:

1924 9th Avenue, 411, Oakland, CA 94606, Unit # (if applicable) 411  
(Street Address)

Oakland, CA 94618  
(City) (Zip)

1. **Binding Agreement.** Applicant understands that once this Agreement is signed by Applicant, and the holding deposit is received by Owner/Agent, the premises will be taken off the rental market and reserved for Applicant, and other potential applicants will be turned away. Note that a binding rental agreement will be subject to Owner/Agent's acceptance of Applicant's application, and subject to Owner/Agent and Applicant entering into the following Rental/Lease Agreement and that this Holding Deposit Agreement will be binding upon execution by Owner/Agent and Applicant. The monthly rent under the Rental/Lease Agreement will be \$1,645.00 per month and the term of the Rental/Lease Agreement will be as follows (Owner/Agent check only one):

a month-to-month term, beginning on \_\_\_\_\_ (Date)

a fixed term of one year (Term), beginning on 10/12/2018 (Date) and ending on 10/11/2019 (Date)

2. **Denial of Application by Owner/Agent-Deposit Refund.** If Applicant's application is not approved within three (3) business days from the date of this agreement Owner/Agent will refund to Applicant the entire deposit amount within \_\_\_\_\_ business days from the date Applicant was notified that the application was not approved (subject to Applicant's check clearing the bank).

3. **Acceptance of Application.** If Owner/Agent approves Applicant, Applicant must sign a Rental/Lease Agreement (in a form acceptable to Owner/Agent) for the premises

no later than the move in date \_\_\_\_\_

or

within 3 business days of notice of Applicant's acceptance, or Owner/Agent will deduct "lost rental damages" (as defined below) incurred by Owner/Agent as a result of holding the subject premises off market. If Applicant signs a Rental/Lease Agreement, Owner/Agent and Applicant  will  will not apply the holding deposit to first month's rent or any month's rent. The holding deposit becomes your Security Deposit after move-in. If there is inconsistency between the terms of this Holding Deposit Agreement, and a Rental/Lease Agreement signed by the parties, the terms of Rental/Lease Agreement will control. In the event the Applicant signs a Rental/Lease Agreement and the unit is not available on the beginning date of the Rental/Lease Agreement due to a priortenant holding over, the Applicant's damages shall be limited to a return of the holding deposit, any security deposit and any advance payment of rent.

4. **Applicant's Failure to Enter into Rental/Lease Agreement.** If Applicant, after approval, chooses not to enter into the Rental/Lease Agreement, Owner/Agent may deduct from the holding deposit "lost rental damages" to cover the lost opportunity to rent the premises.

Owner/Agent and Applicant agree that "lost rental damages" will be 1/30th of the monthly rent specified above for each day the premises was taken off market (beginning on  the date of this agreement or  \_\_\_\_\_) and ending on the date specified in the "Acceptance of Application" section above.

Within 15 business days after the subject premises is put back on the market, Owner/Agent will return to Applicant, at the Applicant's address shown below, any holding deposit balance remaining. If Applicant pays the holding deposit by check, Owner/Agent's return of any holding deposit balance remaining will be subject to prior verification that the Applicant's check has cleared the bank. The holding deposit shall be returned in the form of a single check made out to all Applicants listed below.



Unauthorized Reproduction  
of Blank Forms is Illegal.



- 5. **Attorneys' Fees.** If any legal action or proceeding is brought by either party to enforce any part of this Agreement, the prevailing party will recover, in addition to all other relief, reasonable attorneys' fees and costs.
- 6. **Reservation Cancellation Penalty.** Applicant understands that once this Agreement is signed by Applicant, and the holding deposit is received by Owner/Agent, the premises will be taken off the rental market and reserved for Applicant, and other potential applicants will be turned away. A **Reservation Cancellation Penalty of \$500** will apply to change to another property or unit, effective 3 days after this document has been signed. The entire holding deposit will be forfeited, should the Applicant decide not to move into any of the properties held by the Owner/Agent.

DocuSigned by:  
**Gokce Sencan**  
 Applicant's Signature 14.9.2018 16:44:46 PDT

Applicant's Signature

Applicant's Name (please print)

Applicant's Name (please print)

Applicant's Address

Applicant's Address

Home Phone Work Phone

Home Phone Work Phone

Applicant's Signature

Applicant's Signature

Applicant's Name (please print)

Applicant's Name (please print)

Applicant's Address

Applicant's Address

Home Phone Work Phone

Home Phone Work Phone

10/18/2018 8:01:09 AM PDT  
Date

DocuSigned by:  
**George Shafazand**  
 80E6057377544E1  
 Owner/Agent

Happy Home Partners, LLC.



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# Residential Rental Agreement ("Agreement")

Owner/Agent rents to Resident(s) and Resident(s) rent from Owner/Agent the Premises subject to the following terms and conditions.

### Terms of Tenancy

**Date:** 9/13/2018

**Owner/Agent:** Happy Home Partners, LLC.

**Original Resident(s)** Gokce Sencan (Name/DOB)

**(All persons aged 18 or older and emancipated minors):** \_\_\_\_\_ (Name/DOB)

\_\_\_\_\_ (Name/DOB)

\_\_\_\_\_ (Name/DOB)

\_\_\_\_\_ (Name/DOB)

\_\_\_\_\_ (Name/DOB)

\_\_\_\_\_ (Name/DOB)

**Property:** The Property is located at: 1924 9th Avenue, 411, Oakland, CA 94606 [Street Address].

Owner/Agent rents to Original Resident(s) [hereafter "Residents"] and Resident(s) rents from Owner/Agent the real property and improvements described as:

1924 9th Avenue, 411, Oakland, CA 94606 [hereafter "Premises"].

The Property and Premises are owned by: Happy Home Partners, LLC.

Owner's authorized Agent is: Happy Home Partners, LLC.

The Premises  is  is not controlled by a local government rent adjustment or just cause for eviction ordinance or law.

**Other Authorized Occupants(s):** \_\_\_\_\_ (Name/DOB)

\_\_\_\_\_ (Name/DOB)

Any persons identified as an Other Authorized Occupant(s), including minor children of a Resident(s), has/have no independent right(s) of tenancy separate from the rights of a Resident(s). Upon the last Resident vacating the Premises, all Other Authorized Occupants must contemporaneously vacate the Premises even if a Resident's minor child has reached the age of maturity. Upon the vacating of the Premises by the last Resident in possession, Owner/Agent may adjust the rent pursuant to California Civil Code.

**Initial Payments By Residents:** Residents have made the following payments:

a) **Rent:** \$ 1,645.00 for Rent from 10/12/2018 to 11/11/2018 (Dates)

received by Owner/Agent on 9/13/2018 (Date). A balance of Rent in the amount of \$ 1137.00 is due on or before 10/1/2018 (Date).

b) **Security Deposit:** \$ 500.00 for Security Deposit from start of tenancy to End of tenancy (Dates)

received by Owner/Agent on 9/13/2018 (Date). A balance of Security Deposit in the amount of \$ 0 is due on or before 9/13/2018 (Date).

c) **Credit Check(s):** \$ 35 received by Owner/Agent on 9/13/2018 (Date). A

balance in the amount of \$ 0 is due on or before 9/13/2018 (Date).



# Residential Rental Agreement ("Agreement")

**Rent:**

Rent shall be the obligation of the Resident(s) to pay Owner/Agent pursuant to the terms of this Agreement, excluding the Security Deposit and the payment of damages.

- A. Resident(s) agree to pay \$ 1,645.00 per month, in advance for the Term.
- B. Rent is due in advance on the 1st day of each month and is delinquent the following day.
- C. Rent shall be paid by Resident(s) to:
  - 1. Happy Home Partners, LLC. (Name of Owner/Agent)
  - 2. 2941 Telegraph Avenue, Berkeley, CA 94705 (Address or other location specified by Owner/Agent)
  - 3. \_\_\_\_\_ (Alternate location as specified by Owner/Agent)
  - 4. If rent is paid in person, the location, days and time for making such payments are as follows:
    - a) Address: 2941 Telegraph Avenue, Berkeley, CA 94705
    - b) Days: From Monday to Friday; and
    - c) Time: From 9:00 am to 5:00 pm.
  - 5. Owner/Agent may elect to require Rent to be paid in cash for three months and all future Rent to be paid by  Money Order or  Certified Cashier's check if any check is returned for non-sufficient funds ("NSF") or because Resident(s) stops payment.

**Use Of Premises:**

The Premises shall only be used as the principal residence of the Resident(s) and for no other purpose.

**Term:**

The term begins 10/12/2018 ("Commencement Date") and shall be either:

- a)  Month To Month and shall continue as a month to month tenancy. Notice to terminate by either party is governed by law and may be given at any time.
- b)  Lease and shall terminate on 10/11/2019 (Date) at 12:00 A.M. All Resident(s) are to vacate the Premises upon termination of this Agreement unless a written agreement, signed by Owner/Agent and Resident(s) extends this Agreement, Owner/Agent and Resident(s) sign a new written agreement, termination is otherwise controlled by state or local law, or Owner/Agent accepts the payment of rent from Resident(s) which shall be solely construed as a month to month tenancy. Either party may terminate the month to month tenancy pursuant to applicable law. A 30-day written Notice-To-Vacate must always be provided to the Owner/Agent before vacating the Premises unless otherwise stated by the Owner/Agent.

If Owner/Agent is not able to deliver possession of the Premises on the Commencement Date, the Commencement Date may be extended to:

\_\_\_\_\_ ("Extended Commencement Date"). If Owner/Agent is unable to deliver possession of the Premises on the Extended Commencement Date, Resident(s) may terminate this Agreement by giving written notice to Owner/Agent and all pre-paid Rent and Security Deposit shall be refunded to Resident(s).

**Security Deposit:**

Resident(s) agrees to pay \$ 500.00 as a security deposit which shall be held by  Owner  Agent.

- A. Use, disposition and accounting of the Security Deposit is governed by law, which among other things, may be used by Owner/Agent at any time to cure Resident(s) default in the payment of rent, costs of repairs or damages (excluding normal wear and tear) caused by Resident(s), guests or invitees, cleaning of the Premises following the termination of tenancy, NSF fees, stop payment fees or other monies owed by Resident(s).
- B. Resident(s) shall not use the Security Deposit for the payment of Rent, including the last month's Rent.
- C. If any portion of the Security Deposit is used during the tenancy, Resident(s) shall replenish the total Security Deposit within three (3) business days following written notice by Owner/Agent to Resident(s), which shall be made, at the election of Owner/Agent, by personal delivery or U.S. mail. Delivery by U.S. mail shall not extend the Resident's time to perform.
- D. The lawful remaining Security Deposit shall not be returned until all Resident(s) have vacated the Premises, Resident caused damages are repaired, cleaning completed, and all of Owner/Agent's personal property has been returned to Owner/Agent, including all keys and/or transmitters.



# Residential Rental Agreement ("Agreement")

**Utilities:**

A. Resident(s)  shall  shall not separately pay for the following services:  
 Trash  Recycling  Gas  Water  Electricity  Internet  Cable TV or Satellite  
Owner/Agent pays for TRASH & RECYCLING and reserves the right to charge WATER with 60-day notice.

B. Resident(s) agree that any utilities that are the responsibility of Resident(s) shall be placed and maintained in his or her own name(s) with the applicable utility provider(s) within three (3) days of taking possession of the Premises. Resident(s) is/are responsible for timely paying Resident(s)' utility charges and any fees, fines or other charges by the utility provider(s).

C. Resident(s) shall pay any increase in utility rates, fees, charges and fees/charges/fines/assessments imposed for the use, excessive or misuse of the utility by Resident(s) occasioned by government or utility company action(s).

**Parking:**

Any parking on the real property to which the Premises are a part is subject to the parties signing a separate written Parking Agreement. Any vehicles that are parked on the real property to which the Premises are a part may be towed away at Resident(s) expense if they are (1) illegally parked; (2) not currently registered or capable of being driven legally on streets; (3) parked in a manner that causes an unsafe or hazardous condition; or (4) parked in any unauthorized area.

**Condition Of Premises As Of Commencement Date:**

Resident(s) have inspected the Premises (  with Owner/Agent) and agrees that the condition of the Premises, including appearance, cleanliness, operability of the real and personal property are as described in the Move In / Move Out Form attached to this Agreement as Addendum "A".

**Maintenance:**

A. Resident(s) shall maintain, correctly use and safeguard the Premises including all personal property, landscaping, appliances, plumbing fixtures, electrical, mechanical, gas/smoke/carbon monoxide detectors and devices, heating and air conditioning equipment. It is the Resident(s) responsibility to keep the Premises sanitary and clean.

B. Resident(s) shall within 3 business days of written notice by Owner/Agent pay to Owner/Agent the cost of all repairs, replacements or cleaning that Owner/Agent determines were caused by Resident(s), guests or invitees, and animals of the Resident(s), guests or invitees, excluding normal wear and tear.

**C. RESIDENTS ARE RESPONSIBLE FOR IMMEDIATELY NOTIFYING OWNER/AGENT, IN WRITING, OF ANY CONDITIONS THAT MAY REQUIRE REPAIR, REPLACEMENT, OR SERVICE OR WHICH COULD BE A THREAT TO RESIDENT(S) HEALTH OR WHICH COULD LEAD TO A SUBSTANDARD OR UNINHABITABLE CONDITION OF THE PREMISES. RESIDENTS SHALL IMMEDIATELY PAY OWNER/AGENT FOR ALL DAMAGE THAT IS A RESULT OF NOT REPORTING SUCH CONDITIONS TO OWNER/AGENT IN A TIMELY MANNER. FAILURE TO TIMELY NOTIFY OWNER/AGENT IS A MATERIAL BREACH OF THIS AGREEMENT.**

Owner/Agent  Resident(s) shall maintain the exterior landscaping described as follows:

Resident not responsible for exterior landscaping.

Owner/Agent  Resident(s) shall maintain the following: No storing or dumping in common areas.

**Storage of Personal Property:**

A. Separate storage space  is or  is not provided in the Rent charged. If it is not included, the storage fee is \$ \_\_\_\_\_ per month. The storage space is designated as: \_\_\_\_\_

["Storage Space"]. The only personal property allowed to be stored in the Storage Space is:

B. No dangerous material, illegal substances or materials, hazardous materials, explosive, flammable or perishable materials may be stored in Storage Space or in or on the Premises.

**Animals:**

No animal is permitted on the Premises or the real property to which the Premises are a part unless agreed to by Owner/Agent pursuant to a separate prior written agreement or unless permitted by law.

Permitted animals are identified in Addendum (Addendum "B").

All animals at the Property shall comply with the Pet Addendum (Addendum "B".)

Resident(s) shall not feed or house any stray animals.



# Residential Rental Agreement ("Agreement")

**Smoking:**

A.  (If checked) Smoking of any substance by Resident(s), guests or invitees is not permitted in or outside the Premises or the real property to which the Premises is a part.

B.  (If checked) Smoking of any substance is only permitted in the following designated areas:

C. No smoking or restricted area smoking requirements may be different upon Resident(s), guests or invitees based on state or local law and by existing agreements with the Owner/Agent.

Resident(s) are responsible for all damage caused by smoking, including the cost of cleaning the Premises, repainting and replacement of floor coverings or other real or personal property regardless of when last cleaned or replaced.

No smoking or restricted area smoking restrictions are not a guarantee of air quality, reduced health risks or any impact on a person's health. Enforcement of any smoking restriction does not constitute a change in the duties Owner/Agent has under the law, including the warranty of habitability, the laws on nuisance, quiet enjoyment or any other standard of care that may or may not be owed to Resident(s), guests or invitees. Violations of law under this paragraph shall be enforced by the local government.

**Rules and Regulations:**

A.  Resident(s) shall comply with all Rules and Regulations that are posted on the Premises or  a copy of the Rules and Regulations are delivered to the Resident(s) or the real property of which the Premises are a part.

B.  Resident(s) shall comply with the Rules and Regulations that are attached to this Agreement as Addendum "C".

C. Resident(s) are responsible for ensuring that Other Authorized Occupants, guests and invitees comply with the Rules and Regulations.

D. Owner/Agent may impose, change or modify any Rule and Regulation at any time. Any imposition, change or modification to any Rule and Regulation is not and shall not constitute or be construed to be a diminution of value or decrease in housing services.

E. Residents, their guests and invitees shall not interfere, endanger, disturb or annoy other Resident(s) or occupants, guests or invitees of neighboring properties or use the Premises for any unlawful purpose. Residents, their guests and invitees shall not commit waste, or create a nuisance at the Premises or in general.

F. The Premises  is  is not in a homeowner association ["HOA"]. If applicable:

1. The name of and contact information for the HOA is:

\_\_\_\_\_ (Name)  
\_\_\_\_\_  
\_\_\_\_\_ (Street or Mailing Address)  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (City / State / Zip Code)

2. Resident(s), their Other Authorized Occupants, guests and invitees shall comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions of the HOA. Decisions of the HOA that limit or restrict in any manner use or access to common areas due to the conduct of Resident(s), their Other Authorized Occupants, guests or invitees shall be binding. Any fee or fine imposed by HOA due to the failure of Residents, their Other Authorized Occupants, guests or invitees shall be paid by Resident(s) on or before the due date.

3. Owner/Agent  has delivered or  will deliver a copy of the governing documents of the HOA to Resident(s) on \_\_\_\_\_ (Date).

**Pool/Spa/Hot Tub**

A. The Premises  does  does not include a swimming pool, spa and/or hot tub ["Pool"]. Use of the Pool and Pool area is a privilege and not a right. Use of Pool by Resident(s) may be restricted or revoked by Owner/Agent if Pool rules are not followed, sanitary conditions prohibit use or maintenance is required or being performed. Owner/Agent may deny or limit access and use of the Pool and Pool Area to Resident(s), Other Authorized Occupants, guests or invitees at Owner/Agent's discretion. Pool rules may be modified at Owner/Agent's discretion. If applicable, Pool and Pool Area Rules are attached hereto and incorporated herein as Addendum "D".



# Residential Rental Agreement ("Agreement")

**Late Charges, NSF Fees:**

- A. If Owner/Agent incurs costs and expenses associated with Resident(s) payment of Rent, Security Deposit or any other late fee or charge, Resident(s) agree to immediately pay Owner/Agent for those costs and expenses. These costs include but are not limited to accounting, enforcement, late charges and processing fees and costs. Any such costs, expenses and charges shall be in addition to rent owed.
- B. Rent is late if not timely paid in full or, if permitted by Owner/Agent by a prior written agreement signed by Owner/Agent, pursuant to agreed to installment payments.

If Resident(s) fails to timely pay Rent when due, or if Resident(s) check is returned for any reason, Resident(s) shall immediately pay an additional \$ 25 first day late + \$2 per day thereafter as a late fee and \$30.00 as a NSF fee for the first returned check and \$35.00 for each subsequent returned check. Resident(s) agree that these charges and fees are a fair and reasonable estimate of the costs the Owner/Agent may incur. In no case shall acceptance of any Late Charge or NSF fee constitute a waiver as to any default in Rent. Late fees or charges shall not be considered Rent. An Owner/Agent may exercise all other legal remedies due to the failure to pay Rent when due and the total amount of Rent to be paid when due.

**Accounting:**

Monies received from Resident(s) shall be applied first to late fees, NSF fees, other charges due and owing, replenishment of Security Deposit, past due Rent and last, to current Rent due and owing.

**Neighborhood and Security:**

Resident(s) are solely responsible for determining if the neighborhood and area are satisfactory. This includes proximity to schools, public transportation, parks, law enforcement, crime, felons, registered sex offenders, fire protection, public safety, noise, traffic, commercial or industrial properties, construction, electromagnetic fields ("EMF"), animals, common area facilities, personal needs facilities, personal preferences or requirements, technology, hazards, location and impact of culture, religious or other needs of Resident(s).

Owner/Agent makes no representation that the property or Premises is "secure" or that the property is safe from theft, injury or damage. Gates, fences and locks are not a warranty of protection nor are they provided for the protection of the Resident(s), guests or invitees. Resident(s) shall protect their own property and contact police of suspicious activities, persons or events on or about the property or Premises.

**Repairs or Alterations:**

Resident(s), Other Authorized Occupants guests or invitees shall not make any repairs, alterations or improvements to the Property or Premises without the prior written consent of Owner/Agent; Examples include painting walls, fastening devices, nails or adhesives, installing satellite dishes, signs, displays or exhibits (except as may be allowed by law) on or in the Premises or areas of the Property. Owner/Agent in its sole authority may deny or reasonably condition any agreed to repairs, alterations or improvements requested by Resident(s). Resident(s) shall not deduct from Rent the costs of any repairs, alterations or improvements that are not completed in compliance with applicable law or regulations. Unlawful deductions from Rent shall be unpaid Rent. Owner/Agent shall not be responsible for any cost of repair or alteration by Residents. Owner/Agent may require Resident(s) to restore the alterations or improvements at Resident(s) sole expense, to the condition they were at the beginning of Resident(s) tenancy, normal wear and tear excepted. Any alteration or improvement that Owner/Agent does not require Resident(s) to restore shall become the property of Owner/Agent at no cost to Owner/Agent.

**Keys:**

1 (insert number) keys have been provided to the Premises or  will be provided on or before 10/12/2018 [Date].

1 (insert number) keys have been provided to the Common Areas or  will be provided on or before 10/12/2018 [Date].

0 (insert number) transmitters are provided to the garage or entry gates or  will be provided on or before 10/12/2018 [Date].

The exterior doors to the Premises  have or  have not been rekeyed.

If Resident(s) rekeys any locks or installs a lock, copies of the keys shall immediately be delivered to Owner/Agent and Resident(s) shall pay for those costs including loss of keys and transmitters.

No lock shall be removed or disabled.



# Residential Rental Agreement ("Agreement")

**Lead-Based Paint and Lead-Based Paint Hazards:**

(If checked) The Premises was constructed prior to 1978. Housing built before 1978 may contain lead-based paint. Lead from this paint including chips or dust from that paint pose health hazards.

A copy of the federally approved "Protect Your Family from Lead in Your Home" pamphlet  has been delivered to Resident(s) or  is to be delivered to Resident(s) on or before 9/13/2018 [Date]. Resident(s) are responsible for providing information about lead-based paint and/or lead-based paint hazards to their guests and invitees. Copies of the pamphlet are also available at: <https://www.epa.gov/lead/protect-your-family-lead-your-home-real-estate-disclosure>

Owner/Agent has no knowledge or  has knowledge of lead-based paint or lead-based paint hazards on the Premises. Lead-based paint or lead-based paint hazards are known to be present in the Premises at: 1924 9th Avenue, 411, Oakland, CA 94606

Owner/Agent  has or  does not have records or reports pertaining to lead-based paint or lead-based paint hazards in the Premises.

Owner/Agent  has provided or  will provide Resident(s) with copies of those records or reports on or before \_\_\_\_\_ [Date].

The following Resident(s) has/have received lead-based paint or lead-based paint hazards documentation referenced above:

\_\_\_\_\_

**Methamphetamine**

Owner/Agent  has or  has not received an order from a health official that prohibits occupancy of the property due to methamphetamine contamination. If Owner/Agent has received such a notice, the notice and order are attached.

**Environmental Hazards Disclosure:**

A copy of the Guide for Homeowners, Buyers, Landlords and Tenants  is  is not attached as Addendum "E".

**Periodic Pest Control and Pesticides:**

See attached Periodic Pest Control Addendum "F".

**Military Ordinance:**

The Premises  is or  is not located within one mile of an area once used for military training which may contain potentially explosive munitions.

**Megan's Law Disclosure:**

Pursuant to Penal Code §290.46, information about certain registered sex offenders is made available to the public via a web site maintained by the California Department of Justice at: [meganslaw.ca.gov](http://meganslaw.ca.gov). Depending on the offender's criminal history, this may include the residence address of the offender or the community of residence and ZIP code of the offender's residence. Owner/Agent is not required to check this web site. Resident(s) should obtain further information if they so desire from this web site or from law enforcement agencies.

**Bed Bug Disclosure:**

See attached Bed Bug Addendum "G".

**Mold & Mildew Disclosure:**

See attached Mold and Mildew Disclosure Addendum "H".

**Asbestos:**

The Premises was built  before or  after 1979. Owner/Agent  is aware of or  is not aware of asbestos containing construction materials.

**Smoke Detection Alarms and Devices and Carbon Monoxide Devices Disclosures and Duties:**

The Premises is equipped with operable smoke detection alarms or devices and carbon monoxide devices that are approved by the California State Fire Marshal. The devices and alarms have been installed in accordance with the manufacturer's instructions.

Resident(s) are responsible for periodically checking the alarms and devices to determine they are in working order. Resident(s) are responsible for replacing batteries in alarms and devices when necessary. Resident(s) shall immediately notify Owner/Agent, in writing, if an alarm or device is not working properly or becomes inoperable. TAMPERING WITH OR DESTROYING ALARMS AND DEVICES OR REMOVAL OF BATTERIES IS PROHIBITED.



# Residential Rental Agreement ("Agreement")

**Death in Premises:**

A death  has  has not occurred in the Premises within the previous three (3) years. If a death has occurred, the death was caused by \_\_\_\_\_.  
Pursuant to state law, any death caused by HIV is not required to be affirmatively disclosed.

**Satellite Dish or Antennas:**

Satellite dishes or antennas may not be installed without the prior written approval of Owner/Agent. Owner/Agent may deny or condition approval of the installation of satellite dishes or antennas to preserve and protect the Premises or Property.

**Utility Conservation Requirements:**

Resident(s), guests and invitees shall comply with government and utility company requirements to limit, restrict and conserve the use or consumption of water, gas, electricity, garbage or recyclable products or services. Any changes that become necessary to comply with requirements shall not constitute a decrease in housing services or entitle Resident(s) to a reduced rent or value of the Premises. A person that violates these requirements shall be solely responsible for any fee, fine or charge imposed by the government or utility company.

**Waterbeds or Liquid-filled Furniture:**

Waterbeds or liquid-filled furniture are not allowed without the prior written consent of Owner/Agent. Owner/Agent may deny or condition approval of the installation of waterbeds or liquid-filled furniture to preserve and protect the Premises or Property.

**Resident(s) Obligations:**

Resident(s) shall, at their expense, keep the Premises clean and in good order and repair that is free of trash, mold, mildew, pests, vermin and unsightly material. Floor coverings, windows, walls, all improvements to the Premises and Property shall be maintained and kept clean and in good repair. All costs related to unclogging drains, toilets and pipes or other plumbing repairs shall be paid by Resident(s) unless the stoppage or leakage is found to be in the main line and the Resident(s), guests or invitees did not cause the condition or resulting damage. Window screens, garbage disposals, window and door locks and all interior fixtures and improvements shall be maintained and repaired at Resident(s) expense.

Resident(s) shall immediately notify Owner/Agent, in writing, of any defect or dangerous condition in or about the Premises or Property.

**Right of Entry:**

Resident(s), shall make the Premises available to Owner/Agent at an agreed time or upon twenty-four (24) hours' notice, for the purpose of entering the Premises to (A) make necessary and/or agreed upon repairs, decorations, alterations, improvements or services, (B) show the Property and/or Premises to prospective purchasers, Resident(s), mortgagees, appraisers or contractors and (C) conduct inspections needed to identify conditions requiring necessary services, repairs or improvements or (D) comply with federal, state or local law, and to provide necessary services. Failure to allow access as required herein shall be a material breach of this Agreement.

**Notices:**

Resident(s) agree that a twenty-four (24) hour written notice shall be reasonable and sufficient notice with the exception of a forty-eight (48) hour written notice to inspect the Premises prior to the Resident(s) moving out, assignment, sublet or tenancy by voluntary act of Resident(s), unless Resident(s) waive the right to notice. If Owner/Agent discloses to Resident(s) that the Property is for sale or exchange, Resident(s) will be notified orally of the showing of the Property or Premises to actual or prospective purchasers.

No written notice will be required if Resident(s) and Owner/Agent agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement. No notice is required if entry is due to an emergency or if the Resident(s) is present and consents at the time of entry or if the Resident(s) has abandoned or surrendered the Premises.

Notices served on one Resident shall constitute service of the notice on all Resident(s). Notices shall be in writing and may be served at the following addresses or other location subsequently designated by written notice to the other party:

Owner/Agent: Happy Home Partners, LLC. (Name) 2941 Telegraph Avenue (Address)  
Berkeley, CA 94705 (City, State, Zip) 510-204-9922 (Telephone)

Resident(s):  At the Premises; or  other physical address: Gokce Sencan; or if allowed by law,  to Resident by email: \_\_\_\_\_

**Signs:**

Resident(s) authorize Owner/Agent to enter, place and display for sale, lease or exchange signs on the Property or the Premises that is in plain view of the public.

Resident(s) shall not post or display any signs except political signs as may be allowed by California Civil Code.



# Residential Rental Agreement ("Agreement")

- Damage:** If by no fault of Resident(s) the Premises is wholly damaged or destroyed by fire, earthquake, flood, accident or other casualty that render the Premises wholly uninhabitable, Resident(s) or Owner/Agent may terminate this Agreement by giving the other a written notice to terminate. Rent shall be abated on the date when the Premises became uninhabitable. If damage was a result of an act of Resident(s), guests or invitees, the Owner/Agent has the right to terminate this Agreement and no reduction or abatement of Rent shall be made.
- Insurance:** Resident(s), guests and invitees personal property are not insured by Owner/Agent or, if applicable, a homeowner's association, due to the loss or damage due to fire, theft, criminal or negligent act of others, earthquake, rain, wind, flood or other causes.
- RESIDENT(S) SHALL OBTAIN RENTER'S INSURANCE IN AN AMOUNT WHICH, IN RESIDENT'S SOLE JUDGEMENT, IS SUFFICIENT TO PROTECT RESIDENT(S) PERSONAL PROPERTY AND FROM PERSONAL INJURY, LOSS OR DAMAGE CLAIMS.**
- Temporary Relocation:** Resident(s) shall, upon demand of Owner/Agent, temporarily vacate Premises for a reasonable period of time to allow for fumigation or repairs to the Premises. Resident(s) shall comply with all requirements necessary to prepare the Premises for fumigation or repairs including storage or preparing to store food, medicine, plants and valuables. Resident(s) shall be credited Rent equal to the per diem Rent for the duration of time that Resident(s) were required to vacate the Premises.
- Assignment, Subletting and Licensing:** Resident(s) shall not assign, sublet or license (for example: Airbnb users) or otherwise transfer for any period of time all or part of the Premises nor shall Resident(s) permit third parties to occupy the Premises without Owner/Agent's prior written authorization and consent. Violation of this paragraph is a material breach of this Agreement. Should Resident(s) violate this provision of this Agreement, Owner/Agent may immediately terminate this Agreement. If Owner/Agent is to consent to an assignment or sublease, each prospective assignee, sublessee or transferee shall prior to occupancy complete an application to rent, agree to being credit worthy pursuant to Owner/Agent's policies and procedures or other lawful qualification requirements of Owner/Agent. If all those requirements are approved by Owner/Agent, the prospective assignee, sublessee, licensee or transferee shall sign a written agreement with Owner/Agent to rent the Premises prior to occupancy. Under no circumstances shall such assignee, sublessee, licensee or transferee be deemed an original Resident pursuant to this Agreement. Owner/Agent's consent to one assignment, transfer sublease shall not be construed to any subsequent assignment, sublease or transfer. Any approved assignment or sublease shall not relieve Resident(s) of his or her obligations under this Agreement.
- Breach of Agreement; Termination:** Resident(s) performance of, and compliance with, each of the terms of this Agreement constitute a condition on Resident(s) right to occupy the Premises and any failure of compliance or performance by Resident(s) shall allow Owner/Agent to forfeit this Agreement and terminate Resident(s)' right to possession of the Premises.
- Should Owner/Agent terminate this Agreement prior to expiration of the Term, Resident(s) shall be responsible for lost Rent, rental commissions, advertising expenses, repairs, replacements, restoration and costs necessary to ready Premises for re-rental of the Premises. These amounts may be deducted from the Resident(s) Security Deposit in addition to all other remedies available to Owner/Agent.
- Vacating the Premises:** Upon termination or expiration of the Term, Resident(s) shall deliver all keys, transmitters and the Premises to Owner/Agent. The Premises shall be delivered vacant. Resident(s) shall remove all their personal property and debris from the Premises and the Property including the exterior areas of the Property. The Premises shall be delivered in a broom clean condition and in substantially the same condition as of the Commencement Date or Extended Commencement Date, normal wear and tear excepted.
- Resident Representation:** Resident(s) warrants that all statements made by Resident(s) in the rental application for the Premises are true and accurate.
- Resident(s) shall immediately notify Owner/Agent if and when any Other Authorized Occupant reaches the age of eighteen (18) or becomes an emancipated minor. All such persons must then complete a rental application and agree that Owner/Agent may obtain a credit report on such person(s) and approve that person as a Resident. Any such person shall not be an Original Resident.
- If Owner/Agent discovers that the information provided in the rental application and supporting documents is false, such circumstance shall be a material breach of this Agreement.
- Negative Reports:** Owner/Agent may submit negative credit information about Resident(s) to credit reporting agencies if Resident(s) fail to perform the terms of payment or other obligations in this Agreement.
- Owner/Agent Representation:** Owner/Agent warrants that unless specified in writing, Owner/Agent is not aware of any recorded Notices of Default or Notices of Sale concerning the Property or that Owner/Agent is delinquent for amounts due under a loan secured by the Property or a bankruptcy proceeding affecting the Property.

# Residential Rental Agreement ("Agreement")

**Waiver:** Waiver by Owner/Agent of a breach of a term, condition or covenant of this Agreement shall not be construed to be a continuing waiver or a waiver of any subsequent breach of this Agreement.

**Estoppel Certificate(s):** Upon the written request of Owner/Agent, Resident(s) shall sign and deliver to Owner/Agent a Resident Estoppel Certificate within three (3) business days of its delivery to Resident(s). The failure to timely comply with this provision shall be deemed Resident(s) acknowledgement that the information contained in the Resident Estoppel Certificate is true and correct and may be relied upon by a lender or bona fide purchaser for value.

**Mediation and Arbitration:** Resident(s) and Owner/Agent agree to mediate any dispute or claim arising out of this Agreement or any resulting transaction before pursuing judicial or arbitration remedy. Mediation fees shall be divided equally between Resident(s) on the one hand and Owner/Agent on the other hand.

For any dispute or claim that arises for which this paragraph applies, any person that commences a proceeding action without first attempting to mediate or refuses to mediate following a written request to mediate, that party shall not be entitled to the recovery of attorneys fees and costs under any theory of liability including, but not limited to contract, tort, statute or equity.

If efforts at mediation are unsuccessful in resolving any dispute or claim, then such dispute or claim shall be resolved through binding arbitration pursuant to California Code of Civil Procedure §§1280, et seq.

The arbitration shall be held in the County where the Premises are located. Any judicial or arbitration proceeding in which attorney's fees are awarded to the prevailing party shall not exceed \$500.00. The decision of the arbitrator shall be final. The parties waive any right to appeal and judgment may be entered on the arbitration award in accordance with state law.

Unlawful detainer actions, mechanic's liens, matters involving probate, small claims and bankruptcy actions are excluded from this mediation provision. Recording an order of attachment, receivership, injunction, pendency of action (lis pendens) or other provisional remedies shall not constitute a waiver of this paragraph.

**Joint & Several Liability:** Whether or not Resident(s) is in possession of the Premises, the Resident(s) shall be jointly and severally liable for all Rent incurred during the term of this Agreement and for all damages caused or permitted by Resident(s), guests or invitees. A breach or abandonment by one or more Resident(s) shall not terminate this Agreement and shall not relieve the remaining Resident(s) from completing and fulfilling the terms of this Agreement.

**Time of Essence; Entirety of Contract; Counterparts:** Time is of the essence. This Agreement, including all addenda, incorporates all obligations of the parties. If a provision of this Agreement is invalid or ineffective, the remaining provisions will be in full force and effect. This Agreement may not be amended, altered, changed or extended unless in writing signed by the parties. The terms by the Owner/Agent and Resident(s) are final, complete and inclusive and may not be contradicted by evidence of prior oral agreement or representation.

This Agreement and any supplement, addendum or modification may be signed in two or more counterparts, all of which shall constitute the same writing.

**Foreign Language & Interpreter:**  Yes  No. The terms of this Agreement have been interpreted for Resident(s) in the following language:

\_\_\_\_\_. If yes, the name and contact information of interpreter(s):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Government Identification: \_\_\_\_\_

I certify that I am over 18 years of age and have been authorized by the prospective Residents to translate, and have translated, this Agreement to them on their behalf.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If this Agreement has been negotiated in Spanish, Chinese, Korean, Tagalog or Vietnamese, as required by state law, Resident(s) shall be provided a translation of this Agreement in the language that is to be used for negotiation.



# Residential Rental Agreement ("Agreement")

**Receipt & Agreement:**

Resident(s) agree to rent the Premises as described herein subject to the terms and conditions of this Agreement and attached Addenda.

**Resident Name:**

**Resident:** Gokce Sencan

DocuSigned by:

*Gokce Sencan*

**Date:** 14.9.2018 16:44:46 PDT

96AA804A899C4C8...

**Telephone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Resident Name:**

**Resident:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Owner/Agent:** Happy Home Partners, LLC.

DocuSigned by:

*George Shafazand*

**Date:** 10/18/2018 8:01:09 AM PDT

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# Residential Rental Agreement ("Agreement")

## List of Addenda Exhibits and Disclosures Incorporated Into Agreement

- Asbestos Disclosure Addendum
- Alameda - Form RP-08 and Information Brochure for Ordinance 3148
- Bed Bug Addendum (Addendum G)
- Carbon Monoxide Detection Device Addendum
- City of Alameda Smoking Disclosure
- Covenants, Conditions & Restrictions ("CC&Rs") Addendum
- Crime Free Housing Addendum
- Day Care Addendum
- Disclosure of Lead-Based Paint (Known Problem) Addendum
- Disclosure of Lead-Based Paint (No Known Problem) Addendum
- Guide for Homeowners, Buyers, Landlords and Tenants (Addendum E)
- HUD Fair Housing Notice
- Inspection and Itemization for Furnished Rental Units
- Insurance Information Addendum
- Mold and Maintenance of Premises Addendum (Addendum H)
- Move In/Move Out Checklist (Addendum A)
- Non-Smoking Addendum
- Notice of Periodic Pest Control Addendum (Addendum F)
- Notice to Tenant of Rent Adjustment Program (RAP) - Oakland
- Open-Flame and Cooking Device Addendum
- Pet Addendum (Addendum B)
- Pool and Pool Area Rules Addendum (Addendum D)
- Rental Agreement Addendum
- Resident Environmental Advisory Guidelines
- Richmond Rent Program Brochure (Required for Richmond Agreement)
- Rules and Regulations Addendum (Addendum C)
- Satellite Dish Agreement
- Smoke Detection Device Agreement
- Spare the Air Addendum
- Waterbed Agreement Addendum
- Flood Disclosure Addendum
- Apartment Policies and Rules "House Rules"

Resident: Gokce Sencan DocuSigned by: Gokce Sencan Date: 14.9.2018 16:44:46 PDT

Resident: \_\_\_\_\_ Date: \_\_\_\_\_

Owner/Agent: Happy Home Partners, LLC DocuSigned by: George Shefazzad Date: 10/18/2018 8:01:09 AM PDT



## Rent Roll

Properties: 1924 - 1924 9th Avenue 302-411 Oakland, CA 94606

Units: Active

As of: 02/01/2021

Unit	BD/BA	Tenant	Status	Rent	Deposit	Lease From	Lease To	Move-in
<b>1924 - 1924 9th Avenue 302-411 Oakland, CA 94606</b>								
101	1/1.00	Devin M.B. Schaefferkoetter	Current	1,073.87	1,000.00	01/10/2013		01/10/2013
102	1/1.00	Jackline M. Ndegwa	Current	2,048.87	500.00	04/18/2019	04/17/2020	04/18/2019
103	1/1.00	Adam Yohannes	Current	1,044.05	975.00	05/16/2013	05/15/2014	05/16/2013
104	1/1.00	Nichol Mahania	Current	1,895.00	1,995.00	08/16/2019	08/15/2020	08/16/2019
105	1/1.00	Antonio Castellanos-Herrera	Current	1,163.47	1,150.00	08/01/2015	07/31/2016	08/01/2014
106	1/1.00		Vacant-Unrented		0.00			
201	1/1.00	Kamalraj Nalliah	Notice-Unrented	1,548.24	1,490.00	04/01/2015	03/31/2016	04/01/2015
202	1/1.00	Sapna M. Singh	Notice-Unrented	1,995.00	2,095.00	10/14/2020	10/13/2021	10/14/2020
203	1/1.00		Vacant-Unrented		0.00			
204	1/1.00	Valerie M. Mai	Current	2,028.33	550.00	06/10/2019	06/09/2020	06/10/2019
205	1/1.00		Vacant-Unrented		0.00			
206	1/1.00	Kisha R. Walton	Current	1,044.64	950.00	03/01/2012	02/28/2013	03/01/2012
207	1/1.00	Karim Chibane	Current	1,139.44	1,800.00	08/01/2014		03/24/2014
208	1/1.00	Katalina Balawanilotu	Current	971.34	0.00	06/01/1999		06/01/1999
301	1/1.00	Alexander A. Endrenyi	Current	1,051.65	1,375.00	11/01/2012	10/31/2013	11/01/2012
302	1/1.00	Jeremy L. Roland	Current	1,925.00	550.00	10/27/2018	10/26/2019	10/19/2018
303	1/1.00	Salvador C. Nuñez	Current	1,096.87	1,025.00	12/14/2010	12/13/2011	12/14/2010
304	1/1.00	Francisco Perez	Current	1,800.00	2,700.00	02/01/2021	01/31/2023	02/01/2021
305	1/1.00	Eva C. Nuñez	Current	1,106.50	950.00	08/17/2007		08/17/2007
306	1/1.00	Daniel A. Fieldman	Current	1,070.70	1,050.00	04/14/2005		04/14/2005
307	1/1.00	Angela Emerson	Current	963.61	725.00	04/01/1998		10/15/1990
308	1/1.00	Daniel A. Acosta Melendez	Current	1,950.00	3,900.00	09/04/2020	09/03/2021	09/04/2020
309	1/1.00	Sophia Stewart	Current	1,114.94	907.50	02/01/2006		02/01/2006
310	1/1.00	Hugo Piedra Gonzalez	Current	0.00	0.00	06/01/2017		06/01/2017
311	0/1.00	Jessie Chen	Current	1,822.93	500.00	05/24/2019	05/23/2020	05/24/2019
407	1/1.00	Josefina Garcia	Current	1,000.00	0.00	05/25/2020	05/24/2021	05/25/2020
408	1/1.00	Ralph Glenn	Current	969.68	0.00	03/01/1998		03/01/1998
409	1/1.00	Corliss Ard (former on-site)	Current	1,047.50	800.00	08/01/2004		08/01/2004
410	1/1.00	Valerie B. Chua	Current	1,900.00	2,050.00	02/01/2020	01/31/2021	02/01/2020
411	0/1.00	Gokce Sencan	Current	1,689.42	500.00	10/12/2018	10/11/2019	10/12/2018
<b>30 Units</b>			<b>90.0% Occupied</b>	<b>36,461.05</b>	<b>29,537.50</b>			

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## Rent Roll

Unit	BD/BA	Tenant	Status	Rent	Deposit	Lease From	Lease To	Move-in
<b>Total 30 Units</b>			<b>90.0% Occupied</b>	36,461.05	29,537.50			

**CASE NO. L19-0163**  
**Lake 1925 LP v. Tenants**

To: City of Oakland Rent Adjustment Program  
From: Kimberly Roehn, Owner Representative  
Date: 2/3/2020  
Re: Additional Documents for Filing and Amendment

--

To whom it may concern,

Please include the enclosed documents/evidence in the file for Case No. L19-0163, which is set for hearing on February 11, 2020. The documents, totaling 224 pages, consist of:

- Landlord's election of attorney representative (page L0001, also provided previously to case analyst Margaret Sullivan);
- Proof of payment of RAP Fees (pages L0002-L0003);
- Amended page 5 of the Petition for Approval of Rent Increase (Capital Improvements). This provides a more specific break down of costs, includes all work, and updates/corrects the total amount expended on capital improvements (page L0004);
- All supporting documentation for capital improvement expenditures (pages L0005-L0224).

Feel to contact me at kim@roehnlaw.com or (510) 698-9560 with any questions.

Sincerely,



Kimberly Roehn  
*Enclosures: Pages L0001-L0224*

Oakland Rent Adjustment Program Case No. L19-0163 /  
1924 9<sup>th</sup> Avenue, Oakland CA 94606

**ELECTION OF ATTORNEY REPRESENTATIVE**

---  
To whom it may concern,

I am the owner of 1924 9<sup>th</sup> Avenue in Oakland.

I hereby designate Kimberly Roehn as my attorney representative in Rent Adjustment Case No. L19-0163 (*Lake 1925 LP v. Tenants*). I also authorize her to obtain any records relating to the above-described property on my behalf.

Her contact information is as follows:

Kimberly Roehn  
1954 Mountain Blvd., #13125  
Oakland, CA 94661  
kim@roehnlaw.com  
510-698-9560

\_\_\_\_\_  
(Signature)



1-27-2020  
Date

GEORGE SAATA ZAID  
(Print Name)

Lake 1925 LP /Authorized Representative

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Account # 00083587  
JU PROPERTY MANAGEMENT

**Business License Online Renewal** 

PRINT THIS PAGE FOR YOUR RECORD

Your business license renewal has been successfully submitted. You will receive a link to print your business license shortly. Please allow up to 10 working days. If you have any questions, please contact the Business Tax office at (510) 238-3704. Thank you. Business Tax Office City of Oakland

Submission Date 2/7/2019  
Confirmation # 98348

**Account Information**

Account # 00083587  
Expire Date 12/31/2019  
Name JU PROPERTY MANAGEMENT  
Address 1924 9TH AVE  
City OAKLAND  
Phone (510) 649-9000

**Summary**

	Amount
<b>STD</b>	
Total # of units per Alameda County Records: 30	\$2,040.00
<b>Total Due</b>	<b>\$2,040.00</b>

**Payment Information**

Payment Amount \$2,040.00

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**For Assistance**  
311 or 510-615-5566  
Relay Service 711

**Oakland City Hall**  
1 Frank H. Ogawa Plaza  
Oakland, CA 94612



**CITY OF OAKLAND**  
Revenue Division - Business Tax Section  
250 Frank H. Ogawa Plaza, #1320  
Oakland, CA 94612  
(510) 238-3704 TDD (510) 238-3254  
www.oaklandnet.com

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**Acknowledgement of Payment Received**

Date: February 07, 2019

The City of Oakland acknowledges receipt of the following payment on the date printed above.

This payment will be tendered against the following account(s)

Account #: 00083587  
Account Name: JU PROPERTY MANAGEMENT  
Account Address: 2941 TELEGRAPH AVE BERKELEY, CA 94705-2017  
Account Paid: RAP - RENT ADJUSTMENT PROGRAM  
Business Address: 1924 9TH AVE OAKLAND, CA 94606-2665

Please keep this acknowledgement for your records. Thank you.

Payment received by: Y.DARDON

<b>2019</b>	
RAP Rent Adjustment Program	
<i>Credit Card</i>	\$2,040.00
<hr/>	
<b>Total</b>	<b>\$2,040.00</b>



**Capital Improvements:** Capital improvements increases may be taken to reimburse the property owner for property improvements. Reimbursement is limited to 70% of the cost of the improvement spread out over an amortization period as set forth in the Amortization Schedule below. The property owner must show the costs incurred were to improve the property and benefit the tenants. Property owners must also show that these costs were paid. Examples include: copies of receipts, invoices, bid contracts or other documentation.

- If your petition contains capital improvements for which permits are first issued on or after February 1, 2017, capital improvements will be amortized according to an amortization schedule (attached at the end of this form).
- If the petition includes only work where permits were issued before February 1, 2017, improvements will be amortized over five years unless the increase causes a rent increase over 10 percent in one year or 30 percent in five years, in which case the amortization period will be extended until the rent increase is smaller than 10 percent in one year or 30 percent in five years.

<b>Building-Wide Capital Improvements</b> CATEGORY (attach separate sheet if needed)	TOTAL COSTS	DATE COMPLETED	DATE PAID FOR
Structural: Courtyard/Foundations	\$115,723.51	7/24/2018	7/24/2018
Structural: Stairs	\$68,207.63	8/24/2018	8/24/2018
Structural: Balconies	\$39,877.50	4/4/2018	4/4/2018
Parking lot re-paving	\$20,940.24	1/4/2019	1/4/2019
Elevator	\$11,270.00	10/14/2019	10/14/2019
<b>SUBTOTAL:</b>	\$31,550.00	6/23/2017	6/23/2017

<b>Unit-Specific Capital Improvements</b> CATEGORY (attach separate sheet if needed)	TOTAL COSTS	DATE COMPLETED	DATE PAID FOR	AFFECTED UNITS
<b>SUBTOTAL:</b>				

**STRUCTURAL:**  
**Courtyard/Foundation**

000280



CONSTRUCTION CONTRACT 1924 9th Ave. Oakland

Courtyard Foundation Repair

I. Parties

This contract is hereby made and entered into on 12/20/2017 between Perez & Perez General Contractor Inc. contractor, whose address is BOX 94601 Oakland CA BOX 94601 Oakland CA and HAPP HOME PARTNERS, LLC., who is doing business at 2941 Telegraph Ave. Berkeley, CA. This contract is to Repair foundation City Permit # City Permit #B1704357 on the property located at 1924 9th Ave. Oakland, CA 94606

II. The Contract Documents

The contractor will perform all the work that is required by this agreement and all the work that is required by the documents incorporated by reference into this agreement. The contract documents are: Scope of work and Special Inspections

III. The Scope of the Work

The contractor will furnish all the labor, materials, and equipment necessary to complete the alterations and improvements described in the contract documents. The work does not include

MA

IV. Change Orders

All change orders must be in writing and signed by all the parties. The owners agree that changes resulting in the furnishing of additional labor or materials will be paid for prior to the commencement of the extra work. The owners agree that either of them may sign a change order, and that signature will be binding on both.

V. Permits, Licenses, and Approvals

The OWNER will obtain and pay for local building and construction permits, and will obtain and pay the fees for the governmental inspections that are necessary for the construction and occupancy of the finished structure, except as otherwise provided in this contract. The owners will secure and pay for any easements, variances, zoning changes, necessary modifications of restrictive

Covenants or other actions. The owners will indicate the property lines to the contractor and will provide boundary stakes by a licensed land surveyor if the owners are in doubt about the property boundaries.

#### **VI. Insurance and Risk of Loss**

The owners agree to maintain insurance covering the replacement cost of the improvement under contract in the event of loss through fire, casualty, storm or other disasters, and theft of materials from the site. Before work begins, the property owner will furnish a certificate of that insurance to the contractor. The contractor agrees to maintain workers' compensation insurance and liability insurance to protect the owners from liability claims for damages because of bodily injury, including death, and from liability for damages to property. Before beginning the work, the contractor will furnish a certificate of that insurance to the property owner.

#### **VII. Access**

The property owner will allow free access to work areas for workers and vehicles and will allow areas for the storage of materials and debris. Driveways will be kept clear for the movement of vehicles during work hours. The contractor will make reasonable efforts to protect driveways, lawns, shrubs, and other vegetation.

#### **VIII. Site Conditions**

The property owners acknowledge that this contract is based upon the contractor's observation of conditions. Conditions which could not be known by a reasonable inspection, such as termite damage, hidden water damage, hidden code violations, or other concealed conditions, may require extra labor or materials, which are not part of this contract. If such hidden conditions are discovered, the contractor will notify the property owner and will attempt to reach an agreement for a change order to this contract that addresses those problems.

#### **IX. Payment**

The property owner will pay the cost of all materials used in construction plus delivery and handling costs, the wages of all carpenters and other workers, and the cost of all subcontractors. The Owner will pay a fixed fee of \$ \$78,000.0 to the contractor for overhead and profit.

## X. Payment Schedule

Payments for the work are due as follows:

A deposit in the amount of 25% percent of the contract price is due upon contract signing. Additional payments will be due as the following items of work listed below are completed.

When each payment is due, the contractor will prepare a statement of money due in writing and submit it to the owners. All payments are due from the property owner no later than ten days after receipt of the statement. The contractor will furnish lien releases for work completed through each request, upon receipt of payment.

Balance after initial payment is = \$58,500.0

<u>10%</u>	% of the remaining contract price is due when	<u>Bolts installed in concrete/ Reinforcing steel</u>
<u>10%</u>	% of the remaining contract price is due when	<u>Piers are installed</u>
<u>10%</u>	% of the remaining contract price is due when	<u>Weldings are done</u>
<u>10%</u>	% of the remaining contract price is due when	<u>Structural Observation Per Engineer</u>
<u>100%</u>	of the remaining contract price is due when	All inspections are passed and city signs off.

The remaining contract price is due upon the substantial completion of the work. Upon final payment the contractor will deliver a release of all liens.

If payments due to the contractor are not paid within ten days of the written demand, the contractor may suspend work until payment is made.

## XI. Final Inspections and Liens

Upon notification by the contractor of substantial completion of the work, the owners and the contractor will inspect the work performed, and at that time the owners will prepare a punch list that identifies any incomplete work or deficiencies in workmanship or materials. The owners may retain the value of the punch list work from the final payment until the punch list items are complete. Completion of the punch list items must be made within \_\_\_\_\_ days from the date of the punch list preparation. When the punch list items are completed, the owners will pay the contractor the balance of the contract price within \_\_\_\_\_ days of the demand. At that time, the contractor will deliver to the property owners a release of all liens.

## XII. Warranties

The contractor guarantees the work will meet trade standards of good workmanship. The contractor will make every effort to blend existing textures, colors, and planes, but exact duplication is not guaranteed. The contractor warrants that materials of good quality will be selected. The contractor will maintain all manufacturers' warranties. The customer is limited to the manufacturers' warranties for defects in the manufacture of materials. All contractors' warranties are limited to a period of no more than (1) one years . The contractor's warranties are limited to the cost of labor and materials only, and exclude ordinary wear and tear or abuse by others,

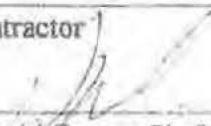
**XIII. Dispute Resolution**

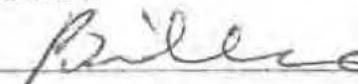
All the parties will cooperate with each other to resolve conflicts informally. In the event that is not possible, conflicts between the parties will be resolved by Mediation provided by mediator agreed by both parties. The conflict will be decided according to the Construction Industry Rules of the American Arbitration Association, and the laws of the state where the project is located. The arbitrator will award reasonable costs and expenses, including attorney fees, to the prevailing party provided by Berkeley Mediation COST 50% & 50% The conflict will be decided according to the Construction Industry Rules of the American Arbitration Association, and the laws of the state where the project is located. The arbitrator will award reasonable costs and expenses, including attorney fees, to the prevailing party.

**XIV. Signatures**

We, the undersigned, have read and understood this entire contract, including documents attached by reference. We acknowledge that this document constitutes the entire agreement between the parties. This contract is not binding upon the contractor or the property owners until it is signed by all parties.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_  
Contractor

Dated: 12/20/2017 Signed:   
Agent/ George Shafazand

Dated: 12/20/2017 Signed: Bing Udinsky   
Owner

Contract documents:

**See Exhibit "A" Scope of Work**

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Perez & Perez General Contractor Inc. Will provide all labor, material and equipment to do the work described above for the sum(s). This bid does not include anything not specified. Please note, the terms and cost of this proposal are valid for 30 days.

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for

Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor will provide all materials needed to make repairs; unless otherwise specified above in work proposal. Contractor request that deposited of 25% be paid prior to work on site to acquire materials necessary to make contracted repairs. Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged

between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Please sign and return to Edwin R. Perez & Perez General Contractor Inc. if you agree to estimate as stated.

Please sign if you agree to estimate as stated.

\*\* Any additional work will require a new work order.

\_\_\_\_\_  
Date.

\_\_\_\_\_  
Edwin R. Pérez.

\_\_\_\_\_  
(Owner/Manager)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

**Serving the Bay Area Since 1996.**

Please see photos and discriptions below



# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number [REDACTED]  
 Date Posted 02/13/18  
 Check Amount \$5,850.00

<b>Happy Home Partners Llc</b> 2941 Telegraph Ave. Berkeley, CA 94703		<b>WELLS FARGO BANK, N.A.</b> www.wellsfargo.com 11-426871210	<span style="background-color: black; color: black;">[REDACTED]</span>
PAY TO THE ORDER OF <b>Perez and Perez General Contractor Inc.</b>		\$ <b>5,850.00</b>	1/23/2018
Five Thousand Eight Hundred Fifty and 00/100		DOLLARS	
Perez and Perez General Contractor Inc 1845 20th Avenue Oakland CA 94612		TWO SIGNATURES REQUIRED	
MEMO	Foundation / 1924	<i>[Signature]</i>	

<span style="background-color: black; color: black;">[REDACTED]</span>	PAY TO THE ORDER OF WELLS FARGO BANK NA 121042882 FOR DEPOSIT ONLY IGNACIO RAMOS JOYERIA DELIRA 0087181774	<i>[Signature]</i>
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For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

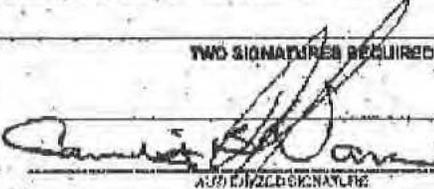
000287 L0012

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number	7929
Date Posted	02/16/18
Check Amount	\$5,265.00

<b>Happy Home Partners Llc</b> 2941 Telegraph Ave Berkeley, CA 94705		WELLS FARGO BANK, N.A. www.wellsfargo.com 11-4288/1210	[REDACTED] 2/15/2018
PAY TO THE ORDER OF Perez and Perez General Contractor Inc.	\$ 5,265.00		DOLLARS
Five Thousand Two Hundred Sixty-Five and 00/100			
Perez and Perez General Contractor Inc 1815 69th Avenue Oakland CA 94621		TWO SIGNATURES REQUIRED  CARLOS RAMIREZ SIGNATURE	
MEMO Foundation / 1924			

PAY TO THE ORDER OF WELLS FARGO BANK NA 12102282 FOR DEPOSIT ONLY KENNEDY RAMOS JOYERIA PERLA 008716 8774		CHECK HERE IF MOBILE DEPOSIT TO NETWORK SERVICE ON CONSUMER INITIATIVE	
194957			

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

 Equal Housing Lender

000288 L0013

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

03/02/18

Check Amount

\$4,738.50

**Happy Home Partners Lic**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
t1-4268/1310

2/26/2018

PAY TO THE ORDER OF **Perez and Perez General Contractor Inc.**

\$ **\*\*4,738.50**

Four Thousand Seven Hundred Thirty-Eight and 50/100 DOLLARS

Perez and Perez General Contractor Inc  
1815 69th Avenue  
Oakland CA 94621

MEMO Foundation / 1924

TWO SIGNATURES REQUIRED

*Carolyn B. Carter*  
AUTHORIZED SIGNATURE

Photo State Department  
Mobile use Email

15343041171

PAY TO THE ORDER OF  
WELLS FARGO BANK N.A.  
121020288  
FOR DEPOSIT ONLY  
IMAGED FIELDS  
JANUARY 16 2018  
0057161774

CHECK HERE IF MOBILE DEPOSIT

DATE TIME: 03/02/2018 09:05:00 AM

*CP*

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000289 L0014

# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Propietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinrperezconstruction@yahoo.com](mailto:edwinrperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



2/28/2018

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606  
Tel.

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

**Proposal.** First floor walkway and courtyard Foundation repair and installation as directed in the Coffman Engineering report.

Complete repairs indentified in Coffman engineering report CEI #170460

**Total cost for foundation, support peirs, walkway...: \$78,000.00**

**Disbursements: \$19,500.00**

**\$5,850.00**

**\$5,265.00**

**\$4,738.20**

**Balance Due: \$42,646.50**

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

**Serving the Bay Area Since 1996.**

**000290**

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

03/09/18

Check Amount

\$42,646.50

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94706

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-4300/1210

3/8/2018

PAY TO THE ORDER OF **Perez and Perez General Contractor Inc.**

\$ \*\*42,646.50

Forty-Two Thousand Six Hundred Forty-Six and 50/100 \*\*\*\*\*  
DOLLARS

Perez and Perez General Contractor Inc  
1815 69th Avenue  
Oakland CA 94821

MEMO  
Foundation / 1024

TWO SIGNATURES REQUIRED

*Carol J. Davis*  
AUTHORIZED SIGNATURE

FOR DEPOSIT ONLY  
IGNACIO RAMOS  
JOYERIA DEIRA  
0057161771

PAY TO THE ORDER OF  
WELLS FARGO BANK NA  
12100282

CHECK HERE IF WELLS DEPOSIT

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000291 L0016

*Fourkarni*

## **Perez & Perez General Contractor Inc.**

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Proprietor Tel. 510 472 3905 Lic. 1011096

**Serving the Bay Area Since 1996**

[edwinrperezconstruction@yahoo.com](mailto:edwinrperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

**Better Business Bureau Accredited Business**



02/28/2018

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

### **Proposal: Additional concrete repairs pertaining to the foundation and walkway repairs identified in the Coffman report.**

First floor walkway and courtyard Foundation repair. Complete repairs identified in Coffman engineering report CEI #170460.

While working on the courtyard foundation the contractor discovered additional water to the damage the courtyard pad area, retaining wall and walkways along the left and right side of the first floor wall. (additional sq ft: right side 8' sq ft/ Left side 4' sq ft)

Work Recommended and requested to address the full extent of damage found from water deterioration on site.

#### **Scope of work:**

Contractor will be addressing sections of the walk way and retaining wall that reflect undiscovered water damage. right side 8' sq ft walkway and retaining wall beyond the originally identified scope of work based on the coffman plans. Left side 4' sq ft beyond the identified scope of work on plans.

Contractor will demo, remove rubbish/soil and construct framing forms for additional area of pour in the courtyard, retaining wall and walkway areas along both sides of the first floor

**000292** L0017

area identified in need of repair at the site.

Contractor will install rebar frame work to support and lend integrity to the new concrete walkway and retaining wall.

Contractor will pour concrete and finish to match the existing walkway

Contractor will address all inspection and compliance appointment associated with the initial proposed scope of work and the additional scope of work to fulfill the code requirements for the city and state codes.

Contractor will clear rubbish affected by repairs.

Original Cost estimate: \$16,788.00

George approved amount: \$12,788.00

Total Cost of additional concrete: \$12,788.00 ✓

Perez & Perez General Contractor Inc. Will provide all labor, material and equipment to do the work described above for the sum(s). This bid does not include anything not specified. Please note, the terms and cost of this proposal are valid for 30 days.

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for

Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor will provide all materials needed to make repairs; unless otherwise specified above in work proposal. Contractor request that deposited of 25% be paid prior to work on site to acquire materials necessary to make contracted repairs. Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged

between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Please sign and return to Edwin R. Perez & Perez General Contractor Inc. if you agree to estimate as stated.

Please sign if you agree to estimate as stated.

\*\* Any additional work will require a new work order.

3/16/18

Date.

Edwin R. Pérez.

(Owner/Manager)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.



# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Proprietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinrperezconstruction@yahoo.com](mailto:edwinrperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



03/16/2018

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606  
Tel.

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

**Invoice:** requested drainage in the ground floor lobby area.

<b>Total cost for Drainage and leak repair:</b>	<b>\$13,000.00</b>
<b>Additional work: leak repair</b>	<b>\$550.00</b>
<b>Total Cost:</b>	<b>\$13,550.00</b>
<b>Balance Due:</b>	<b>\$13,550.00</b>

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

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# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number

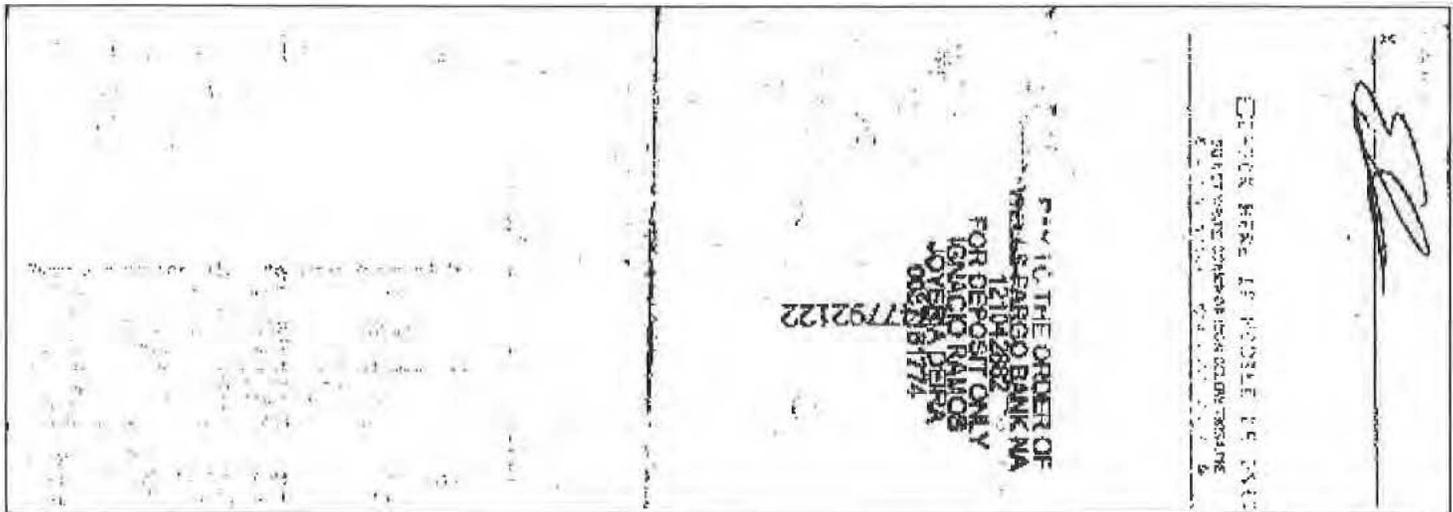
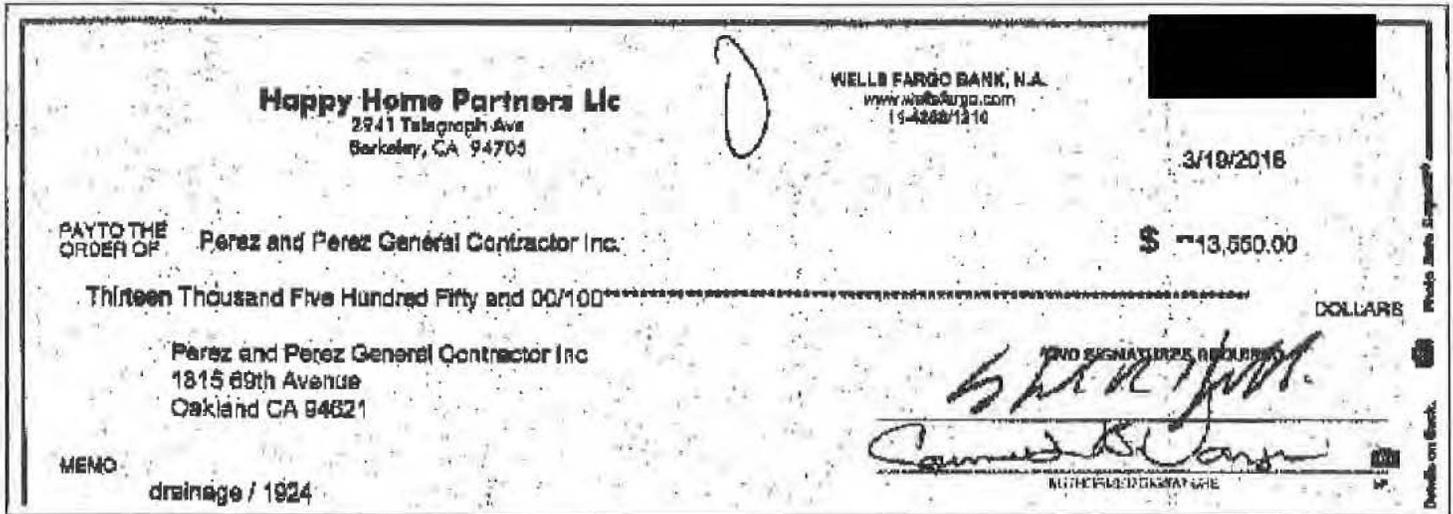


Date Posted

03/21/18

Check Amount

\$13,550.00



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Equal Housing Lender

March 27, 2017

AUTHORIZATION FOR WORK

To: Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

Attn: George Shafazand

Re: Structural Engineering Services Proposal  
Structural modifications – Stairs & Pool  
1924 Ninth Avenue, Oakland, CA 94606

**I. DESCRIPTION OF WORK**

The project consists of the structural engineering services associated with planned upgrades to the existing four-story apartment building. The planned upgrades are twofold:

- Stair replacement: the existing precast concrete treads are in poor condition, and are very heavy. The entire stair system at both the front and back of the building will be replaced with a new steel stair system with stair treads and intermediate landings comprised of steel checkered plate.
- Swimming pool infill corrections: the original swimming pool located in the courtyard was filled in about 15 years ago in a manner that has resulted in some settlement and drainage issues. This infill will be removed, and adjustments will be made to ensure that the new infill is done properly in a way that does not cause future problems.

We will make use of the drawings that were previously prepared by Jeffrey Weber & Associates, Inc. for a voluntary seismic retrofit of the building to assist us with the present scope of work. The following items will need to be done in order to complete the design effort:

- Some additional investigation of the building, including exploratory work as needed to verify the details of the existing stair connection to the building, and the details of the swimming pool infill.
- Analysis, design, and detailing of the new stairs.
- Analysis, design, and detailing of the revised infill of the original swimming pool.

New foundations will be designed using recommended design criteria provided in a site-specific geotechnical report prepared by a Geotechnical Engineer, if available. If such a report is not available, then we will utilize the presumptive soil bearing pressures and related criteria contained in the current edition of the California Building Code.

A Contractor may need to be hired to assist with the exploratory work described above. Once the exploratory work is completed, we will be able to complete the work that we need to do to design the soft story retrofit for this building.

We will be present at the site several times during construction, in order to answer Contractor questions about the structural aspects of the building, and to serve as your agent in checking to see if the Contractor is building the improvements in a manner consistent with the details indicated on our drawings.

## II. BASIC STRUCTURAL ENGINEERING SERVICES

The Basic Services, for which the Structural Engineer is responsible, include the analysis, design, detailing, and periodic observations of construction of the mandatory seismic improvements.

### A. PRELIMINARY DESIGN PHASE

1. Conduct exploratory work to determine the details of the present infill of the original swimming pool infill.
2. Review the framing of the existing stairs at the site.
3. Develop conceptual ways to replace the swimming pool infill in a manner that does not adversely affect the surrounding building.
4. Develop preliminary framing plans that show replacement stairs for the front and back of the building.
5. Prepare structural sketches that summarize the above work.

### B. CONSTRUCTION DOCUMENTS PHASE

1. Prepare final structural calculations.
2. Develop the details for the improvements not shown in the preliminary design phase.
3. Prepare structural drawings sufficiently detailed for Contractor use.
4. Establish testing and inspection requirements for all structural materials, if needed.
5. Respond to comments made during the city's plan checking process.

### C. CONSTRUCTION ADMINISTRATION PHASE

1. Assist in analyzing bids for awarding general contract.
2. Assist in obtaining proposals from testing laboratories, if needed.
3. Prepare structural clarification sketches during construction as needed.
4. Visit the construction site at appropriate times to observe the progress of construction and its general conformance to the structural drawings.  
Maximum number of visits: 3.

## III. COMPENSATION

- A. Our fees for the Basic Services described above will be charged on a fixed fee basis, at the following amounts:

Preliminary Design:	\$ 7,000
<u>Construction Documents:</u>	<u>\$ 7,000</u>

Total \$ 14,000

- B. Our fees for the Construction Administration Phase Services will be charged on an hourly basis, at the rates quoted below, on an as-needed basis, excluding reimbursable costs.
- C. Our current billing rates are as follows:
- |                  |                 |                  |                 |
|------------------|-----------------|------------------|-----------------|
| General Manager: | \$ 217 per hour | Senior Engineer: | \$ 163 per hour |
| Engineer III:    | \$ 145 per hour | Engineer II:     | \$ 125 per hour |
| Engineer I:      | \$ 114 per hour | Designer III:    | \$ 122 per hour |
- D. Invoices shall be submitted monthly, based on the work completed during the preceding month. Payments shall be made within thirty days of invoice date. We reserve the right to unilaterally suspend work on this project if any payments have not been received within thirty days of invoice date. In this event, work could resume upon receipt of the payment(s) in question.
- E. All past due accounts are subject to a late charge of 1.00 per cent per month based on the outstanding balance.

#### IV. EXCLUSIONS

The services described above will be provided. Excluded services are services which can be foreseen but are not necessary to enable the building to withstand code mandated vertical and lateral (wind and seismic) forces.

- A. Structural items other than those included in the above scope of work.
- B. Design of repairs to other structural members, if discovered during the course of completing our scope of work.
- C. Seismic strengthening measures for the building.
- D. Items relating to architectural issues, such as wall finishes and moisture protection measures. An Architect can be hired, if needed, to address these issues.
- E. Design, analysis, or assessment of the elevated exterior elements (decks and stairs) of the building.
- F. Structural design of retaining walls independent of the building.
- G. Structural design of landscape elements such as benches and trellises.
- H. Conducting site-specific soils evaluations and the preparation of a soils report.
- I. Preparation of documents for alternate bids.
- J. Special inspections as defined in Section 1704, 2016 California Building Code.
- K. Continuous and/or detailed inspections of construction.
- L. Physical submission of drawings and calculations for building permit application. Normally this is done by the contractor.
- M. Establishing design criteria for or designing temporary shoring.
- N. Plan review fees, and building permit and permit application fees.
- O. Cost estimating and/or quantity takeoffs.
- P. Preparation of "as-built" or record set of drawings after completion of the project.

- Q. Consultations required to answer questions from third party engineering reviews.
- R. Consultations required to respond to questions from value engineering studies.
- S. Changes requested by the third party consultants noted above.
- T. Any services associated with asbestos abatement or hazardous material removal.
- U. Design related to handicapped or disabled access to the building.

## **V. EXTRA SERVICES**

Extra services are those which arise as a result of unforeseen circumstances during the design or construction of the project and which are not included above. The following items are considered extra services and shall be billed on a time and materials basis per our standard billing rates given above, in addition to fees quoted for Basic Services. Written notification will be given before proceeding with any extra services.

- A. Services resulting from changes in scope of the project as described above.
- B. Redesign to reduce construction cost.
- C. Redesign requested to accommodate particular construction materials or methods.
- D. Services required to create as-built drawings of the buildings, if the original drawings cannot be located.
- E. Corrective actions required because of Contractor deviations from the drawings.
- F. Services in connection with a public hearing or legal proceeding.
- G. Services necessitated by fire or other damage to construction.
- H. Services requested after completion of the structural part of the project.

## **VI. REIMBURSABLE EXPENSES**

Reimbursable costs are in addition to the fees quoted for basic services and include actual expenditures made by the Structural Engineer in the interest of the project. They shall be billed at direct cost and are payable monthly as incurred. Reimbursable costs include, but are not limited to, the following:

- A. The cost of reproduction of all documents for your use.
- B. Messenger and other special delivery services.
- C. Travel to and from the site at federally approved standard mileage rates.

## **VII. INFORMATION TO BE FURNISHED TO THE STRUCTURAL ENGINEER BY OTHERS, IF NEEDED**

- A. Original building drawings.
- B. Site specific geotechnical report.
- C. Description of site conditions, including topographic, boundary, and utility surveys, existing structures, etc.

## **VIII. OWNERSHIP & USE OF DOCUMENTS**

Documents produced by Coffman Engineers under this agreement are instruments of service and shall remain the property of Coffman Engineers. They shall not be used for any other purpose without express written agreement and appropriate compensation to Coffman Engineers. Copies of all drawings and other project documents will be sent to you as requested.

#### **IX. EXPIRATION & TERMINATION OF AGREEMENT**

This authorization will expire if not accepted within 30 days of the date of execution by Coffman Engineers. This agreement may be terminated by either party without cause upon 10 days written notice. In the event of termination you shall pay for all services performed and reimbursable expenses incurred prior to such termination.

#### **X. INSURANCE**

Coffman Engineers maintains general liability and professional liability insurance coverage. Any other design professionals hired for this project shall also maintain such insurance policies.

#### **XI. VERIFICATION OF EXISTING CONDITIONS**

Inasmuch as the remodeling and/or rehabilitation of an existing building requires that certain assumptions be made regarding existing conditions, and because some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the building, the Owner agrees that except for negligence on the part of the Design Professional, the Owner will hold harmless, indemnify, and defend the Design Professional from and against any and all claims arising out of any assumptions made regarding existing conditions.

#### **XII. LIMITATION OF LIABILITY**

The Structural Engineer's limit of liability to the Owner on the project, due to Structural Engineer's negligent acts, errors, omissions, or breach of contract, shall be in the amount of Structural Engineering fees collected on this project, or \$500,000.00, whichever is greater.

#### **XIII. MISCELLANEOUS**

If a dispute arises out of or relates to this agreement, or the breach thereof, and if such disputes cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Construction Industry Mediation Rules of the American Arbitration Association, before resorting to arbitration. If any such dispute cannot be settled by mediation, it shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. In the event either party institutes any legal proceeding concerning the enforcement or interpretation of this agreement, the

prevailing party shall be entitled to receive reasonable attorney's fees in an amount to be determined by the court.

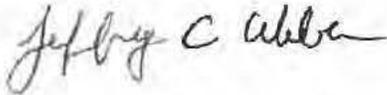
**XIV. SCOPE OF AGREEMENT**

This is the entire agreement between the parties, and there are no agreements or representations between the parties except as expressed herein.

If this contract is acceptable, please indicate so by signing and returning a copy.

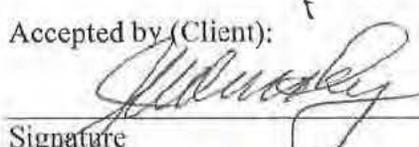
Sincerely,

Coffman Engineers

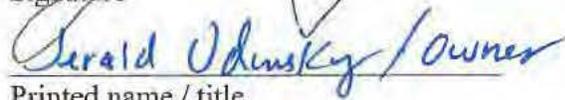


Jeffrey C. Weber, SE #2866  
General Manager, Vice President

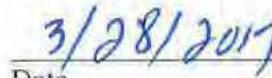
Accepted by (Client):



Signature



Printed name / title



Date

Revised 11/15/2017



LASTING creativity | results | relationships

Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 5/5/17  
INVOICE NO: 1704811303

ATTENTION: George Shafazand  
george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 4/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Foundation repair**	\$7,000.00	90	\$6,300.00	\$0.00	\$6,300.00
Invoice Total	\$7,000.00		\$6,300.00	\$0.00	\$6,300.00

\*\*Previously Stairs & Pool - Prelim Dsn

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

000303 L0028



# Operation Image Browser 2.0

Site	VIEWPOINTE	Paid Date	05232017	Serial No	[REDACTED]
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	7276.50	Sequence	[REDACTED]	Capture Source	00007114

## Front Black & White Image



## Back Black & White Image



Foundation Repair 7,276.50  
 \$63,000

Balcony repairs \$976.50

Cash in Bank- HHP:Wells Fargo:WF Check 17048113

7,276.50

LMP100 MP CHECK

HAPPY HOME PARTNERS LLC

7272

Coffman Engineers

10/4/2017

17068107 - stairs & pool  
 17058112 - stairs & pool

2,100.00  
 5,600.00

↳ \$700 for Foundation Repair

&

\$4,900 for Stair Replacement

WF Checking #4391 1924

BV

7,700.00

HAPPY HOME PARTNERS LLC

9184

Coffman Engineers

7/13/2018

1924 / 1711808402 Dec,2017  
 1924 / 1801808103 Feb,2018  
 1924 / 1802807902 Mar, 2018

480.00  
 796.00  
 500.00

Revised 11/15/2017



Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 6/9/17  
INVOICE NO: 1705811203

ATTENTION: George Shafazand  
george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 5/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Foundation repair**	\$7,000.00	100	\$7,000.00	\$6,300.00	\$700.00
<b>Invoice Total</b>	<u>\$7,000.00</u>		<u>\$7,000.00</u>	<u>\$6,300.00</u>	<u>\$700.00</u>

\*\*Previously Stairs & Pool - Prelim Dsn

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

000306

Site	VIEWPOINTE	Paid Date	10112017	Serial No	[REDACTED]
Routine	[REDACTED]			PC	000060
Amount	7700.00	Sequence	[REDACTED]	Capture Source	00007114

Front Black & White Image



Back Black & White Image



Foundation Repair 7,276.50  
 \$63,000

Balcony repairs \$976.50

Cash in Bank- HHP:Wells Fargo:WF Check 17048113

7,276.50

LMP100 MP CHECK

HAPPY HOME PARTNERS LLC

7272

Coffman Engineers

17068107 - stairs & pool 10/4/2017 2,100.00  
 17058112 - stairs & pool 5,600.00

↳ \$700 for Foundation Repair  
 &  
 \$4,900 for Stair Replacement

WF Checking #4391 1924

BV 7,700.00

HAPPY HOME PARTNERS LLC

9184

Coffman Engineers

1924 / 1711808402 Dec,2017 480.00  
 1924 / 1801808103 Feb,2018 796.00  
 1924 / 1802807902 Mar, 2018 500.00



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Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 2/7/18

INVOICE NO: 1801808103

ATTENTION: George Shafazand, george@happyhomepartners.com  
Mel Varsovia, mel.varsovia@udinsky.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 1/25/2018:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Foundation repair	\$7,000.00	100	\$7,000.00	\$7,000.00	\$0.00
Construction Admin - Foundation repair		T&E	\$796.00	\$0.00	\$796.00
<b>Invoice Total</b>			<b>\$7,796.00</b>	<b>\$7,000.00</b>	<b>\$796.00</b>

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

000309 L0034



**INVOICE DATE:** 2/7/2018  
**INVOICE NO:** 1801808103  
**CLIENT:** Happy Home Partners, LLC  
**PROJECT:** 170460 1924 Ninth Avenue

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**LABOR AND EXPENSE DETAIL**

**Construction Admin - Fndtn Rpr**

<b>Labor</b>		<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
General Manager	Weber, Jeffrey C.	0.50	217.000	108.50
Engineer II	Liu, Eric L.	5.50	125.000	687.50
				<hr/> 796.00
			<b>Invoice Total</b>	<hr/> <b>\$ 796.00</b> <hr/>

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number [REDACTED]  
 Date Posted 07/24/18  
 Check Amount \$1,776.00

**Happy Home Partners Llc**  
 2941 Telegraph Ave  
 Berkeley, CA 94706

WELLS FARGO BANK, N.A.  
 www.wellsfargo.com  
 1-800-428-1210

7/13/2018

PAY TO THE ORDER OF **Coffman Engineers** \$ **1,776.00**

One Thousand Seven Hundred Seventy-Six and 00/100 \*\*\*\*\* DOLLARS

Coffman Engineers  
 1939 Harrison Street Suite 320  
 Oakland CA 94612

MEMO  
 Engineering / 1924

DOUBLE SIGNATURES REQUIRED

*[Signatures]*

EXTRAS: STUBS  
 For Deposit Only  
 of the Bank

CHECK HERE IF MOBILE DEPOSIT  
 DO NOT SIGNATURE OR WRITE IN THESE SPACES  
 OR RETURN TO THE BANK FOR DEPOSIT

Credited to Acct  
 153501083601 00000  
 Return Acct 153501083601

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000311 L0036

Foundation Repair 7,276.50  
 \$63,000

Balcony repairs \$976.50

Cash in Bank- HHP:Wells Fargo:WF Check 17048113

7,276.50

LMP100 MP CHECK

HAPPY HOME PARTNERS LLC

7272

Coffman Engineers

17068107 - stairs & pool 10/4/2017 2,100.00  
 17058112 - stairs & pool 5,600.00

↳ \$700 for Foundation Repair  
 &  
 \$4,900 for Stair Replacement

WF Checking #4391 1924

BV 7,700.00

HAPPY HOME PARTNERS LLC

9184

Coffman Engineers

1924 / 1711808402 Dec,2017 480.00  
 1924 / 1801808103 Feb,2018 796.00  
 1924 / 1802807902 Mar, 2018 500.00



January 8, 2018

Mr. George Shafazand  
Happy Home Partners, LLC.  
2941 Telegraph Avenue  
Berkeley, California 94705

Via E-Mail: [george@happyhomepartners.com](mailto:george@happyhomepartners.com)

**Subject: New Walkway Repairs, 1924 Ninth Avenue, Oakland, California 94606  
CEL #10-34112  
Materials Testing and Construction Inspection Services**

Dear Mr. Shafazand:

Consolidated Engineering Laboratories (CEL) is pleased to submit our cost proposal to provide materials testing and construction inspection services for the **New Walkway Repairs project, located at 1924 Ninth Avenue in Oakland, California**. CEL would be proud to be part of your team, helping to ensure the construction quality and success of this project.

Following are our cost estimate and scope of services. We assembled this proposal based on the following sources:

- Structural drawings prepared by Coffman Engineers dated September 22, 2017;

Thank you for giving CEL the opportunity to be a part of your project team. We are committed to providing our clients the very best service possible to fulfill their testing and inspection needs, and are eager to prove this commitment to you. Should you have any questions or require additional information, please do not hesitate to contact me.

Respectfully submitted,  
**CONSOLIDATED ENGINEERING LABORATORIES**

A handwritten signature in blue ink, appearing to read 'Nick McCloud', is written over a light blue horizontal line.

Nicholas McCloud  
Estimator / Assistant Project Manager

This proposal, when signed by client at the space indicated below, shall constitute a legally enforceable contract on the precise, unaltered terms set forth in this proposal and the accompanying Contract Terms and Conditions.

**Client: Happy Home Partners**

---

Date

**NEW WALKWAY REPAIRS  
OAKLAND, CALIFORNIA  
CEL #10-34112  
PRICING**

<i>Description</i>	<i>Quantity</i>	<i>Unit Rate</i>	<i>Subtotals</i>	
<b>DRILLED CONCRETE PIERS</b>				
Mix Design Review	1 Each	\$ 150.00	\$ 150.00	
Reinforcing Steel/Concrete Placement	12 Hours	\$ 80.00	\$ 960.00	
Cylinder Testing	10 Each	\$ 25.00	\$ 250.00	
Sample Pick-Ups	1 Trip	\$ 30.00	\$ 30.00	
<b>SUBTOTAL:</b>			\$	<b>1,390.00</b>
<b>REINFORCED CONCRETE</b>				
Mix Design Review	1 Each	\$ 150.00	\$ 150.00	
Reinforcing Steel	8 Hours	\$ 80.00	\$ 640.00	
Concrete Placement/Sampling Inspections	8 Hours	\$ 80.00	\$ 640.00	
Concrete Compression Tests	10 Cylinders / Sets	\$ 25.00	\$ 250.00	
Sample Pick-Ups	2 Trips	\$ 30.00	\$ 60.00	
<b>SUBTOTAL:</b>			\$	<b>1,740.00</b>
<b>EPOXY GROUTED DOWELS</b>				
Placement Inspection	8 Hours	\$ 80.00	\$ 640.00	
Proofload Testing	8 Hours	\$ 80.00	\$ 640.00	
<b>SUBTOTAL:</b>			\$	<b>1,280.00</b>
<b>MISCELLANEOUS</b>				
Final Affidavit	1 Per Permit	\$ 400.00	\$ 400.00	
Project Engineering and Management 5%			\$ 240.50	
<b>SUBTOTAL:</b>			\$	<b>640.50</b>
	<b>MAN-HOURS</b>	<b>54</b>	<b>GRAND TOTAL: \$</b>	<b>5,050.50</b>

**Basis of Charges:** The proposed unit rates will be in effect through December 31, 2018. Thereafter, the unit rates are subject to an annual increase of four percent (4%) per year to mitigate the annual operating cost increases:

Work over 8 Hours per day	Time and One-Half
Work over 12 Hours, Monday through Friday	Double Time
Work on Saturdays	Time and One-Half
Work over 8 Hours on Saturdays	Double Time
Work on Sundays/Holidays	Double Time
Swing or Graveyard Shift Premium	\$12.50 per Hour
Work from 0-4 Hours	4-Hour Minimum Billing
Work from 4-8 Hours	8-Hour Minimum Billing
Show-Up Time	2-Hour Minimum Billing
Sample Pick-Up	\$30.00/Trip
Laboratory Testing – Rush Fee	Add 50% to Testing Cost
Technician with Nuclear Gauge	Portal-to-Portal
Final Affidavit (per permit number) (request six working days advanced notice)	\$400.00
Extra Copies (over four per issue date) of Inspection Reports and Final Affidavit	\$20.00/each
Project Engineering and Management	5% of Fees
Credit Card Payment of Fees	2.5% Premium
Reimbursables	Cost + 15%
QA/QC Plan Written Procedures	Quotation upon Request
Out of Area Services (beyond 40-mile radius)	As Listed Below:
Travel Time	Basic Hourly Rate
Mileage	\$0.60/Mile
Per-Diem, including lodging	\$120.00/Day

**QUANTITY DISCLAIMER:**

This quote outlined herein was based on the following sources:

- \* Structural drawings prepared by Coffman Engineers dated September 22, 2017

This proposal is limited to the scope of services, the number of inspection hours, and the number of associated tests identified herein. Any estimated quantities contained herein are estimates only and Client agrees to payment for services rendered in excess of the estimated quantities and/or cost figures as described herein.

It is recognized that additional services rendered herein under this proposal are schedule driven and are mandated by the scheduling and staffing of the contractor(s). Should items and quantities alter from estimates outlined herein, CEL shall be entitled to compensation for services rendered.

In addition, Client recognizes that, on occasion, due to the schedule of the contractor or relevant subcontractors, occasional overtime may be required. CEL typically will have no notice of this until the day the said overtime occurs. Client agrees to compensate CEL for such overtime.

## SCOPE OF SERVICES

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### DRILLED CONCRETE PIERS

#### **Mix Design Review**

We will review the proposed concrete mixes in our laboratory for conformance with the specifications.

#### **Pier Holes**

Prior to the reinforcing steel placement, our inspector will verify that the hole is free of loose soil, debris and water.

#### **Reinforcing Steel Placement**

Prior to the pours, our inspector will inspect the reinforcing steel placement to verify that it is according to plans and specifications. Our inspector will check:

- Size and spacing of bars;
- Location and length of splices;
- Clearances;
- Cleanliness of bars;
- Spacing tolerances;
- Proper support of steel with ties.

#### **Concrete Placement**

During the pours, our inspector will be on-site continuously, as required by Code, to monitor the placement. Our inspector will perform the following duties:

- Assure that no bars are displaced during pouring;
- Verify cleanliness of steel;
- Confirm the adequacy of placement and vibratory equipment;
- Verify proper delivery rate of concrete and monitor batch times;
- Assure the correct mix is being utilized;
- Monitor slump of each truck;
- Record temperature of air and concrete;
- Cast cylinders for compression tests at the specified frequency;
- Air checks during concrete placement;
- We will provide observation of anchor bolt/dowel installation operations verifying hole depth, embedment and cleanliness as well as materials and workmanship. We will assure that all dowels are installed in accordance with contract documents and/or manufacturer's requirements.

#### **Compression Testing**

We will transport all samples to our laboratory for compression testing in strict accordance with the American Society for Testing and Materials (ASTM) requirements. Reports of compression tests will be distributed to the appropriate parties.

### REINFORCED CONCRETE

#### **Mix Design Review**

We will review the proposed concrete mixes in our laboratory for conformance with the specifications.

### **Reinforcing Steel Placement**

Prior to the pours, our inspector will inspect the reinforcing steel placement to determine that it is according to plans and specifications. Our inspector will check:

- Size and spacing of bars;
- Location and length of splices;
- Clearances;
- Cleanliness of bars;
- Spacing tolerances;
- Proper support of steel with ties.

### **Concrete Placement and Sampling**

During the pours, our inspector will be on-site continuously, as required by Code, to monitor the placement. Our inspector will:

- Determine that no bars are displaced during pouring;
- Observe cleanliness of steel;
- Determine adequacy of placement and vibratory equipment;
- Determine proper delivery rate of concrete and monitor batch times;
- Determine the correct mix is being utilized;
- Monitor slump of each truck;
- Record temperature of air and concrete;
- Cast 5 (4x8) cylinders for compression tests per 150 cubic yards;
- Perform air checks, if required by specifications, during concrete placement;
- Observe anchor bolt/dowel installation operations to determine hole depth, embedment and cleanliness, as well as materials and workmanship. We will inspect to determine all dowels are installed in accordance with contract documents and/or manufacturer's requirements.

### **Concrete Compression Testing**

We will transport all samples to our laboratory for compression testing in strict accordance with the American Society for Testing and Materials (ASTM) requirements. Compression test reports will be distributed to the appropriate parties.

### **EPOXY DOWELS AND ANCHORS**

As required, we will perform visual examination of dowel/anchor placement to determine dowel/anchor holes are clean, of the proper depth and diameter, and installed as specified by the manufacturer. In addition, we will perform proofload testing of the epoxy dowels/anchors at the percentage defined by the plans and specifications.

**NOTE:** These estimates assume that adequate access will be provided for performing the work at maximum production, i.e., scaffolding. Should any dowel/anchor fail, additional tests will be required per plans.

## CONTRACT TERMS AND CONDITIONS

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- I. **FEES:** The estimated contract price is based on the best information made available to CEL at the time the estimate was performed. If subcontractors perform more quickly than scheduled, Client will receive a cost savings for testing. If, however, subcontractors' schedules are extended or delayed, Client may receive a resulting increase in costs for testing. Client recognizes that the additional services rendered herein under this Proposal are schedule driven and are mandated by the scheduling and staffing of the contractor(s). Should items and quantities alter from estimates outlined herein, CEL shall be entitled to compensation for services rendered. In addition, Client recognizes that, on occasion, due to the schedule of the contractor or relevant subcontractors, occasional overtime may be required. CEL typically will have no notice of this until the day the said overtime occurs. Client agrees to compensate CEL for such overtime. Any estimated quantities contained herein are estimates only and Client agrees to payment for services rendered in excess of the estimated quantities and/or cost figures as described herein. Fees for CEL's services will be billed on a time and expenses basis at the unit rates quoted and CEL shall submit biweekly invoices for services rendered and for reimbursable expenses incurred. Invoices are due within 30 days from receipt. Past due invoices are subject to a finance charge of 1% per month or the maximum rate permitted by law.
- II. **FINAL AFFIDAVIT:** The first invoice from CEL shall include the estimated cost to prepare the Final Inspection Report. However, the Final Inspection Report will not be issued until the sixth working day following the request for the Final Inspection Report by Client's authorized representative. Additionally, as a condition precedent to release of the Final Inspection Report, Client shall have paid in full for all services performed by CEL pursuant to this Agreement.
- III. **INSPECTION:** Inspection shall consist of visual observation of materials, equipment, or construction work for the purpose of ascertaining that the work is in substantial conformance with the contract documents. Such inspection shall not be relied upon by others as acceptance of the work nor shall it be construed to relieve the contractor, subcontractors, or materialmen in any way from their obligations and responsibilities under the construction contracts. Specifically, but without limitation, inspection shall not require the inspector to assume responsibilities for the means and methods of construction nor for safety on the jobsite of any party other than CEL employees.
- IV. **STANDARD OF CARE:** In providing services under this agreement, CEL shall exercise that degree of skill and care ordinarily used by other reputable members of CEL's profession, practicing in the same or similar locality and under similar circumstances at the time these services are rendered. Nothing in this agreement shall be interpreted to require CEL to meet any higher standard and this paragraph shall control over any such contrary provision. CEL makes no warranty, either expressed or implied, as to its findings, recommendations, specifications or professional advice. CEL will provide only those services that, in the opinion of CEL, lie within the technical and professional areas of expertise of CEL as set forth herein and which CEL is adequately staffed and equipped to perform. Client shall request in writing if Client desires CEL to provide services outside of the scope of services described herein. CEL shall advise Client of any services that lie outside the technical and professional expertise of CEL.
- V. **LIABILITY:** In recognition of the relative risks of the Client and CEL on the Project, Client agrees, to the maximum extent permitted by law, that CEL's liability to Client and any third party, in any way arising out of this Agreement, shall be limited to 100% of the total fees and costs paid to CEL or \$25,000, whichever is greater. Client agrees to compensate CEL at its standard hourly rates in the event CEL is requested to perform services in connection with litigation, claims or disputes arising out of this project or in the event CEL, its agents or employees are subpoenaed or otherwise compelled to participate in litigation, claims or disputes arising out of this project. CEL shall not be responsible for acts and/or omissions of any party or parties involved in the design of the Project or the failure of any Contractor or Subcontractor to construct any aspect of the Project in accordance with the Agreement documents, or in accordance with recommendations contained in any correspondence or written recommendations issued to CEL.
- VI. **LITIGATION:** In case of any dispute, claim, question, or disagreement arising out of or relating to this Contract or the breach thereof, the parties hereto shall use all reasonable efforts to settle such disputes, claims, questions, or disagreement. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Client and CEL agree to continue to perform their obligations under this Contract during the good faith resolution of such a dispute, claim, question, or disagreement. In the event that any litigation, arbitration, or other proceeding is commenced between the parties hereto or their personal representatives, successors or assigns concerning the enforcement or interpretation of any provision of this Contract or the rights and duties of any party in relation thereto, the party or parties prevailing in such litigation, arbitration or other proceeding shall be entitled, in addition such other relief as may be granted, to reasonable attorneys' fees and costs. For the purposes of this paragraph, the "prevailing party" shall be determined in accordance with the provisions of California Civil Code section 1717.
- VII. **STATE PREVAILING WAGE:** It shall be Client's sole responsibility to notify CEL of any prevailing wage requirements before any services are performed for the Project. Should it be revealed subsequent to the execution of an agreement for services that this project is indeed a prevailing wage project and if CEL is thereafter mandated to comply with those requirements, there will be a 10% surcharge to the hourly rates quoted in our Proposal. In addition, in the event notification is not given to CEL, Client shall be fully responsible for payment of all fines, penalties, and/or damages imposed upon CEL for any failure to comply with the prevailing wage laws.

*Contract Terms and Conditions (cont'd)*

- VIII. CLIENT'S RESPONSIBILITIES:** Client or Client's authorized representatives will promptly and timely provide CEL with all revised and updated plans, specifications, addenda, change orders, approved shop drawings and any other information for the proper performance of CEL pursuant to this Contract. Client agrees that CEL has been engaged to provide technical professional services only, and that CEL does not owe a fiduciary responsibility to Client. Client shall secure and maintain throughout the full period of this Contract, sufficient insurance to protect it adequately from claims under applicable Worker's Compensation Acts and from claims for bodily injury, death or property damage as may arise from the performance of services under this Contract. CEL shall not be responsible for any errors and/or omissions in the performance of CEL's work or services rendered resulting from Client's failure to provide CEL with revised and updated plans, specifications, addenda, change orders, approved shop drawings and other information for the proper performance of CEL. Client or Client's authorized representatives will give a minimum of 24 hours notification for all dispatch requests. Cancellations received on the day of inspection are subject to a 2-hour show-up charge.
- IX. HAZARDOUS MATERIALS REQUIREMENT:** If hazardous materials are encountered by CEL's employees on Client's project site resulting in the need for specialized training or certifications as required by State and Federal agencies in order for CEL's inspection personnel to perform their duties, then all related costs for such specific training, including class time, will be billed to Client with a 15% markup. Personnel time for necessary training classes will be billed at the hourly rate quoted herein.
- X. CREDIT CARD PAYMENTS:** Credit card payments will be charged a convenience fee of 2.5% of the total invoice amount.
- XI. ADDITIONAL SERVICES:** Should additional services be requested that are not included in CEL's proposed scope of services, CEL will provide these services at the unit rates listed in our published 2017 Fee Schedule.
- XII. ACCOUNTS PAYABLE SYSTEMS:** This proposal does not assume the requirement to enter into an accounts payable system, such as Textura, and should it be required, any fee associated with that shall be considered a reimbursable expense and shall be charged to the client.
- XIII. ACCEPTANCE OF CONTRACT:** This Contract is subject to acceptance only of the terms and conditions stated herein. Any additional or different terms and conditions proposed by Client are hereby rejected, and shall be of no force or effect unless expressly assented to in writing by CEL. There shall be no contract except upon the terms and conditions provided herein. By directing CEL to commence performance, after your receipt of this Contract, you agree to comply with all the terms and conditions set forth herein. This Contract contains the entire and integrated agreement between Client and CEL and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract cannot be amended or modified except by a written addendum, executed by each of the parties hereto. This Contract shall be interpreted and enforced in accordance with the laws of the State of California.
- XIV. BASIS OF CHARGES:** The proposed unit rates will be in effect through December 31, 2018. Thereafter, the unit rates are subject to an annual increase of four percent (4%) per year to mitigate the annual operating cost increases:

Work over 8 Hours per day	Time and One-Half
Work over 12 Hours, Monday through Friday	Double Time
Work on Saturdays	Time and One-Half
Work over 8 Hours on Saturdays	Double Time
Work on Sundays/Holidays	Double Time
Swing or Graveyard Shift Premium	\$12.50 per Hour
Work from 0-4 Hours	4-Hour Minimum Billing
Work from 4-8 Hours	8-Hour Minimum Billing
Show-Up Time	2-Hour Minimum Billing
Sample Pick-Up	\$30.00/Trip
Laboratory Testing – Rush Fee	Add 50% to Testing Cost
Technician with a Nuclear Gauge	Portal-to-Portal
Final Affidavit (per permit number) (request six working days advanced notice)	\$400.00
Extra Copies (over four per issue date) of Inspection Reports and Final Affidavit	\$20.00/each
Project Engineering and Management	5% of Fees
Credit Card Payment of Fees	2.5% Premium
Reimbursables	Cost + 15%
QA/QC Plan Written Procedures	Quotation upon Request
Out of Area Services (beyond 40-mile radius)	As Listed Below:
Travel Time	Basic Hourly Rate
Mileage	\$0.60/Mile
Per-Diem, including lodging	\$120.00/Day



Partners in Quality  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583  
Phone: (925) 314-7100 Fax: (888) 222-7132

# INVOICE

BILLING PERIOD ENDING	INVOICE NO.	INVOICE DATE	PAGE
2/23/2018	149129	3/20/2018	1 of 2

San Ramon Division

<b>B I L L T O</b>	George Shafazand Happy Home Partners, LLC 2941 Telegraph Avenue Berkeley, CA 94705
--	---

<b>P R O J E C T</b>	New Walkway Repairs 1924 Ninth Avenue Oakland, CA 94606  App/Permit # B1704557
--	--

CUST. NO.	PROJECT NO.	P.O. NO.	TERMS	
0000005565	10-34112-	1924-A	Net 30	
DATE	TASK # & DESCRIPTION	RATE	QUANTITY	NET AMOUNT

**Project 10-34112- New Walkway Repairs**

2/16/2018	Project Engineering/Management			39.75
	<u>Lab #: 10C164483</u>			
2/15/2018	03044 Concrete Compression Cyl. ASTM C 39	25.00	5.00	125.00
2/15/2018	21022 Sample Pick-up	30.00	1.00	30.00
	<u>Report #: 160216Field</u>			
2/12/2018	Robert Leon 03099 Reinforcing Steel Inspection	80.00	2.00	160.00
2/12/2018	Robert Leon 05001 Field Weld Inspection	80.00	1.00	80.00
2/12/2018	Robert Leon 13101 Anchor/Dowel Installation Insp	80.00	1.00	80.00
2/15/2018	Eric Forster 03082 Concrete Placement Inspection	80.00	4.00	320.00

Invoice Total: 834.75

Past due balances will accrue interest at 1% per month

For Accounts Receivable questions, please contact Kris Berlin, Phone: (866) 520-4175 Fax: (888) 222-7132

Federal ID Number: 94-2988193

**000320** L0045

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

04/03/18

Check Amount

\$1,979.26

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-4296/1210

3/27/2018

PAY TO THE ORDER OF **Consolidated Engineering Laboratories** \$ **1,979.26**

One Thousand Nine Hundred Seventy-Nine and 26/100 DOLLARS

Consolidated Engineering Laboratories  
2001 Crow Canyon Road., Suite 100  
San Ramon Ca 94583

MEMO-  
Engineering / 1924

DOUBLE SIGNATURES REQUIRED

*Carmel B. Owen*

AMOUNT CHECKED

CO 1027a De#

18831 0327

QUALITY ASSURANCE Eng dtes Consolidated Eng

CHECKS HERE TO BE DEPOSITED

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000321 L0046

Consolidated Engineering Laboratories

3/27/2018

149135  
149129

1,144.50  
834.76

WF Checking #4391    Engineering / 1924

1,979.26

LMP100    M/P CHECK



Partners in Quality  
 2001 Crow Canyon Rd., Suite 200  
 San Ramon, CA 94583  
 Phone: (925) 314-7100 Fax: (888) 222-7132

# INVOICE

BILLING PERIOD ENDING	INVOICE NO.	INVOICE DATE	PAGE
2/2/2018	148353	2/23/2018	1 of 2

San Ramon Division

<b>BILL TO</b>	George Shafazand Happy Home Partners, LLC 2941 Telegraph Avenue Berkeley, CA 94705
----------------	---

<b>PROJECT</b>	New Walkway Repairs 1924 Ninth Avenue Oakland, CA 94606  App/Permit # B1704557
----------------	--

CUST. NO.	PROJECT NO.	P.O. NO.	TERMS
0000005565	10-34112-	1924-A	Net 30

DATE	TASK # & DESCRIPTION	RATE	QUANTITY	NET AMOUNT
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**Project 10-34112- New Walkway Repairs**

1/26/2018	Project Engineering/Management			59.75
	<u>Lab #: 10C162973</u>			
1/22/2018	03044 Concrete Compression Cyl. ASTM C 39	25.00	5.00	125.00
1/22/2018	21022 Sample Pick-up	30.00	1.00	30.00
	<u>Report #: 180119Field</u>			
1/18/2018	21006 Final Affidavit File Review	400.00	1.00	400.00
1/18/2018	James Brady 03099 Reinforcing Steel Inspection	80.00	4.00	320.00
	<u>Report #: 180126Field</u>			
1/22/2018	Keith Craig 03084 Concrete Sampling	80.00	4.00	320.00

Invoice Total: 1,254.75

Past due balances will accrue interest at 1% per month

For Accounts Receivable questions, please contact Kris Berlin. Phone: (866) 520-4175 Fax: (888) 222-7132

Federal ID Number: 04-2888193  
**000323** L0048



Partners in Quality  
2001 Crow Canyon Rd., Suite 200  
San Ramon, CA 94583  
Phone: (925) 314-7100 Fax: (888) 222-7132

# INVOICE

BILLING PERIOD ENDING	INVOICE NO.	INVOICE DATE	PAGE
2/2/2018	148353	2/23/2018	2 of 2

San Ramon Division

<b>B I L L T O</b>	George Shafazand Happy Home Partners, LLC 2941 Telegraph Avenue Berkeley, CA 94705
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<b>P R O J E C T</b>	New Walkway Repairs 1924 Ninth Avenue Oakland, CA 94606  App/Permit # B1704557
--	--

CUST. NO.	PROJECT NO.	P.O. NO.	TERMS
0000005565	10-34112-	1924-A	Net 30

DATE	TASK # & DESCRIPTION	RATE	QUANTITY	NET AMOUNT
	BUDGET			
	CHANGES			
	TOTAL			
	BILLED TO DATE		% BILLED	
	5,050.50	0.00		5,050.50
				1,254.75
				24.84

Project Manager: Nick McCloud

Billing Coordinator: David Tschaplizki

Remit to:  
2001 Crow Canyon Rd., Suite 200  
San Ramon, CA 94583  
Phone: (925) 314-7100

Thank you for your business

Past due balances will accrue interest at 1% per month

For Accounts Receivable questions, please contact Kris Berlin. Phone: (866) 520-4175 Fax: (888) 222-7132

Federal ID Number: 94-2889193  
**000324** L0049

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

03/12/18

Check Amount

\$1,254.75

<b>Happy Home Partners Llc</b> 2941 Telegraph Ave Berkeley, CA 94705		WELLS FARGO BANK, N.A. www.wellsfargo.com 11-4268/1210		3/11/2018	
PAY TO THE ORDER OF Consolidated Engineering Laboratories		\$		1,254.75	
One Thousand Two Hundred Fifty-Four and 75/100				DOLLARS	
Consolidated Engineering Laboratories 2001 Crow Canyon Road., Suite 100 San Ramon Ca 94583		TWO SIGNATURES REQUIRED		  ALL OTHERS VOID	
MEMO Engineering / 1924					

CO 1017a Ball

2018031208003200000100003

I CHECK HERE FOR ROYAL DEPOSIT  
 DO NOT SIGN HERE  
 1893103927

1893103927  
 Quality Assurance Eng dba Consolidated Eng

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000325 L0050

Permits for which no major inspection has been approved within 180 days shall expire by limitation. No refund more than 180 days after expiration or final.

1924 9TH AVE



**CITY OF OAKLAND**

250 FRANK H. OGAWA PLAZA ▪ 2ND FLOOR ▪ OAKLAND, CA 94612

1924 9TH AVE

Planning and Building Department  
www.oaklandnet.com

PH: 510-238-3891  
FAX: 510-238-2263  
TDD: 510-238-3254

Permit No: B1704557 Non-Residential Building - Repair  
Job Site: 1924 9TH AVE  
Parcel No: 021 026901101  
District:  
Project Description: Repair foundation per engineered plans  
Related Permits:

Filed Date: 10/4/2017  
Schedule Inspection by calling: 510-238-3444

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
Owner:	LAKE1925 LP		2941 TELEGRAPH AVE BERKELEY, CA		
Owner-Agent:	George Shafazand	X	2941 TELEGRAPH AVE BERKELEY, CA	510-599-2015	

**PERMIT DETAILS:** Building/Non-Residential/Building/Repair

**General Information**

Sets Of Plans: 3 Report - Soil/Geotech:  
Structural Calculations: 2

**Existing Building Information**

Building Use: Apartment > 5 Units  
Occupancy Group: R-2 Residential > 2 Units  
Construction Type: VA - Combustible Construction; 1 Hour Fire Rating

Number Of Stories: 4 Fire Sprinklers:  
Number Of Units: Floor Area (sq ft):

**Work Information**

Job Value: \$15,000.00

**TOTAL FEES TO BE PAID AT FILING: \$860.63**

Overtime Plan Check	\$750.00	Recrd Mangmnt & Tech Enhancement Fee	\$110.63
---------------------	----------	--------------------------------------	----------

Plans Checked By \_\_\_\_\_ Date \_\_\_\_\_ Permit issued By  Date 10.19.17  
Finalized By \_\_\_\_\_ Date \_\_\_\_\_

<u>Special Inspection</u>	<u>Comments</u>
Concrete Construction	BOLTS INSTALLED IN CONCRETE; REINFORCING STEEL
Foundation System	PIERS
Steel Construction	WELDING
Structural Observation	STRUCTURAL OBSERVATIONS PER ENGINEER

**APPLICANT  
COPY**

000326 L0051

Record ID: B1704557

Menu    Manage Inspection    Search    View Log    Reports    Help

"Record Inspections"     Related Records Inspections

<input type="checkbox"/>	<u>Inspection Date</u>	<u>Inspector</u>	<u>Status</u>	<u>Result Comment</u>	<u>Inspection Type</u>	<u>Sch</u>
<input type="checkbox"/>	03/02/18	David Carrillo	Not Pass	Date: 3/2/2018 ...	<u>Final Building</u>	03/0
<input type="checkbox"/>	02/22/18	Robert Bernal	Partial	Date: 2/22/2018...	<u>Frame</u>	02/2
<input type="checkbox"/>	02/14/18	Robert Bernal	Partial	Date: 2/14/2018...	<u>Foundation</u>	02/1
<input type="checkbox"/>	02/01/18	Robert Bernal	Partial	Date: 2/1/2018 ...	<u>Foundation</u>	02/0
<input type="checkbox"/>	01/19/18	Robert Bernal	Revision Required	Date: 1/19/2018...	<u>Foundation</u>	01/1
<input type="checkbox"/>		Joe DeLagrange	Scheduled		<u>Final Building</u>	03/1

Record ID: B1704557

Menu Cancel View Log Reports Help Data Language(♣): English (US) ▾

<b>Inspection Type</b> Final Building	<b>Address</b> 1924 9TH AVE	<b>Record #</b> <u>B1704557</u>	<b>Record Type</b> Building/Non-Reside
<b>Inspection Contact Phone Number</b> 925-212-0879	<b>Inspection Contact Name</b> Michael	<b>Request Comment</b> <input type="text"/>	
<b>Inspection Date</b> 03/02/2018	<b>Inspection Time</b> 04:33 PM	<b>Total Time</b>	<b>Result</b> Not Pass
<b>Department</b> Permit Commercial - Plumbing and Mechanical	<b>Inspector</b> David Carrillo		

<b>Start Time</b>	<b>End Time</b>	<b>Total Mileage</b>
-------------------	-----------------	----------------------

**Result Comment** ♣

Date: 3/2/2018  
All phases not completed. DCC

<b>Request Date</b> 02/28/2018	<b>Request Time</b> 1:42	<b>Scheduled Date</b> 03/02/2018	<b>Requestor</b> LeaNae Williams-Mischal	<b>Internal Use Onl</b> <u>17CAP-00000-31</u>
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**Record Comments**

L0053

000328

INSPECTOR NOTES

date  
sign

BUILDING

3-13-18

ON SITE FINAL OK NEED  
S.I. FINAL LETTER IN PROPER  
FORMAT. OK TO FINAL IN  
OFFICE JRD

date  
sign

ZONING



# City of Oakland Online Access

Announcement

Register for an Account

Login

For best results, use one of the following browsers: Internet Explorer 11, Google Chrome 42, Mozilla Firefox 37, or Safari 8.

Global Search

Home **Building** Planning Enforcement Fire

Apply for a Building Permit Search Building Records

## Search for Records

Enter information below to search for records.

- Site Address
- Contractor License Information
- Parcel Number
- Record Information
- Contact Information

Select the search type from the drop-down list.

## General Search

Search All Records

Record Number:  Record Type:  Record Status:

Filing Date (Start):  Filing Date (End):

Street No.:  Street Name:  Street Type:

Unit No.:  Zip:  Parcel No.:

License Type:  State License Number:

First:  Last:

Name of Business:

[Search Additional Criteria](#)

**Search** **Clear**

6 Record results matching your search results

Click any of the results below to view more details.

Showing 1-6 of 6 | Download results

<input type="checkbox"/>	File Date	Status	Record Number	Record Type	Address	Description	Action	Short Notes
<input type="checkbox"/>	06/24/2019	Certificate Issued	R1900452	Residential Trade - ReRoofing	1924 9TH AVE, Oakland CA 94606	RE-ROOFING CERT-OBSTRUCTION PERMIT FOR: CURBSIDE PARKING-OBSTRUCT SIDEWALK/STREET		

000330 L0055

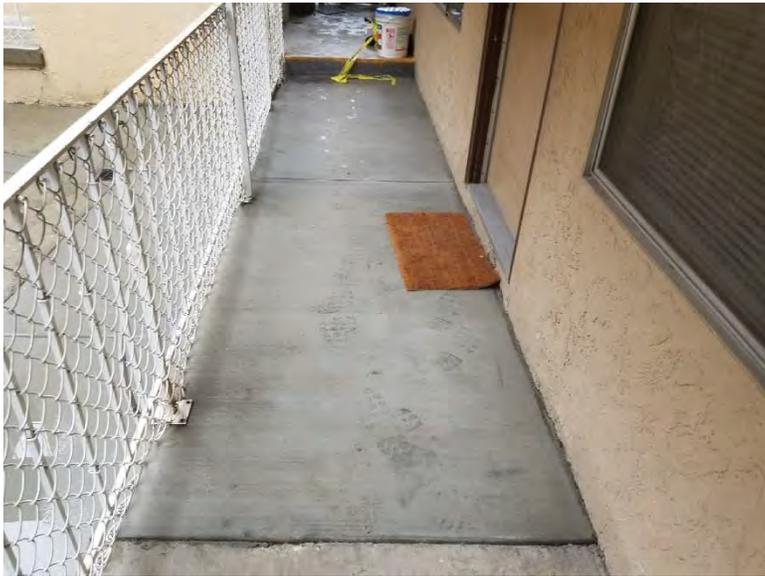
	03/12/2018	Final	CG518054	OPW - Curb Gutter Sidewalk	1924 9TH AVE, Oakland CA 94606	(SCAFFOLDING, FENCING, DUMPSTERS, ETC.) SEPARATE BUILDING PERMIT REQUIRED FOR: STRUCTURAL CHANGES  Install #2 sidewalk under-drain(s) per City Standards. No structure allowed beyond property line w/o ENMI. If working within 25' feet of a monument you must comply with State Law 8771, contact the inspector prior to starting excavation: minimum \$5,800.00 fine for non-compliance. Comply with all terms of City of Oakland Public Works Standards, Street Excavation Rules, Revised March 2015 and City Council Ordinance No. 13300 C.M.S. Five day prior notice required for work lasting five days or less in business/commercial districts; 72 hour notice in residential districts. Ten day prior notice required for work lasting six days or more in all districts. USA # and date must be provided in order to have a permit issued. Permit valid 30 days. Call PWA INSPECTION prior to start: 510-238-3651. 4th Floor. USA #
	10/04/2017	Final	B1704557	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	Repair foundation per engineered plans
	09/05/2017	Final	B1704095	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	1/5/18 Replace stairs with same material. 9/5/17 Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain. DRX171144 To abate CE #1700169.
	06/22/2017	Final	B1702754	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	Structurally repair 6 deteriorated balconies on multifamily residential building. Replace guard rails with open style. Partial abatement of #1700169.
	08/25/2011	Expired	SS111251	Building/Misc/Soft Story/NA	1924 9TH AVE, OAKLAND CA	EXEMPTED - NO LARGE OPENINGS ON GROUND LEVEL



**Courtyard: Before Improvements (examples)**



**Courtyard: After Improvements (examples)**



**STRUCTURAL:**  
**Stairs**

**000334**

# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Propietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinperezconstruction@yahoo.com](mailto:edwinperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



12/06/2017.

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606  
Tel.

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

Proposal. Front and Rear stairway and landing repairs as directed in the Coffman engineering report and CLE Consulting Staircase Corrosion report. Fir Like for Like replacement of stair Treads, Landing repair and handrails.

Work Request: Complete repairs indentified in CEL engineering report #171108S: #CEL#50-53464-S

Contractor will follow the recommended repairs based on the new design and report submitted by Coffman Engineering. The Engineering firm has submitted the designs and specs for the repairs of the stairway, balconies and courtyard area of 1924 9th ave. Oakland Ca 94606.

Proposal: Like for Like replacement as directed by the Coffman report.

Replace all damaged landing and stairs w/ concrete stairs, pads, replace rotted landings, and raise handrails to code.

**000335**

Total cost.

\$ 43,750.00

Perez & Perez General Contractor Inc. Will provide all labor, material and equipment to do the work described above for the sum(s). This bid does not include anything not specified. Please note, the terms and cost of this proposal are valid for 30 days.

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for

Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor will provide all materials needed to make repairs; unless otherwise specified above in work proposal. Contractor request that deposited of 25% be paid prior to work on site to acquire materials necessary to make contracted repairs. Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged

between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Please sign and return to Edwin R. Perez & Perez General Contractor Inc. if you agree to estimate as stated.

Please sign if you agree to estimate as stated.

\*\* Any additional work will require a new work order.

\_\_\_\_\_  
Date.

\_\_\_\_\_  
Edwin R. Pérez.

\_\_\_\_\_  
(Owner/Manager)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

**Serving the Bay Area Since 1996.**

Please see photos and discriptions below

**000336**

## Stairs & Landings & Railings Repair CONTRACT

### I. Parties

This contract is hereby made and entered into on Perez & Perez General Contractor Inc. between \_\_\_\_\_, remodeling contractor, whose address is PO BOX, 94601 Oakland CA. \_\_\_\_\_, and HAPP HOME PARTNERS, LLC., who is doing business at 2941 Telegraph Ave, Berkeley, CA. This contract is to Repair staitis and landings on the property located at 1924 9th Ave Oakland, CA 94606.

### II. The Contract Documents

The contractor will perform all the work that is required by this agreement and all the work that is required by the documents incorporated by reference into this agreement. The contract documents are: Scope of work Exhibit "A"

### III. The Scope of the Work

The contractor will furnish all the labor, materials, and equipment necessary to complete the alterations and improvements described in the contract documents.

### IV. Change Orders

All change orders must be in writing and signed by all the parties. The owners agree that changes resulting in the furnishing of additional labor or materials will be paid for prior to the commencement of the extra work. The owners agree that either of them may sign a change order, and that signature will be binding on both.

### V. Permits, Licenses, and Approvals

The OWNER will obtain and pay for local building and construction permits, and will obtain and pay the fees for the governmental inspections that are necessary for the construction and occupancy of the finished structure, except as otherwise provided in this contract. The owners will secure and pay for any easements, variances, zoning changes, necessary modifications of restrictive

Covenants or other actions. The owners will indicate the property lines to the remodeling contractor and will provide boundary stakes by a licensed land surveyor if the owners are in doubt about the property boundaries.

## **VI. Insurance and Risk of Loss**

The owners agree to maintain insurance covering the replacement cost of the improvement under contract in the event of loss through fire, casualty, storm or other disasters, and theft of materials from the site. Before work begins, the property owner will furnish a certificate of that insurance to the remodeling contractor. The remodeling contractor agrees to maintain workers' compensation insurance and liability insurance to protect the owners from liability claims for damages because of bodily injury, including death, and from liability for damages to property. Before beginning the work, the remodeling contractor will furnish a certificate of that insurance to the property owner.

## **VII. Access**

The property owner will allow free access to work areas for workers and vehicles and will allow areas for the storage of materials and debris. Driveways will be kept clear for the movement of vehicles during work hours. The remodeling contractor will make reasonable efforts to protect driveways, lawns, shrubs, and other vegetation.

## **VIII. Site Conditions**

The property owners acknowledge that this contract is based upon the remodeling contractor's observation of conditions. Conditions which could not be known by a reasonable inspection, such as termite damage, hidden water damage, hidden code violations, or other concealed conditions, may require extra labor or materials, which are not part of this contract. If such hidden conditions are discovered, the remodeling contractor will notify the property owner and will attempt to reach an agreement for a change order to this contract that addresses those problems.

## **IX. Payment**

The property owner will pay the cost of all materials used in construction plus delivery and handling costs, the wages of all carpenters and other workers, and the cost of all subcontractors. The Owner will also pay a fixed fee of \$ \$43,750.00 to the contractor for overhead and profit.

**X. Payment Schedule**

Payments for the work are due as follows: **25% Deposit**

A deposit in the amount of \$10,937.50 percent of the contract price is due upon contract signing. Additional payments will be due as the following items of work listed below are completed.

When each payment is due, the remodeling contractor will prepare a statement of money due in writing and submit it to the owners. All payments are due from the property owner no later than ten days after receipt of the statement. The remodeling contractor will furnish lien releases for work completed through each request, upon receipt of payment.

15	%	of the remaining contract price is due when	Bolt Installed in Concrete
15	%	of the remaining contract price is due when	Field Welding
15	%	of the remaining contract price is due when	Final Inspection
30	%	of the remaining contract price is due when	Delivered Job Card Complete and all trash removed

The remaining contract price is due upon the substantial completion of the work. Upon final payment the remodeling contractor will deliver a release of all liens.

If payments due to the remodeling contractor are not paid within ten days of the written demand, the remodeling contractor may suspend work until payment is made.

**XI. Final Inspections and Liens**

Upon notification by the remodeling contractor of substantial completion of the work, the owners and the remodeling contractor will inspect the work performed, and at that time the owners will prepare a punch list that identifies any incomplete work or deficiencies in workmanship or materials. The owners may retain the value of the punch list work from the final payment until the punch list items are complete. Completion of the punch list items must be made within days from the date of the punch list preparation. When the punch list items are completed, the owners will pay the remodeling contractor the balance of the contract price within days of the demand. At that time, the remodeling contractor will deliver to the property owners a release of all liens.

**XII. Warranties**

The contractor guarantees the work will meet trade standards of good workmanship. The remodeling contractor will make every effort to blend existing textures, colors, and planes, but exact duplication is not guaranteed. The remodeling contractor warrants that materials of good quality will be selected. The contractor will maintain all manufacturers' warranties. The customer is limited to the manufacturers' warranties for defects in the manufacture of materials. All contractors' warranties are limited to a period of no more than (1) one years . The remodeling contractor's warranties are limited to the cost of labor and materials only, and exclude ordinary wear and tear or abuse by others.

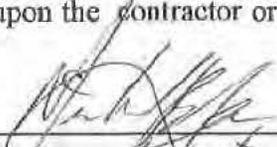
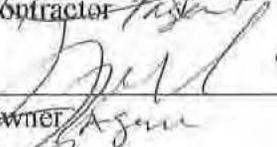
**XIII. Dispute Resolution**

All the parties will cooperate with each other to resolve conflicts informally. In the event that is not possible, conflicts between the parties will be resolved by Mediation provided by mediator agreed by both parties. The conflict will be decided according to the Construction Industry Rules of the American Arbitration Association, and the laws of the state where the project is located. The arbitrator will award reasonable costs and expenses, including attorney fees, to the prevailing party.

provided by Berkeley Mediation and shared cost of 50% / 50%. The conflict will be decided according to the Construction Industry Rules of the American Arbitration Association, and the laws of the state where the project is located. The arbitrator will award reasonable costs and expenses, including attorney fees, to the prevailing party.

**XIV. Signatures**

We, the undersigned, have read and understood this entire contract, including documents attached by reference. We acknowledge that this document constitutes the entire agreement between the parties. This contract is not binding upon the contractor or the property owners until it is signed by all parties.

Dated: 01/24/2018 Signed:  Contractor *Don + Pamela Contractor*  
Dated: 01/24/2018 Signed:  Owner  
Dated: 01/24/2018 Signed:  Owner

Contract documents:

See exhibit "A" Scope of work

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Site	VIEWPOINTE	Paid Date	01292018	Serial No	7876
Routing		Account		PC	000060
Amount	10937.50	Sequence		Capture Source	00010085

Front Black & White Image



**Happy Home Partners Lic**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-42881210

1/24/2018

PAY TO THE ORDER OF Perez and Perez General Contractor Inc.

\$ \*\*10,937.50

Ten Thousand Nine Hundred Thirty-Seven and 50/100 DOLLARS

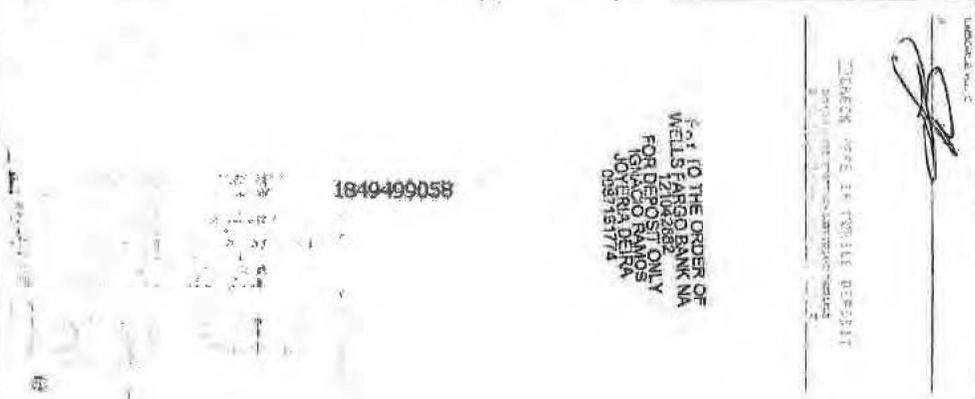
Perez and Perez General Contractor Inc  
1815 69th Avenue  
Oakland CA 94621

MEMO 

TWO SIGNATURES REQUIRED

*[Signature]*

Back Black & White Image



1849499058

FOR DEPOSIT ONLY  
WELLS FARGO BANK NA  
12/14/2007  
FOR DEPOSIT ONLY  
WELLS FARGO BANK NA  
12/14/2007

UNDEPOSITED

*[Signature]*

# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Propietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinperezconstruction@yahoo.com](mailto:edwinperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



03/05/2018.

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

\  
Proposal. During the course of repairs to the Front and Rear stairway and landing repairs as directed in the Coffman engineering report and CLE Consulting Staircase Corrosion report. Like for Like replacement of stair treads and handrails the inspectors identified additional threads in need of replacement. Also in the course of repairing the landings of the rear stairway run the existing handrails identified for repair were deemed unusable for replacement and had to be replaced by new handrails that were up to building codes.

Work Request: **Complete repairs indentified in CEL eningerring report #171108S: #CEL#50-53464-S**

Contractor will follow the recommended repairs based on the new design and report submitted by Coffman Engineering. The Eningerring firm has submitted the designs and specs for the repairs of the stairway, and landing handrails of 1924 9th ave. Oakland Ca 94606.

**000342**

**Proposal:** in the course of the Like for Like replacement as directed by the Coffman report an additional stair treads (10) and New Handrails (3 landing sets) to meet the standards of inspection required to pass the city bulding inspection.

Replace all damaged landing handrails of the rear landing and 10 additional stairs treads to complete work and pass inspection requirements.

Contractor will communicate with engineer to get specs for the additional repairs pointed ot by inspectors.

Contractor will replace all handrails at the rear landings with new handrails and weld to new specs provided by coffman engineering.

Contractor will communicate with Coffman to get specs for the welding of the threads to the runner of the stringers.

Contractor will remove all additional identified stair treads and replace with new like for like treads to the specs of Coffman engineering.

Contractor will remove all rubbish from site and restore access to tenants.

Contractor will communicate with the city and special inspectors to clear and complete all aspects of work to their persective code specifications.

**Original Cost estimate: \$10,788.00**

**George approved amount: \$7,750.00**

**Total cost. \$ 7,500.00**

Perez & Perez General Contractor Inc. Will provide all labor, material and equipment to do the work described above for the sum(s). This bid does not include anything not specified. Please note, the terms and cost of this proposal are valid for 30 days.

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for

Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor will provide all materials needed to make repairs; unless otherwise specified above in work proposal. Contractor request that deposited of 25% be paid prior to work on site to acquire materials necessary to make contracted repairs. Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged

between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Please sign and return to Edwin R. Perez & Perez General Contractor Inc. if you agree to estimate as stated.

Please sign if you agree to estimate as stated.

\*\* Any additional work will require an additional work order.

---

Date.

---

Edwin R. Pérez.

---

(Owner/Manager)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

**Serving the Bay Area Since 1996.**

Please see photos and discriptions below

**000344**

# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Propietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinrperezconstruction@yahoo.com](mailto:edwinrperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



03/18/2018

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606  
Tel.

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

**Invoice:** Stairways and landings installation as directed in the Coffman Engineering report.

Complete repairs indentified in Coffman engineering report CEI #170460

**Total cost for Stairs, landings, and handrails repairs: \$43,750.00**

**Additional work: \$7,500.00**

**Total Cost: \$51,250.00**

**Disbursements: \$10,937.50**

**Balance Due: \$40,312.50**

If you have questions or comments please don't hesitate to email us or contact Michael Blake project manager for Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079

Contractor request that payment in full made upon completion of request repairs; unless otherwise arranged between owner and contractor (mailing address: PO BOX. 94601 Oakland CA.)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

**Serving the Bay Area Since 1996**

**000345**

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

03/21/18

Check Amount

\$40,312.50

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94708

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-4358/1210

3/20/2018

PAY TO THE ORDER OF **Perez and Perez General Contractor Inc.** \$ 40,312.50

Forty Thousand Three Hundred Twelve and 50/100 DOLLARS

Perez and Perez General Contractor Inc  
1815 68th Avenue  
Oakland CA 94821

MEMO stairs / 1924

TWO SIGNATURES REQUIRED

*[Signature]*  
*[Signature]*

AUTHORIZED SIGNATURE

FOR DEPOSIT ONLY  
WELLS FARGO BANK NA  
FOR DEPOSIT ONLY  
IGNACIO RAMOS  
10000161714  
000022124

PLEASE KEEP IN POSITIVE SECTION

*[Signature]*

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

March 27, 2017

AUTHORIZATION FOR WORK

To: Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

Attn: George Shafazand

Re: Structural Engineering Services Proposal  
Structural modifications – Stairs & Pool  
1924 Ninth Avenue, Oakland, CA 94606

**I. DESCRIPTION OF WORK**

The project consists of the structural engineering services associated with planned upgrades to the existing four-story apartment building. The planned upgrades are twofold:

- Stair replacement: the existing precast concrete treads are in poor condition, and are very heavy. The entire stair system at both the front and back of the building will be replaced with a new steel stair system with stair treads and intermediate landings comprised of steel checkered plate.
- Swimming pool infill corrections: the original swimming pool located in the courtyard was filled in about 15 years ago in a manner that has resulted in some settlement and drainage issues. This infill will be removed, and adjustments will be made to ensure that the new infill is done properly in a way that does not cause future problems.

We will make use of the drawings that were previously prepared by Jeffrey Weber & Associates, Inc. for a voluntary seismic retrofit of the building to assist us with the present scope of work. The following items will need to be done in order to complete the design effort:

- Some additional investigation of the building, including exploratory work as needed to verify the details of the existing stair connection to the building, and the details of the swimming pool infill.
- Analysis, design, and detailing of the new stairs.
- Analysis, design, and detailing of the revised infill of the original swimming pool.

New foundations will be designed using recommended design criteria provided in a site-specific geotechnical report prepared by a Geotechnical Engineer, if available. If such a report is not available, then we will utilize the presumptive soil bearing pressures and related criteria contained in the current edition of the California Building Code.

A Contractor may need to be hired to assist with the exploratory work described above. Once the exploratory work is completed, we will be able to complete the work that we need to do to design the soft story retrofit for this building.

We will be present at the site several times during construction, in order to answer Contractor questions about the structural aspects of the building, and to serve as your agent in checking to see if the Contractor is building the improvements in a manner consistent with the details indicated on our drawings.

## II. BASIC STRUCTURAL ENGINEERING SERVICES

The Basic Services, for which the Structural Engineer is responsible, include the analysis, design, detailing, and periodic observations of construction of the mandatory seismic improvements.

### A. PRELIMINARY DESIGN PHASE

1. Conduct exploratory work to determine the details of the present infill of the original swimming pool infill.
2. Review the framing of the existing stairs at the site.
3. Develop conceptual ways to replace the swimming pool infill in a manner that does not adversely affect the surrounding building.
4. Develop preliminary framing plans that show replacement stairs for the front and back of the building.
5. Prepare structural sketches that summarize the above work.

### B. CONSTRUCTION DOCUMENTS PHASE

1. Prepare final structural calculations.
2. Develop the details for the improvements not shown in the preliminary design phase.
3. Prepare structural drawings sufficiently detailed for Contractor use.
4. Establish testing and inspection requirements for all structural materials, if needed.
5. Respond to comments made during the city's plan checking process.

### C. CONSTRUCTION ADMINISTRATION PHASE

1. Assist in analyzing bids for awarding general contract.
2. Assist in obtaining proposals from testing laboratories, if needed.
3. Prepare structural clarification sketches during construction as needed.
4. Visit the construction site at appropriate times to observe the progress of construction and its general conformance to the structural drawings.  
Maximum number of visits: 3.

## III. COMPENSATION

- A. Our fees for the Basic Services described above will be charged on a fixed fee basis, at the following amounts:

Preliminary Design:	\$ 7,000
<u>Construction Documents:</u>	<u>\$ 7,000</u>

Total \$ 14,000

- B. Our fees for the Construction Administration Phase Services will be charged on an hourly basis, at the rates quoted below, on an as-needed basis, excluding reimbursable costs.
- C. Our current billing rates are as follows:
- |                  |                 |                  |                 |
|------------------|-----------------|------------------|-----------------|
| General Manager: | \$ 217 per hour | Senior Engineer: | \$ 163 per hour |
| Engineer III:    | \$ 145 per hour | Engineer II:     | \$ 125 per hour |
| Engineer I:      | \$ 114 per hour | Designer III:    | \$ 122 per hour |
- D. Invoices shall be submitted monthly, based on the work completed during the preceding month. Payments shall be made within thirty days of invoice date. We reserve the right to unilaterally suspend work on this project if any payments have not been received within thirty days of invoice date. In this event, work could resume upon receipt of the payment(s) in question.
- E. All past due accounts are subject to a late charge of 1.00 per cent per month based on the outstanding balance.

#### IV. EXCLUSIONS

The services described above will be provided. Excluded services are services which can be foreseen but are not necessary to enable the building to withstand code mandated vertical and lateral (wind and seismic) forces.

- A. Structural items other than those included in the above scope of work.
- B. Design of repairs to other structural members, if discovered during the course of completing our scope of work.
- C. Seismic strengthening measures for the building.
- D. Items relating to architectural issues, such as wall finishes and moisture protection measures. An Architect can be hired, if needed, to address these issues.
- E. Design, analysis, or assessment of the elevated exterior elements (decks and stairs) of the building.
- F. Structural design of retaining walls independent of the building.
- G. Structural design of landscape elements such as benches and trellises.
- H. Conducting site-specific soils evaluations and the preparation of a soils report.
- I. Preparation of documents for alternate bids.
- J. Special inspections as defined in Section 1704, 2016 California Building Code.
- K. Continuous and/or detailed inspections of construction.
- L. Physical submission of drawings and calculations for building permit application. Normally this is done by the contractor.
- M. Establishing design criteria for or designing temporary shoring.
- N. Plan review fees, and building permit and permit application fees.
- O. Cost estimating and/or quantity takeoffs.
- P. Preparation of "as-built" or record set of drawings after completion of the project.

- Q. Consultations required to answer questions from third party engineering reviews.
- R. Consultations required to respond to questions from value engineering studies.
- S. Changes requested by the third party consultants noted above.
- T. Any services associated with asbestos abatement or hazardous material removal.
- U. Design related to handicapped or disabled access to the building.

## **V. EXTRA SERVICES**

Extra services are those which arise as a result of unforeseen circumstances during the design or construction of the project and which are not included above. The following items are considered extra services and shall be billed on a time and materials basis per our standard billing rates given above, in addition to fees quoted for Basic Services. Written notification will be given before proceeding with any extra services.

- A. Services resulting from changes in scope of the project as described above.
- B. Redesign to reduce construction cost.
- C. Redesign requested to accommodate particular construction materials or methods.
- D. Services required to create as-built drawings of the buildings, if the original drawings cannot be located.
- E. Corrective actions required because of Contractor deviations from the drawings.
- F. Services in connection with a public hearing or legal proceeding.
- G. Services necessitated by fire or other damage to construction.
- H. Services requested after completion of the structural part of the project.

## **VI. REIMBURSABLE EXPENSES**

Reimbursable costs are in addition to the fees quoted for basic services and include actual expenditures made by the Structural Engineer in the interest of the project. They shall be billed at direct cost and are payable monthly as incurred. Reimbursable costs include, but are not limited to, the following:

- A. The cost of reproduction of all documents for your use.
- B. Messenger and other special delivery services.
- C. Travel to and from the site at federally approved standard mileage rates.

## **VII. INFORMATION TO BE FURNISHED TO THE STRUCTURAL ENGINEER BY OTHERS, IF NEEDED**

- A. Original building drawings.
- B. Site specific geotechnical report.
- C. Description of site conditions, including topographic, boundary, and utility surveys, existing structures, etc.

## **VIII. OWNERSHIP & USE OF DOCUMENTS**

Documents produced by Coffman Engineers under this agreement are instruments of service and shall remain the property of Coffman Engineers. They shall not be used for any other purpose without express written agreement and appropriate compensation to Coffman Engineers. Copies of all drawings and other project documents will be sent to you as requested.

#### **IX. EXPIRATION & TERMINATION OF AGREEMENT**

This authorization will expire if not accepted within 30 days of the date of execution by Coffman Engineers. This agreement may be terminated by either party without cause upon 10 days written notice. In the event of termination you shall pay for all services performed and reimbursable expenses incurred prior to such termination.

#### **X. INSURANCE**

Coffman Engineers maintains general liability and professional liability insurance coverage. Any other design professionals hired for this project shall also maintain such insurance policies.

#### **XI. VERIFICATION OF EXISTING CONDITIONS**

Inasmuch as the remodeling and/or rehabilitation of an existing building requires that certain assumptions be made regarding existing conditions, and because some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the building, the Owner agrees that except for negligence on the part of the Design Professional, the Owner will hold harmless, indemnify, and defend the Design Professional from and against any and all claims arising out of any assumptions made regarding existing conditions.

#### **XII. LIMITATION OF LIABILITY**

The Structural Engineer's limit of liability to the Owner on the project, due to Structural Engineer's negligent acts, errors, omissions, or breach of contract, shall be in the amount of Structural Engineering fees collected on this project, or \$500,000.00, whichever is greater.

#### **XIII. MISCELLANEOUS**

If a dispute arises out of or relates to this agreement, or the breach thereof, and if such disputes cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Construction Industry Mediation Rules of the American Arbitration Association, before resorting to arbitration. If any such dispute cannot be settled by mediation, it shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. In the event either party institutes any legal proceeding concerning the enforcement or interpretation of this agreement, the

prevailing party shall be entitled to receive reasonable attorney's fees in an amount to be determined by the court.

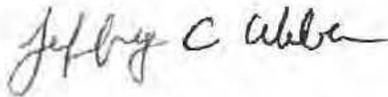
**XIV. SCOPE OF AGREEMENT**

This is the entire agreement between the parties, and there are no agreements or representations between the parties except as expressed herein.

If this contract is acceptable, please indicate so by signing and returning a copy.

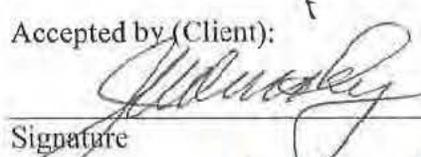
Sincerely,

Coffman Engineers



Jeffrey C. Weber, SE #2866  
General Manager, Vice President

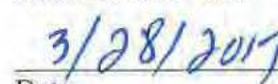
Accepted by (Client):



Signature



Printed name / title



Date

Revised 11/15/2017



LASTING creativity | results | relationships

Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 6/9/17

INVOICE NO: 1705811202

ATTENTION: George Shafazand  
george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 5/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Stair replacement**	\$7,000.00	70	\$4,900.00	\$0.00	\$4,900.00
<b>Invoice Total</b>	<b>\$7,000.00</b>		<b>\$4,900.00</b>	<b>\$0.00</b>	<b>\$4,900.00</b>

\*\*Previously Stairs & Pool - C/D

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

000353 L0078

Revised 11/15/2017



Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 7/10/17  
INVOICE NO: 1706810702

ATTENTION: George Shafazand  
george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 6/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Stair replacement**	\$7,000.00	100	\$7,000.00	\$4,900.00	\$2,100.00
<b>Invoice Total</b>	<u>\$7,000.00</u>		<u>\$7,000.00</u>	<u>\$4,900.00</u>	<u>\$2,100.00</u>

\*\*Previously Stairs & Pool - C/D

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

**000354**

Site	VIEWPOINTE	Paid Date	10112017	Serial No	[REDACTED]
Routine	[REDACTED]		[REDACTED]	PC	000060
Amount	7700.00	Sequence	[REDACTED]	Capture Source	00007114

Front Black & White Image

Happy Home Partners LLC  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
1-800-955-5210

10/4/2017

PAY TO THE ORDER OF Coffman Engineers \$ \*\*7,700.00

Seven Thousand Seven Hundred and 00/100 \*\*\*\*\* DOLLARS

Coffman Engineers  
1939 Harrison Street Suite 320  
Oakland CA 94612

MEMO: [REDACTED]

TWO SIGNATURES REQUIRED  
*[Signature]*

Recordable Document  
Digitally signed by [REDACTED]

Back Black & White Image

Credited to acct  
1538085601 88000  
Return acct 1538085601

FOR DEPOSIT ONLY  
U.S. BANK  
COFFMAN ENGINEERS, INC.  
153801083601

FOR DEPOSIT ONLY  
U.S. BANK  
COFFMAN ENGINEERS, INC.  
153801083601

FOR DEPOSIT ONLY  
U.S. BANK  
COFFMAN ENGINEERS, INC.  
153801083601

Foundation Repair 7,276.50  
 \$63,000

Balcony repairs \$976.50

Cash in Bank- HHP:Wells Fargo:WF Check 17048113

7,276.50

LMP100 MP CHECK

HAPPY HOME PARTNERS LLC

7272

Coffman Engineers

17068107 - stairs & pool 10/4/2017 2,100.00  
 17058112 - stairs & pool 5,600.00

↳ \$700 for Foundation Repair  
 &  
 \$4,900 for Stair Replacement

WF Checking #4391 1924

BV 7,700.00

HAPPY HOME PARTNERS LLC

9184

Coffman Engineers

1924 / 1711808402 Dec,2017 480.00  
 1924 / 1801808103 Feb,2018 796.00  
 1924 / 1802807902 Mar, 2018 500.00



Happy Home Partners, LLC  
 2941 Telegraph Avenue  
 Berkeley, CA 94705

INVOICE DATE: 11/15/17  
 INVOICE NO: 1710808802

ATTENTION: George Shafazand  
 george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 10/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Stair replacement **	\$7,000.00	100	\$7,000.00	\$7,000.00	\$0.00
Stair repair	\$3,500.00	T&E	\$2,605.00	\$0.00	\$2,605.00
Construction Admin - Stair replacement		T&E	\$0.00	\$0.00	\$0.00
<b>Invoice Total</b>			<b>\$9,605.00</b>	<b>\$7,000.00</b>	<b>\$2,605.00</b>

\*\*Previously Stairs & Pool - Prelim C/D

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
 Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
 Telephone (510) 251-9578

**000357**



**INVOICE DATE:** 11/15/2017  
**INVOICE NO:** 1710808802  
**CLIENT:** Happy Home Partners, LLC  
**PROJECT:** 170460 1924 Ninth Avenue

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**LABOR AND EXPENSE DETAIL**

**Stair Repair**

<b>Labor</b>		<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
General Manager	Weber, Jeffrey C.	2.50	217.000	542.50
Engineer II	Liu, Eric L.	16.50	125.000	2,062.50
				<u>2,605.00</u>
		<b>Invoice Total</b>	<b>\$</b>	<b><u>2,605.00</u></b>

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

02/13/18

Check Amount

\$3,085.50

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
51-42887210

Happy Home Partners Llc  
2947 Telegraph Ave  
Berkeley, CA 94705

2/7/2018

PAY TO THE ORDER OF **Coffman Engineers** \$ **3,085.50**

Three Thousand Eighty-Five and 50/100 DOLLARS

Coffman Engineers  
1939 Harrison Street Suite 320  
Oakland CA 94612

MEMO 1924

TWO SIGNATURES REQUIRED

*Signature*

Photo Back Exposure

Wells Fargo Bank

MEMO TO THE ORDER OF  
FOR DEPOSIT ONLY  
U.S. BANK  
COFFMAN ENGINEERS, INC.  
15501063601

DO NOT WRITE, STAMP OR SIGN BEYOND THIS LINE.  
RESERVED FOR FINANCIAL INSTITUTION USE

CHECK HERE IF MOBILE DEPOSIT

Credited to ACCT  
15501063601 80000  
Return ACCT 15501063601

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000359 L0084

Coffman Engineers

10/4/2017

17068107 - stairs & pool  
17058112 - stairs & pool

2,100.00  
5,600.00

↳ \$ 700 for Foundation Repair

&  
\$ 4,900 for Stair replacement

WF Checking #4391 1924

BV 7,700.00

LMP100 M/P CHECK

HAPPY HOME PARTNERS LLC

7905

Coffman Engineers

2/7/2018

stair repair - 1710808802  
stair repair - 1711808402

2,605.00  
480.50

WF Checking #4391 1924

(BV) 3,085.50

LMP100 M/P CHECK



LASTING creativity | results | relationships

Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 12/12/17

INVOICE NO: 1711808402

ATTENTION: George Shafazand  
george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 11/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Stair replacement **	\$7,000.00	100	\$7,000.00	\$7,000.00	\$0.00
Stair - separate submittal ***	\$500.00	100	\$500.00	\$0.00	\$500.00
Stair repair	\$3,500.00	T&E	\$3,085.50	\$2,605.00	\$480.50
Construction admin - stair replacement		T&E	\$0.00	\$0.00	\$0.00
<b>Invoice Total</b>			<b>\$10,585.50</b>	<b>\$9,605.00</b>	<b>\$980.50</b>

\*\*Previously Stairs & Pool - Prelim C/D

\*\*\*Additional service was approved by Client via email dated August 2, 2017.

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

000361 L0086



INVOICE DATE: 12/12/2017
INVOICE NO: 1711808402
CLIENT: Happy Home Partners, LLC
PROJECT: 170460 1924 Ninth Avenue

LABOR AND EXPENSE DETAIL

Stair Repair

Table with 5 columns: Labor, Name, Hours, Rate, Amount. Rows include General Manager (Weber, Jeffrey C.), Designer III (Canlas, Rachel M.), Engineer II (Liu, Eric L.), and Invoice Total (\$480.50).

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number [REDACTED]

Date Posted 02/13/18

Check Amount \$3,085.50



For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000363 L0088

Coffman Engineers

10/4/2017

17068107 - stairs & pool  
17058112 - stairs & pool

2,100.00  
5,600.00

↳ \$700 for Foundation Repair

&  
\$4,900 for Stair replacement

WF Checking #4391 1924

BV 7,700.00

LMP100 M/P CHECK

HAPPY HOME PARTNERS LLC

7905

Coffman Engineers

2/7/2018

stair repair - 1710808802  
stair repair - 1711808402

2,605.00  
480.50

WF Checking #4391 1924

(BV) 3,085.50

LMP100 M/P CHECK



Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 3/9/18  
INVOICE NO: 1802807902

ATTENTION: George Shafazand  
Mel Varsovia, mel.varsovia@udinsky.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 2/25/2018:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Stair replacement	\$7,000.00	100	\$7,000.00	\$7,000.00	\$0.00
Stair - separate submittal	\$500.00	100	\$500.00	\$500.00	\$0.00
Stair repair	\$3,500.00	T&E	\$3,085.50	\$3,085.50	\$0.00
Construction admin - stair replacement		T&E	\$500.00	\$0.00	\$500.00
<b>Invoice Total</b>			<b>\$11,085.50</b>	<b>\$10,585.50</b>	<b>\$500.00</b>

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Eric L. Liu  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

**000365**



**INVOICE DATE:** 3/9/2018  
**INVOICE NO:** 1802807902  
**CLIENT:** Happy Home Partners, LLC  
**PROJECT:** 170460 1924 Ninth Avenue

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**LABOR AND EXPENSE DETAIL**

**Construction Admin - Stair Rplcmt**

<b>Labor</b>		<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Engineer II	Liu, Eric L.	4.00	125.000	500.00
				<hr/> 500.00
			<b>Invoice Total</b>	<hr/> <b>\$ 500.00</b> <hr/>

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

07/24/18

Check Amount

\$1,776.00

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94706

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-4289/1210

7/13/2018

PAY TO THE ORDER OF **Coffman Engineers** \$ **1,776.00**

One Thousand Seven Hundred Seventy-Six and 00/100 \*\*\*\*\* DOLLARS

Coffman Engineers  
1939 Harrison Street Suite 320  
Oakland CA 94612

MEMO  
Engineering / 1924

DOUBLE SIGNATURES REQUIRED

*[Signatures]*

EXTRAS: STUBS  
For Deposit Only  
Use Back

CHECK HERE IF MOBILE DEPOSIT  
DO NOT SIGNATURE OR WRITE IN THESE SPACES  
OR RETURN TO THE BANK FOR FURTHER INFORMATION

Credited to Acct  
153501083601 00000  
Return Acct 153501083601

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000367 L0092

" Coffman Engineers

7/13/2018

1924 / 1711808402	Dec,2017	480.00
1924 / 1801808103	Feb,2018	796.00
1924 / 1802807902	Mar, 2018	500.00

WF Checking #4391 Engineering / 1924

1,776.00

LMP100 M/P CHECK

HAPPY HOME PARTNERS LLC

9294

Coffman Engineers

8/15/2018

1924 / 1711808402		20.00
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WF Checking #4391 Engineering / 1924

20.00

LMP100 M/P CHECK

Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

8/1/2018

PROJECT: 170460 1924 Ninth Avenue

PM: Liu, Eric L.



Invoice No	Invoice Date	Inv Grp	Invoice Amount	Collected	Balance Due
<b>PROJECT: 170460 1924 Ninth Avenue</b>					<b>PM: Liu, Eric L.</b>
1711808402	12/12/2017	02	\$980.50	\$960.50	\$20.00
			<u>\$980.50</u>	<u>\$960.50</u>	<u>\$20.00</u>

**Aging**

1 - 30	31 - 60	61 - 90	Over 90	Unallocated	Total
0.00	0.00	0.00	20.00	0.00	20.00

This statement is for verification of balance due only. If you do not agree with the information, please contact Julie Kim in our Los Angeles Office at 818.285.2650.

Check Details

Check Number	9294
Date Posted	08/24/18
Check Amount	\$20.00

<b>Happy Home Partners Lic</b> 2941 Telegraph Ave Berkeley, CA 94705		<b>WELLS FARGO BANK, N.A.</b> www.wellsfargo.com 1-4588-1210	<b>9294</b>
PAY TO THE ORDER OF <b>Coffman Engineers</b>		<b>8/15/2018</b>	<b>\$ **20.00</b>
Twenty and 00/100		DOLLARS	
<b>Coffman Engineers</b> 1989 Harrison Street Suite 320 Oakland CA 94612		<b>DOUBLE SIGNATURES REQUIRED</b>  	
MEMO	Engineering / 1924		



CONSOLIDATED ENGINEERING  
LABORATORIES

February 7, 2018

Mr. George Shafazand  
Happy Home Partners, LLC.  
2941 Telegraph Avenue  
Berkeley, California 94705

Via E-Mail: [george@happyhomepartners.com](mailto:george@happyhomepartners.com)

**Subject: Stair Improvements, 1924 Ninth Avenue, Oakland, California 94606**  
**CEL #10-34244**  
**Materials Testing and Construction Inspection Services**

Dear Mr. Shafazand:

Consolidated Engineering Laboratories (CEL) is pleased to submit our cost proposal to provide materials testing and construction inspection services for the **New Walkway Repairs project, located at 1924 Ninth Avenue in Oakland, California**. CEL would be proud to be part of your team, helping to ensure the construction quality and success of this project.

Following are our cost estimate and scope of services. We assembled this proposal based on the following sources:

- Structural drawings prepared by Coffman Engineers dated August 24, 2017;

Thank you for giving CEL the opportunity to be a part of your project team. We are committed to providing our clients the very best service possible to fulfill their testing and inspection needs, and are eager to prove this commitment to you. Should you have any questions or require additional information, please do not hesitate to contact me.

Respectfully submitted,  
**CONSOLIDATED ENGINEERING LABORATORIES**

Nicholas McCloud  
Estimator / Assistant Project Manager

This proposal, when signed by client at the space indicated below, shall constitute a legally enforceable contract on the precise, unaltered terms set forth in this proposal and the accompanying Contract Terms and Conditions.

**Client: Happy Home Partners**

2/8/2018

Date



Stair Improvements 1924 Ninth Avenue  
 CEL#10-34244 \*February 7, 2018

**STAIR IMPROVEMENTS  
 OAKLAND, CALIFORNIA  
 CEL #10-34244**

**PRICING**

Description	Quantity	Unit Rate	Subtotals	
<b>EPOXY GROUTED DOWELS</b>				
Placement Inspection	4 Hours	\$ 80.00	\$ 320.00	
Proofload Testing	4 Hours	\$ 80.00	\$ 320.00	
<b>SUBTOTAL:</b>			\$ 640.00	
<b>STRUCTURAL STEEL</b>				
Field Welding Inspection	8 Hours	\$ 80.00	\$ 640.00	
<b>SUBTOTAL:</b>			\$ 640.00	
<b>MISCELLANEOUS</b>				
Final Affidavit	1 Per Permit	\$ 400.00	\$ 400.00	
Project Engineering and Management 5%			\$ 84.00	
<b>SUBTOTAL:</b>			\$ 484.00	
<b>MAN-HOURS</b>		<b>8</b>	<b>GRAND TOTAL: \$ 1,764.00</b>	

  
 \_\_\_\_\_  
 CEL Client  
 Initials Initials  
**000372** L0097



**CONSOLIDATED ENGINEERING**  
LABORATORIES

Stair Improvements 1924 Ninth Avenue  
CEL#10-34244 \*February 7, 2018

**Base of Charges:** The proposed unit rates will be in effect through December 31, 2018. Thereafter, the unit rates are subject to an annual increase of four percent (4%) per year to mitigate the annual operating cost increases:

Work over 8 Hours per day	Time and One-Half
Work over 12 Hours, Monday through Friday	Double Time
Work on Saturdays	Time and One-Half
Work over 8 Hours on Saturdays	Double Time
Work on Sundays/Holidays	Double Time
Swing or Graveyard Shift Premium	\$12.50 per Hour
Work from 0-4 Hours	4-Hour Minimum Billing
Work from 4-8 Hours	8-Hour Minimum Billing
Show-Up Time	2-Hour Minimum Billing
Sample Pick-Up	\$30.00/Trip
Laboratory Testing - Rush Fee	Add 50% to Testing Cost
Technician with Nuclear Gauge	Portal-to-Portal
Final Affidavit (per permit number) (request site working days advanced notice)	\$400.00
Extra Copies (over four per issue date) of Inspection Reports and Final Affidavit	\$20.00/each
Project Engineering and Management	5% of Fees
Credit Card Payment of Fees	2.5% Premium
Reimbursables	Cost + 15%
QA/QC Man Written Procedures	Quotation upon Request
Out of Area Services (beyond 40-mile radius)	As Listed below:
Travel Time	Basic Hourly Rate
Mileage	\$4.00/Mile
Per-Diem, including lodging	\$120.00/Day

**QUANTITY DISCLAIMER:**

This quote outlined herein was based on the following sources:

- \* Structural drawings prepared by Coffman Engineers dated August 24, 2017

This proposal is limited to the scope of services, the number of inspection hours, and the number of associated tests identified herein. Any estimated quantities contained herein are estimates only and Client agrees to payment for services rendered in excess of the estimated quantities and/or cost figures as described herein.

It is recognized that additional services rendered herein under this proposal are schedule driven and are mandated by the scheduling and staffing of the contractor(s). Should items and quantities alter from estimates outlined herein, CEL shall be entitled to compensation for services rendered.

In addition, Client recognizes that, on occasion, due to the schedule of the contractor or relevant subcontractors, occasional overtime may be required. CEL typically will have no notice of this until the day the said overtime occurs. Client agrees to compensate CEL for such overtime.

CEL      Client  
Initials      Initials  
**000373** L0098



## SCOPE OF SERVICES

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### EPOXY DOWELS AND ANCHORS

As required, we will perform visual examination of dowel/anchor placement to determine dowel/anchor holes are clean, of the proper depth and diameter, and installed as specified by the manufacturer. In addition, we will perform proofload testing of the epoxy dowels/anchors at the percentage defined by the plans and specifications.

**NOTE:** These estimates assume that adequate access will be provided for performing the work at maximum production, i.e., scaffolding. Should any dowel/anchor fail, additional tests will be required per plans.

### STRUCTURAL STEEL

#### Field Inspection

- Observe the utilization of certified welders and approved procedures;
- Confirm approximate preheat temperature;
- Nondestructive testing of moment welds and column splices;
- Inspect to determine and observe proper installation and tightening of high strength bolts;
- Visual inspection of welding to determine compliance with contract documents;
- Continuous inspection of multi-pass fillet welds, groove welds and reinforcing steel welding.

\_\_\_\_\_  
CEL  
Initials

  
CLIENT  
Initials

000374 L0099



## CONTRACT TERMS AND CONDITIONS

- I. **FEES:** The estimated contract price is based on the best information made available to CEL at the time the estimate was performed. If subcontractors perform more quickly than scheduled, Client will receive a cost savings for testing. If, however, subcontractors' schedules are extended or delayed, Client may receive a resulting increase in costs for testing. Client recognizes that the additional services rendered herein under this Proposal are schedule driven and are mandated by the scheduling and staffing of the contractor(s). Should items and quantities alter from estimates outlined herein, CEL shall be entitled to compensation for services rendered. In addition, Client recognizes that, on occasion, due to the schedule of the contractor or relevant subcontractors, occasional overtime may be required. CEL typically will have no notice of this until the day the said overtime occurs. Client agrees to compensate CEL for such overtime. Any estimated quantities contained herein are estimates only and Client agrees to payment for services rendered in excess of the estimated quantities and/or cost figures as described herein. Fees for CEL's services will be billed on a time and expenses basis at the unit rates quoted and CEL shall submit biweekly invoices for services rendered and for reimbursable expenses incurred. Invoices are due within 30 days from receipt. Past due invoices are subject to a finance charge of 1% per month or the maximum rate permitted by law.
- II. **FINAL AFFIDAVIT:** The first invoice from CEL shall include the estimated cost to prepare the Final Inspection Report. However, the Final Inspection Report will not be issued until the sixth working day following the request for the Final Inspection Report by Client's authorized representative. Additionally, as a condition precedent to release of the Final Inspection Report, Client shall have paid in full for all services performed by CEL pursuant to this Agreement.
- III. **INSPECTION:** Inspection shall consist of visual observation of materials, equipment, or construction work for the purpose of ascertaining that the work is in substantial conformance with the contract documents. Such inspection shall not be relied upon by others as acceptance of the work nor shall it be construed to relieve the contractor, subcontractors, or materialmen in any way from their obligations and responsibilities under the construction contracts. Specifically, but without limitation, inspection shall not require the inspector to assume responsibilities for the means and methods of construction nor for safety on the jobsite of any party other than CEL employees.
- IV. **STANDARD OF CARE:** In providing services under this agreement, CEL shall exercise that degree of skill and care ordinarily used by other reputable members of CEL's profession, practicing in the same or similar locality and under similar circumstances at the time these services are rendered. Nothing in this agreement shall be interpreted to require CEL to meet any higher standard and this paragraph shall control over any such contrary provision. CEL makes no warranty, either expressed or implied, as to its findings, recommendations, specifications or professional advice. CEL will provide only those services that, in the opinion of CEL, lie within the technical and professional areas of expertise of CEL as set forth herein and which CEL is adequately staffed and equipped to perform. Client shall request in writing if Client desires CEL to provide services outside of the scope of services described herein. CEL shall advise Client of any services that lie outside the technical and professional expertise of CEL.
- V. **LIABILITY:** In recognition of the relative risks of the Client and CEL on the Project, Client agrees, to the maximum extent permitted by law, that CEL's liability to Client and any third party, in any way arising out of this Agreement, shall be limited to 100% of the total fees and costs paid to CEL or \$25,000, whichever is greater. Client agrees to compensate CEL at its standard hourly rates in the event CEL is requested to perform services in connection with litigation, claims or disputes arising out of this project or in the event CEL, its agents or employees are subpoenaed or otherwise compelled to participate in litigation, claims or disputes arising out of this project. CEL shall not be responsible for acts and/or omissions of any party or parties involved in the design of the Project or the failure of any Contractor or Subcontractor to construct any aspect of the Project in accordance with the Agreement documents, or in accordance with recommendations contained in any correspondence or written recommendations issued to CEL.
- VI. **LITIGATION:** In case of any dispute, claim, question, or disagreement arising out of or relating to this Contract or the breach thereof, the parties hereto shall use all reasonable efforts to settle such disputes, claims, questions, or disagreement. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. Client and CEL agree to continue to perform their obligations under this Contract during the good faith resolution of such a dispute, claim, question, or disagreement. In the event that any litigation, arbitration, or other proceeding is commenced between the parties hereto or their personal representatives, successors or assigns concerning the enforcement or interpretation of any provision of this Contract or the rights and duties of any party in relation thereto, the party or parties prevailing in such litigation, arbitration or other proceeding shall be entitled, in addition such other relief as may be granted, to reasonable attorneys' fees and costs. For the purposes of this paragraph, the "prevailing party" shall be determined in accordance with the provisions of California Civil Code section 1717.
- VII. **STATE PREVAILING WAGE:** It shall be Client's sole responsibility to notify CEL of any prevailing wage requirements before any services are performed for the Project. Should it be revealed subsequent to the execution of an agreement for services that this project is indeed a prevailing wage project and if CEL is thereafter mandated to comply with those requirements, there will be a 10% surcharge to the hourly rates quoted in our Proposal. In addition, in the event notification is not given to CEL, Client shall be fully responsible for payment of all fines, penalties, and/or damages imposed upon CEL for any failure to comply with the prevailing wage laws.

CEL  
Initials

CLIENT  
Initials



Contract Terms and Conditions (cont'd)

- VIII. **CLIENT'S RESPONSIBILITIES:** Client or Client's authorized representatives will promptly and timely provide CEL with all revised and updated plans, specifications, addenda, change orders, approved shop drawings and any other information for the proper performance of CEL pursuant to this Contract. Client agrees that CEL has been engaged to provide technical professional services only, and that CEL does not owe a fiduciary responsibility to Client. Client shall secure and maintain throughout the full period of this Contract, sufficient insurance to protect it adequately from claims under applicable Worker's Compensation Acts and from claims for bodily injury, death or property damage as may arise from the performance of services under this Contract. CEL shall not be responsible for any errors and/or omissions in the performance of CEL's work or services rendered resulting from Client's failure to provide CEL with revised and updated plans, specifications, addenda, change orders, approved shop drawings and other information for the proper performance of CEL. Client or Client's authorized representatives will give a minimum of 24 hours notification for all dispatch requests. Cancellations received on the day of inspection are subject to a 2-hour show-up charge.
- IX. **HAZARDOUS MATERIALS REQUIREMENT:** If hazardous materials are encountered by CEL's employees on Client's project site resulting in the need for specialized training or certifications as required by State and Federal agencies in order for CEL's inspection personnel to perform their duties, then all related costs for such specific training, including class time, will be billed to Client with a 15% markup. Personnel time for necessary training classes will be billed at the hourly rate quoted herein.
- X. **CREDIT CARD PAYMENTS:** Credit card payments will be charged a convenience fee of 2.5% of the total invoice amount.
- XI. **ADDITIONAL SERVICES:** Should additional services be requested that are not included in CEL's proposed scope of services, CEL will provide these services at the unit rates listed in our published 2017 Fee Schedule.
- XII. **ACCOUNTS PAYABLE SYSTEMS:** This proposal does not assume the requirement to enter into an accounts payable system, such as Textura, and should it be required, any fee associated with that shall be considered a reimbursable expense and shall be charged to the client.
- XIII. **ACCEPTANCE OF CONTRACT:** This Contract is subject to acceptance only of the terms and conditions stated herein. Any additional or different terms and conditions proposed by Client are hereby rejected, and shall be of no force or effect unless expressly assented to in writing by CEL. There shall be no contract except upon the terms and conditions provided herein. By directing CEL to commence performance, after your receipt of this Contract, you agree to comply with all the terms and conditions set forth herein. This Contract contains the entire and integrated agreement between Client and CEL and supersedes all prior negotiations, representations or agreements, either written or oral. This Contract cannot be amended or modified except by a written addendum, executed by each of the parties hereto. This Contract shall be interpreted and enforced in accordance with the laws of the State of California.
- XIV. **BASIS OF CHARGES:** The proposed unit rates will be in effect through December 31, 2018. Thereafter, the unit rates are subject to an annual increase of four percent (4%) per year to mitigate the annual operating cost increases:

Work over 8 Hours per day	Time and One-Half
Work over 12 Hours, Monday through Friday	Double Time
Work on Saturdays	Time and One-Half
Work over 8 Hours on Saturdays	Double Time
Work on Sundays/Holidays	Double Time
Swing or Graveyard Shift Premium	\$12.50 per Hour
Work from 0-4 Hours	4-Hour Minimum Billing
Work from 4-8 Hours	8-Hour Minimum Billing
Show-Up Time	2-Hour Minimum Billing
Sample Pick-Up	\$30.00/Trip
Laboratory Testing - Rush Fee	Add 50% to Testing Cost
Technician with a Nuclear Gauge	Portal-to-Portal
Final Affidavit (per permit number) (request six working days advanced notice)	\$400.00
Extra Copies (over four per issue date) of Inspection Reports and Final Affidavit	\$20.00/each
Project Engineering and Management	5% of Fees
Credit Card Payment of Fees	2.5% Premium
Reimbursables	Cost + 15%
QA/QC Plan Written Procedures	Quotation upon Request
Out of Area Services (beyond 40-mile radius)	As Listed Below:
Travel Time	Basic Hourly Rate
Mileage	\$0.60/Mile
Per Diem, including lodging	\$120.00/Day

\_\_\_\_\_  
 CEL  
 Initials

  
 \_\_\_\_\_  
 CLIENT  
 Initials



# CEL CONSULTING, INC

Metallurgy • Forensics • Plan Review  
Product Evaluations • Structural Investigations

Partners in Quality  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583

Phone: (925) 314-7100 Fax: (925) 855-7140

# INVOICE

BILLING PERIOD ENDING	INVOICE NO.	INVOICE DATE	PAGE
12/1/2017	M 146161	12/8/2017	1 of 2

CEL Consulting - Oakland Division

<b>B I L L T O</b>	George Shafazand Happy Home Partners, LLC 2941 Telegraph Avenue Berkeley, CA 94705
--	---

<b>P R O J E C T</b>	1924 Ninth Avenue - Staircase Corrosion Investigation 1924 Ninth Avenue Oakland, CA 94606  App/Permit # N/A
--	---

CUST. NO.	PROJECT NO.	P.O. NO.	TERMS	
0000005565	50-53464-S		Net 30	
DATE	TASK # & DESCRIPTION	RATE	QUANTITY	NET AMOUNT

**Project 50-53464-S 1924 Ninth Avenue - Staircase Corrosion Investigation**

10/25/2017	Man Huynh C2002 Staff Engineer Phase 1	130.00	8.00	1,040.00
11/8/2017	Jake Cropper C2005 Technician Phase 2	105.00	9.50	997.50
11/8/2017	Man Huynh C2002 Staff Engineer Phase 2	130.00	9.50	1,235.00
11/10/2017	Man Huynh C2002 Staff Engineer Phase 2 - Report	130.00	7.00	910.00
12/1/2017	Project Engineering/Management			209.13

Invoice Total: 4,391.63

Project Manager: Anil Nethisinghe

Billing Coordinator: Paula Jones

Remit to:  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583  
Phone: (925) 314-7100

Past due balances will accrue interest at 1% per month

For Accounts Receivable questions, please contact Kris Berlin. Phone: (866) 520-4175 Fax: (775) 428-6823

Federal ID Number: 47-2314120

000377

L0102





Partners in Quality  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583  
Phone: (925) 314-7100 Fax: (888) 222-7132

# INVOICE

BILLING PERIOD ENDING	INVOICE NO.	INVOICE DATE	PAGE
2/23/2018	149135	3/20/2018	1 of 2

San Ramon Division

<b>B I L L T O</b>	George Shafazand Happy Home Partners, LLC 2941 Telegraph Avenue Berkeley, CA 94705
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<b>P R O J E C T</b>	Stair Improvements 1924 Ninth Avenue 1924 Ninth Avenue Oakland, CA 94606  App/Permit # B1704095
--	---

CUST. NO.	PROJECT NO.	P.O. NO.	TERMS	
0000005565	10-34244-		Net 30	
DATE	TASK # & DESCRIPTION	RATE	QUANTITY	NET AMOUNT

**Project 10-34244- Stair Improvements 1924 Ninth Avenue**

2/23/2018	Project Engineering/Management			54.50	
	<u>Report #: 180209Field</u>				
2/7/2018	David Alvarez 05001 Field Weld Inspection	Shift	92.50	4.00	370.00
2/9/2018	21006 Final Affidavit File Review		400.00	1.00	400.00
	<u>Report #: 180223Field</u>				
2/21/2018	Paul Langworthy 05001 Field Weld Inspection		80.00	4.00	320.00

Invoice Total: 1,144.50

BUDGET	CHANGES	TOTAL	BILLED TO DATE	% BILLED
1,764.00	0.00	1,764.00	1,144.50	64.88

Project Manager: Nick McCloud

Billing Coordinator: David Tschaplizki

Remit to:  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583  
Phone: (925) 314-7100

Past due balances will accrue interest at 1% per month

For Accounts Receivable questions, please contact Kris Berlin, Phone: (866) 520-4175 Fax: (888) 222-7132

Federal ID Number: 94-2988193

**000379** L0104

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number [REDACTED]

Date Posted

04/03/18

Check Amount

\$1,979.26

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-4296/1210

3/27/2018

PAY TO THE ORDER OF **Consolidated Engineering Laboratories**

\$ **1,979.26**

One Thousand Nine Hundred Seventy-Nine and 26/100

Consolidated Engineering Laboratories  
2001 Crow Canyon Road., Suite 100  
San Ramon Ca 94583

MEMO-  
Engineering / 1924

DOUBLE SIGNATURES REQUIRED

*Carmel B. Owen*

DOLLARS

CO 1027a De#

18831 0327

CHECKS HERE TO DEPOSIT

Quality Assurance Eng dtes Consolidated Eng

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

Consolidated Engineering Laboratories

3/27/2018

149135  
149129

1,144.50  
834.76

WF Checking #4391 Engineering / 1924

1,979.26

LMP100 M/P CHECK



**CONSOLIDATED ENGINEERING  
LABORATORIES**

Partners in Quality  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583  
Phone: (925) 314-7100 Fax: (888) 222-7132

**INVOICE**

BILLING PERIOD ENDING	INVOICE NO.	INVOICE DATE	PAGE
3/16/2018	150010	4/12/2018	1 of 1

San Ramon Division

<b>B I L L T O</b>	George Shafazand
	Happy Home Partners, LLC
	2941 Telegraph Avenue
	Berkeley, CA 94705

<b>P R O J E C T</b>	Stair Improvements 1924 Ninth Avenue
	1924 Ninth Avenue
	Oakland, CA 94606
	App/Permit # B1704095

CUST. NO.	PROJECT NO.	P.O. NO.	TERMS
0000005565	10-34244-		Net 30

DATE	TASK # & DESCRIPTION	RATE	QUANTITY	NET AMOUNT
------	----------------------	------	----------	------------

Project 10-34244- Stair Improvements 1924 Ninth Avenue

3/9/2018	Project Engineering/Management			16.00
	<u>Report #: 180309Field</u>			
3/6/2018	Brian Mellinger 05001 Field Weld Inspection	80.00	4.00	320.00

Invoice Total: 336.00

BUDGET	CHANGES	TOTAL	BILLED TO DATE	% BILLED
1,764.00	0.00	1,764.00	1,480.50	83.93

Project Manager: Nick McCloud

Billing Coordinator: David Tschapfzki

Remit to:  
2001 Crow Canyon Rd., Suite 100  
San Ramon, CA 94583  
Phone: (925) 314-7100

*Thank you for your business*

Past due balances will accrue interest at 1% per month

For Accounts Receivable questions, please contact Kris Berlin. Phone: (866) 520-4175 Fax: (888) 222-7132

Federal ID Number: 94-2988193

**000382**L0107

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number [REDACTED]  
 Date Posted 04/24/18  
 Check Amount \$336.00

**Happy Home Partners LLC**  
 2941 Telegraph Ave  
 Berkeley, CA 94706

WELLS FARGO BANK, N.A.  
 www.wellsfargo.com  
 11-4288/1210

4/19/2018

PAY TO THE ORDER OF **Consolidated Engineering Laboratories** \$ **\*\*336.00**

Three Hundred Thirty-Six and 00/100 \*\*\*\*\*  
 Consolidated Engineering Laboratories  
 2001 Crow Canyon Road., Suite 100  
 San Ramon Ca 94583

MEMO - Engineering / 1924

DOUBLE SIGNATURES REQUIRED

*[Signature]*

Photo State Department  
 Valid on Back

Q0 1017a Bae

1893103927

Quality Assurance Eng Consolidated Eng

1893103927

UNIVERSITY MICROFILMS  
 300 N ZEEB ST  
 ANN ARBOR MI 48106

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 510 MAZDANZIS DR  
 WASHINGTON DC 20540

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

Applications for which no permit is issued within 180 days shall expire by limitation.  
 No refund more than 180 days after expiration or final.

1924 9TH AVE



CITY OF OAKLAND

CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA ▪ 2ND FLOOR ▪ OAKLAND, CA 94612

1924 9TH AVE

Planning and Building Department  
 www.oaklandnet.com

PH: 510-238-3891  
 FAX: 510-238-2263  
 TDD: 510-238-3254

Permit No: B1704095 Non-Residential Building - Repair Filed Date: 9/5/2017  
 Job Site: 1924 9TH AVE Schedule Inspection by calling: 510-238-3444  
 Parcel No: 021 026901101  
 District: *Field Check*  
 Project Description: Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain.  
 DRX171144 To abate CE #1700169.  
 Related Permits: DRX171144 B1702754

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
Owner:	LAKE1925 LP		2941 TELEGRAPH AVE BERKELEY, CA		
Owner-Agent:	George Shafazani (Happy Home Partners, LLC.)	X	2491 Telegraph Ave. Berkeley, CA	510-204-9922	

**RMIT DETAILS:** Building/Non-Residential/Building/Repair

**General Information**

Sets Of Plans: 2 Report - Soil/Geotech:  
 Structural Calculations: 2

**Existing Building Information**

Building Use: Apartment > 5 Units  
 Occupancy Group: R-2 Residential > 2 Units  
 Construction Type: VA - Combustible Construction, 1 Hour Fire Rating

Number Of Stories: 3 Fire Sprinklers:  
 Number Of Units: Floor Area (sq ft):

**Work Information**

Job Value: \$25,000.00

**TOTAL FEES TO BE PAID AT FILING: \$2,183.56**

Application Fee	\$70.00	CBSC	\$0.90	CITY CBSC	\$0.10
CITY SMIP	\$0.35	Field Check Inspection	\$202.00	General Plan Surcharge	\$107.50
Inspection Fee	\$673.50	Plan Check - Routed	\$841.88	Recrd Mangmnt & Tech Enhancement Fee	\$280.68
SMIP	\$6.65				

Intake By M. Early Date 9-5-17

000384 L0109

#777563-77-09/05/17-Misa Card 2183.56

City of Oakland  
Planning and Building Department  
250 Frank H. Ogawa Plaza  
510-238-4774

City of Oakland  
Accela  
City of Oakland  
Oakland, CA 94612

=====  
844 Accela Permit 1x 0.00 0.00  
Permit Number: B1704095  
Fee  
Plan Check - Routed 1x 841.88 841.88  
Fee  
Application Fee 1x 70.00 70.00  
Fee  
Inspection Fee 1x 673.50 673.50  
Fee  
Recrd Mangmnt & Tech Enhancement Fee 1x 250.88 250.88  
Fee  
CBSC 1x 0.90 0.90  
Fee  
CITY CBSC 1x 0.10 0.10  
Fee  
SMIP 1x 6.65 6.65  
Fee  
CITY SMIP 1x 0.35 0.35  
Fee  
General Plan Surcharge 1x 107.50 107.50  
Fee  
Field Check Inspection 1x 202.00 202.00  
Fee  
Recrd Mangmnt & Tech Enhancement Fee 1x 29.80 29.80

Payer Name: BING H. UDINSKY - HAPPY  
HOME PARTNERS

=====  
SubTotal: 2,183.56  
Total: 2,183.56  
=====  
Visa Card 2,183.56  
Number : \*\*\*\*\*6299  
Date : 07/22

9/5/2017 10:18  
#0777563 /77/24\_

Thank You

#147316  
Sep 05 2017 10:19 am Trans#160752

TRANSACTION RECORD

Card Number : \*\*\*\*\*6299  
Card Entry : SWIPED  
Account : VISA  
Trans Type : PURCHASE  
Amount : \$2183.56

Auth # : 08607G  
Sequence # : 000014  
Reference # : 0000014  
Terminal # : 001  
Date : 17/09/05  
Time : 10:19:51

APPROVED

\*\*\* CUSTOMER COPY \*\*\*

000385 L0110

Permits for which no major inspection has been approved within 180 days shall expire by limitation. No refund more than 180 days after expiration or final.

1924 9TH AVE



# CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA ▪ 2ND FLOOR ▪ OAKLAND, CA 94612

1924 9TH AVE

Planning and Building Department  
www.oaklandnet.com

PH: 510-238-3891  
FAX: 510-238-2263  
TDD: 510-238-3254

Permit No: B1704095 Non-Residential Building - Repair Permit Issued: 10/30/2017  
 Job Site: 1924 9TH AVE Schedule Inspection by calling: 510-238-3444  
 Parcel No: 021 026901101  
 District:  
 Project Description: Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain.  
 DRX171144 To abate CE #1700169.  
 Related Permits: DRX171144 B1702754

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
Owner:	LAKE1925 LP		2941 TELEGRAPH AVE BERKELEY, CA		
Owner-Agent:	George Shafazani (Happy Home Partners, LLC.)	X	2491 Telegraph Ave. Berkeley, CA	510-204-9922	

**PERMIT DETAILS:** Building/Non-Residential/Building/Repair

**General Information**

Sets Of Plans: 2 Report - Soil/Geotech:  
Structural Calculations: 2

**Existing Building Information**

Building Use: Apartment > 5 Units  
Occupancy Group: R-2 Residential > 2 Units  
Construction Type: VA - Combustible Construction; 1 Hour Fire Rating

Number Of Stories: 3 Fire Sprinklers:  
Number Of Units: Floor Area (sq ft):

**Work Information**

Job Value: \$25,000.00

**TOTAL FEES TO BE PAID AT FILING: \$0.00**

Plans Checked By \_\_\_\_\_ Date \_\_\_\_\_

Permit Issued By CS Date 10/30/17

Finalized By \_\_\_\_\_ Date \_\_\_\_\_

**Special Inspections**

Special Inspection

Concrete Construction  
Steel Construction

Comments

- Bolts installed in concrete.  
- Field welding.

APPLICANT  
COPY

000386 L0111

Permits for which no major inspection has been approved within 180 days shall expire by limitation. No refund more than 180 days after expiration or final.



# CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA • 2ND FLOOR • OAKLAND, CA 94612

Planning and Building Department  
www.oaklandnet.com

PH: 510-238-3891  
FAX: 510-238-2263  
TDD: 510-238-3254

Permit No: B1704095 Non-Residential Building - Repair Permit Issued: 10/30/2017  
 Job Site: 1924 9TH AVE Schedule Inspection by calling: 510-238-3444  
 Parcel No: 021 026901101  
 District:  
 Project Description: 1/5/18 Replace stairs with same material. 9/5/17 Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain. DRX171144 To abate CE #1700169.  
 Related Permits: DRX171144 B1702754

**APPLICANT  
COPY**

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
Owner:	LAKE1925 LP		2941 TELEGRAPH AVE BERKELEY, CA		
Owner-Agent:	George Shafazani (Happy Home Partners, LLC.)	X	2491 Telegraph Ave. Berkeley, CA	510-204-9922	

**PERMIT DETAILS:** Building/Non-Residential/Building/Repair

<u>General Information</u>			
Sets Of Plans:	2	Report - Soil/Geotech:	
Structural Calculations:	2		
<u>Existing Building Information</u>			
Building Use:	Apartment > 5 Units	Number Of Stories:	3
Occupancy Group:	R-2 Residential > 2 Units	Number Of Units:	
Construction Type:	VA - Combustible Construction; 1 Hour Fire Rating	Fire Sprinklers:	
		Floor Area (sq ft):	
<u>Work Information</u>			
Job Value:	\$12,000.00		

**TOTAL FEES TO BE PAID AT FILING: \$(486.29)**

CITY SMIP (\$0.18)	General Plan Surcharge (\$55.90)	Inspection Fee (\$273.00)
Plan Check - Routed (\$341.25)	Recrd Mangmnt & Tech Enhancement Fee (\$62.50)	Revisions - Plan Check (\$250.00)
SMIP (\$3.46)		

Plans Checked By \_\_\_\_\_ Date \_\_\_\_\_ Permit Issued By  Date 10/30/18  
 Finalized By \_\_\_\_\_ Date \_\_\_\_\_

Special Inspection  
 Concrete Construction - Bolts installed in concrete.  
 Steel Construction - Field welding.

**000387 L0112**

1924 9TH AVE

1924 9TH AVE

Revised



**CITY OF OAKLAND**  
 Planning & Building Department  
 BUILDING SERVICES

250 Frank H. Ogawa Plaza 2nd Floor Oakland, CA 94612

Telephone (510) 238-3444

www.oaklandnet.com

Fax (510) 238-7287

**PERMIT RECORD CARD**

**COMMERCIAL & MULTI-UNIT RESIDENTIAL**

California Building, Residential, Electrical, Plumbing, Mechanical, Energy and Green Building Codes

Oakland Building, Planning Sustainability, Fire and Municipal Codes

Address:	1924 9TH AVE, Oakland, CA 94606	Suite:		APN:	021 026901101
Description:	Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain. DRX171144 To abate CE #1700169.	Issued:	10/30/2017		
		Building Use:	Apartment > 5 Units		
		Occupancy:	R-2 Residential > 2 Units		
		Type:	VA - Combustible Construction		
Owner:	Lake1925 Lp	Stories:	3		
Contractor:		# units:			
Permits:	B1704095	Sprinkler:	Yes		
Allocated Inspections	6				

**SPECIAL INSPECTION LIST** (checked items are required)

Reinforced Concrete, Gunite, Grout & Mortar:				Structural Wood							
CONCRETE	GUNITE	GROUT	MORTAR	Aggregate Test		Shear Wall Nailing		Structural Observations			
				Reinforcing Test		Eng. Lumber Insp.		Sample and Test Components			
				Mix Designs		Structural Steel/Welding					
				Reinforcing Place		Sample and Test (list specific numbers below)					
				Batch Plant Insp.		Shop Material Identification					
				Cast Samples		Welding Inspection		SHOP		FIELD	
				Compression Tests		Ultrasonic Inspection					
				Anchors		High-Strength Bolting					
				Test Panels		A325	A490	N	X		F
				<b>Precast/Pre-stressed Concrete:</b>				Metal Deck Welding Inspection			
PILES	POST-TENSION	PRE-TENSION	CLADDING	Aggregate Test		Reinforcing Steel Welding Insp		Unit Weights			
				Reinforcement Test		Metal Stud Welding Inspection		Placement Insp			
				Placement Insp.		Concrete Inset Welding Inspection		Sample & Test			
				Tendon Test		Structural Masonry					
				Mix Designs		Special Inspection Stresses Used					
Reinforcement Place		Preliminary Acceptance (masonry units, wall prisms)									
Insert Placement		Subsequent Tests (mortar, grout, field wall prisms)									
Concrete Batching		Placement Inspection of Units									
Concrete Placement		Fireproofing									
Installation Insp.		Placement Inspection		Thickness Test							
Cast Samples		Density Tests		Inspection Batching							
Compression Test		Mastic & Intumescent Coatings									
Green Building Cert.		C&D Tracking									
HERS Verification		Site Drainage									
PSL (sewer lateral Cert)		Grading		Seismic Force Resistive System		Special Case					

Additional Instructions/Inspections Required:

INSPECTOR NOTES

date  
sign BUILDING

date  
sign ZONING

INSPECTOR NOTES  
ONLY

date  
sign ELECTRICAL

date  
sign PLUMBING

date  
sign MECHANICAL

date  
sign FIRE

date  
sign INFRASTRUCTURE

date  
sign C6 & EROSION CONTROL/ BLIGHT & DUST/ CONSTRUCTION HOURS & NOISE/ PARKING & TRAFFIC CONTROL/ CREEK & TREE PROTECTION

date  
sign GRADING

1	FOUNDATION Major Inspection	2	FIRST FLOOR Major Inspection	3	FRAME Major Inspection	4	FINAL Major Inspection	5	SITE
<b>ELECTRICAL</b>		<b>ELECTRICAL</b>		<b>ELECTRICAL</b>		<b>ELECTRICAL</b>		<b>PRE-CONSTRUCTION</b>	
E 10	CONSTRUCTION POWER	E 20	UNDERFLOOR	E 30	SUBPANEL/ FEEDER	E 40	SMOKE & CO ALARMS	S 50A	PRE-CON MEETING
E 11	UFER	E 21	CABLE PROTECTION	E 31	INTERIOR/EXTERIOR WIRING	E 41	EQUIPMENT/ DEVICES	S 50B	OBSTRUCT/ ENCROACH
E 12	UNDERGROUND/ CONDUIT/ CABLE	E 22	EXTERIOR WIRING	E 32	BOX MAKE-UP	E 42	UTILITY RELEASE/ TRANSFORMER	S 50C	SURVEY/ ELEVATION
E 13	SINGLE SERVICE			E 33	SUSPENDED CEILING	E 43	ENERGY/ CAL GREEN	S 50D	GRADING
E 14	SERVICE RACEWAY			E 38	OK TO CONCEAL	E 88	FINAL ELECTRICAL	S 50E	CREEK PROTECTION / RUN OFF
<b>PLUMBING</b>		<b>PLUMBING</b>		<b>PLUMBING</b>		<b>PLUMBING</b>		<b>TREE/VEGETATION PROTECTION</b>	
P 10	UNDERGROUND	P 20	UNDERFLOOR	P 30	DWW PIPING	P 40	ROOF DRAINS	S 50G	
P 11	BACKWATER VALVE	P 21	DRAINS (FIRE/ CONDEN/ MISC)	P 31	GAS PIPING	P 41	GAS TEST	S 50H	DUST & EROSION CONTROL
P 12	INTERCEPTOR (SO)	P 22	FLOOR RECEPTORS	P 32	WATER PIPING/ SERVICE	P 42	UTILITY RELEASE	S 50J	C6 & RAINWATER RUN-OFF
P 13	INTERCEPTOR (GREASE)			P 33	TUB / SHOWER PAN	P 43A	ENERGY CODE/ CAL GREEN	S 50K	EXCAVATION SHORING
P 14	WATER SERVICE			P 34	BACKFLOW DEVICES	P 44	CHLORINATION/ SI REPORTS	S 50L	TRAFFIC CONTROL & PARKING
				P 38	OK TO CONCEAL	P 88	FINAL PLUMBING	S 50M	BLIGHT/ NOISE/ TOILET
<b>MECHANICAL</b>		<b>MECHANICAL</b>		<b>MECHANICAL</b>		<b>MECHANICAL</b>		<b>INFRASTRUCTURE</b>	
M 10	UNDERGROUND	M 20	UNDERFLOOR DUCTS	M 30	SUSPEND CEILING/ VAV/ COILS	M 40	REGISTERS/ GRILLS	PZ 50	SEWER/ BACKWATER
M 11	RADIANT/ COILS	M 21	RADIANT/ COILS	M 31	DAMPER (FIRE, CEILING, SMOKE)	M 41	EQUIPMENT	PZ 51	DRAINAGE STORM DRAIN
				M 32	MU AIR/ OUTDOOR AIR	M 42	ROOF ACCESS/ GUARDS	PZ 52	HARDSCAPE
				M 33	DUCT (TYPE I HOOD)	M 43	ENERGY COMPLY FORMS	PZ 53	FIRE ACCESS
				M 34	DETECTORS (DUCT, CO)	M 44	CAL GREEN	PZ 54	C3 FACILITY
				M 35	EXHAUST DUCTS	M 45	SI REPORTS (EQ, BALANCE)	6	FINAL INFRASTRUCTURE
				M 38	OK TO CONCEAL	M 88	FINAL MECHANICAL		GRADING
<b>BUILDING</b>		<b>BUILDING</b>		<b>BUILDING</b>		<b>BUILDING</b>		<b>SUBGRADE</b>	
B 10	SURVEY / STAKING	B 20	GARAGE PAD ELEVATION	B 30	ZONING ROUGH	B 40	DECK / RETAIN WALL	GR 50	PAD ELEVATION
B 11	SETBACKS	B 21	FIRST FLOOR ELEVATION	B 31	ROOF FRAMING & NAILING	B 41	ZONING CONDITIONS	GR 51	SP INSPECT REPORT
RB 12	SP INSPECT REPORT	B 22	SP INSPECT REPORT	B 32	SP INSPECT REPORT	B 42	SP INSPECT REPORT	GR 86	FINAL GRADING
B 13	PIERS	B 23	ACCESSIBILITY	B 33	FIRE RATED ASSEMBLY	B 43	SIGNAGE		FIREMARSHALL
B 14	FOOTING / GRADE BEAM			B 33A	SHAFT CONSTRUCTION	B 44	ACCESSIBILITY	FM 50	FIRE SPRINKLER
B 15	EMBEDMENTS			B 34	SHEAR WALL BRACING	B 45	ENERGY/ HERS (FORMS, REPORT)	FM 51	OK TO CONCEAL
B 16	EPOXY			B 35	SUSPENDED CEILING	B 45A	GPR COMPLIANCE	FM 52	FIRE ALARM
B 17	SLAB FLOOR / VAPOR BARRIER	B 24	FLOOR FRAMING	B 35A	FLOOR & WALL FRAMING	B 46	SMOKE & CO ALARMS	FM5 3	STAND PIPE/ DRAIN
B 18	WP PROTECTION & DRAINAGE	B 25	INSULATION	B 36	INSULATION	B 47	RECYCLING CDSR	FM 54	EMERGENCY LIGHTING
B 19	MASONRY WALLS			B 37	LATH/ EXTERIOR COVERING			FM 55	FIRE/SMOKE DAMPER
				B 37A	WP MEMBRANE			FM 86	FINAL FIRE (510) 238-3851
				B 37B	EGRESS / SAFETY GLAZING			8	PLANNING
				B 38	OK TO COVER	B 48	OK TO OCCUPY	ZC 58	ROUGH
				B 39	TUB / SHOWER WALL			ZC 59A	LANDSCAPE/ HARDSCAPE
				B 39A	GYPSPUM WALLBOARD			ZC 59B	SITE IMPROVEMENTS
				B 39B	FIRE SAFING	B 88	FINAL BLDG	ZC 86	FINAL ZONING
1	FOUNDATION APPVD	2	FIRST FLOOR APPVD	3	FRAME APPVD	4	FINAL CRAFTS	9	PROJECT FINAL
						98		99	



# City of Oakland Online Access

Announcement

Register for an Account

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Global Search

Home **Building** Planning Enforcement Fire

Apply for a Building Permit Search Building Records

## Search for Records

Enter information below to search for records.

- Site Address
- Contractor License Information
- Parcel Number
- Record Information
- Contact Information

Select the search type from the drop-down list.

## General Search

Search All Records

Record Number:  Record Type:  Record Status:

Filing Date (Start):  Filing Date (End):

Street No.:  Street Name:  Street Type:

Unit No.:  Zip:  Parcel No.:

License Type:  State License Number:

First:  Last:

Name of Business:

[Search Additional Criteria](#)

**Search** **Clear**

6 Record results matching your search results

Click any of the results below to view more details.

Showing 1-6 of 6 | Download results

<input type="checkbox"/>	File Date	Status	Record Number	Record Type	Address	Description	Action	Short Notes
<input type="checkbox"/>	06/24/2019	Certificate Issued	R1900452	Residential Trade - ReRoofing	1924 9TH AVE, Oakland CA 94606	RE-ROOFING CERT-OBSTRUCTION PERMIT FOR: CURBSIDE PARKING-OBSTRUCT SIDEWALK/STREET		

000392 L0117

	03/12/2018	Final	CG518054	OPW - Curb Gutter Sidewalk	1924 9TH AVE, Oakland CA 94606	(SCAFFOLDING, FENCING, DUMPSTERS, ETC.) SEPARATE BUILDING PERMIT REQUIRED FOR: STRUCTURAL CHANGES  Install #2 sidewalk under-drain(s) per City Standards. No structure allowed beyond property line w/o ENMI. If working within 25' feet of a monument you must comply with State Law 8771, contact the inspector prior to starting excavation: minimum \$5,800.00 fine for non-compliance. Comply with all terms of City of Oakland Public Works Standards, Street Excavation Rules, Revised March 2015 and City Council Ordinance No. 13300 C.M.S. Five day prior notice required for work lasting five days or less in business/commercial districts; 72 hour notice in residential districts. Ten day prior notice required for work lasting six days or more in all districts. USA # and date must be provided in order to have a permit issued. Permit valid 30 days. Call PWA INSPECTION prior to start: 510-238-3651. 4th Floor. USA #
	10/04/2017	Final	B1704557	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	Repair foundation per engineered plans
	09/05/2017	Final	B1704095	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	1/5/18 Replace stairs with same material. 9/5/17 Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain. DRX171144 To abate CE #1700169.
	06/22/2017	Final	B1702754	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	Structurally repair 6 deteriorated balconies on multifamily residential building. Replace guard rails with open style. Partial abatement of #1700169.
	08/25/2011	Expired	SS111251	Building/Misc/Soft Story/NA	1924 9TH AVE, OAKLAND CA	EXEMPTED - NO LARGE OPENINGS ON GROUND LEVEL



**Stairs: Before Improvements (examples)**



**Stairs: After Improvements (examples)**



**STRUCTURAL:**  
**Balcony**

000396

# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor

Edwin R Pérez Proprietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinrperezconstruction@yahoo.com](mailto:edwinrperezconstruction@yahoo.com)

[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



06/08/2017.

Bing Udinsky  
181924 9 Ave,  
Oakland CA, 94606  
Tel.

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

**Proposal.** Front Balconies (as required), repair and installation as directed in the Coffman Engineering report.

Work Request: Complete repairs indentified in Coffman engineering report CEI #170460

Contractor will follow the recommended repairs based on the design and report submitted by Coffman Engineering. The Engineering firm has submitted the designs and specs for the repairs of the stairway, balconies and courtyard area of 1924 9th ave. Oakland Ca 94606.

Balconies:

Total cost for repairs: \$43,000.00

Perez & Perez General Contractor Inc. Will provide all labor, material and equipment to do the work described above for the sum(s). This bid does not include anything not specified. Please note, the terms and cost of this proposal are valid for 30 days.

000397 L0122

Site	VIEWPOINTE	Paid Date	07102017	Serial No	[REDACTED]
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	10000.00	Sequence	1842597015	Capture Source	00010085

Front Black & White Image



Back Black & White Image

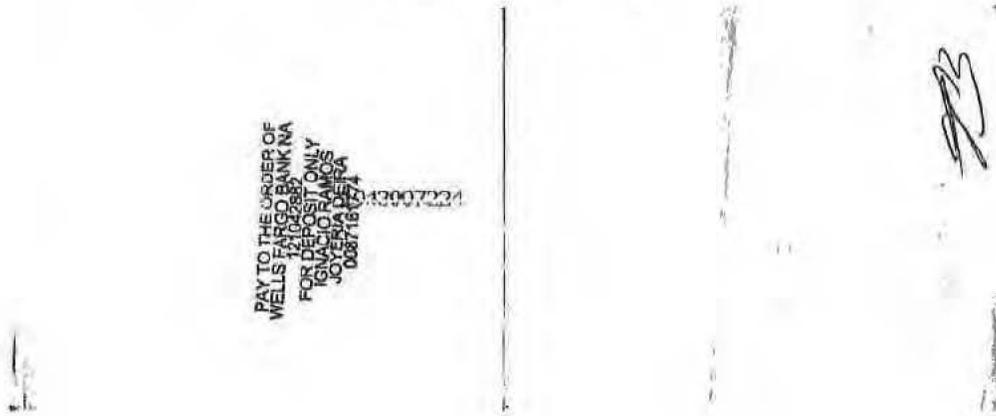


Site	VIEWPOINTE	Paid Date	08042017	Serial No	[REDACTED]
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	8000.00	Sequence	1943007224	Capture Source	00010085

Front Black & White Image



Back Black & White Image



# Perez & Perez General Contractor Inc.

Perez & Perez General Contractor Inc. CA Certified Contractor  
Edwin R Pérez Propietor Tel. 510 472 3905 Lic. 1011096

Serving the Bay Area Since 1996

[edwinrperezconstruction@yahoo.com](mailto:edwinrperezconstruction@yahoo.com)  
[www.perezandperezgeneralcontractorinc.com](http://www.perezandperezgeneralcontractorinc.com)

Better Business Bureau Accredited Business



08/28/2017.

Bing Udinsky  
1924 9 Ave.  
Oakland CA. 94606  
Tel.

[bingudinsky@gmail.com](mailto:bingudinsky@gmail.com)

## INVOICE:

Front Balconies (as required), repair and installation as directed in the Coffman Engineering report. Including Additional work and inspections.

Work Scope: Complete repairs indentified in Coffman engineering report CEI #170460

Contractor will follow the recommended repairs based on the design and report submitted by Coffman Engineering. The Engineering firm has submitted the designs and specs for the repairs of the stairway, balconies and courtyard area of 1924 9th ave. Oakland Ca 94606.

Total cost for repairs: \$26,749.00

**000400**

Deposit(s) paid:	(\$18,000.00)
Balance Due:	\$8,749.00

Edwin R Perez & Perez General Contractor Inc. @ (925) 212 8079  
(mailing address: PO BOX. 94601 Oakland CA.)

Edwin R. Perez. President of Perez & Perez General Contractor Inc.

**Serving the Bay Area Since 1996.**

Please see photos and discriptions below

**000401**



March 27, 2017

AUTHORIZATION FOR WORK

To: Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

Attn: George Shafazand

Re: Structural Engineering Services Proposal  
Structural modifications – **Balcony Repairs**  
1924 Ninth Avenue, Oakland, CA 94606

**I. DESCRIPTION OF WORK**

The project consists of the structural engineering services associated with the repairs that are needed to the exterior balconies of the existing four-story apartment building. More specifically, the existing joists show signs of moisture intrusion, and will need repair or replacement. The existing guardrail post bases have been corroded significantly, and will also need repair or replacement.

We understand that you have received a notice from the city that requests a response by April 4, 2017. In addition to developing details to repair the noted damage, we will also respond to this notice. We will make use of the drawings that were previously prepared by Jeffrey Weber & Associates, Inc. for a voluntary seismic retrofit of the building to assist us with the present scope of work.

The following items will need to be done in order to complete the design effort:

- o Some additional investigation of the building, including exploratory work as needed to determine the extent of the damage to the cantilevered balcony joists.
- o Structural analysis of the balcony guardrails for code-prescribed lateral loads.
- o Detailing of the needed repair and retrofit measures for damaged balcony joists and guardrail components.

A Contractor may need to be hired to assist with the exploratory work described above. Once the exploratory work is completed, we will be able to complete the work that we need to do to complete the above scope of work.

We will be present at the site several times during construction, in order to answer Contractor questions about the structural aspects of the building, and to serve as your agent in checking to see if the Contractor is building the improvements in a manner consistent with the details indicated on our drawings.

**II. BASIC STRUCTURAL ENGINEERING SERVICES**

The Basic Services, for which the Structural Engineer is responsible, include the analysis, design, detailing, and periodic observations of construction of the mandatory seismic improvements.

**A. PRELIMINARY DESIGN PHASE**

1. Conduct exploratory work to determine the extent of damage to the balcony joists and guardrails.
2. Write a letter to the city that responds to the notice that they have sent to you. This letter will describe the damage, and the work being undertaken to mitigate it.
3. Prepare preliminary structural sketches that define the needed repair work.

**B. CONSTRUCTION DOCUMENTS PHASE**

1. Prepare final structural calculations.
2. Develop the details for the improvements not shown in the preliminary design phase.
3. Prepare structural drawings sufficiently detailed for Contractor use.
4. Establish testing and inspection requirements for all structural materials, if needed.
5. Respond to comments made during the city's plan checking process.

**C. CONSTRUCTION ADMINISTRATION PHASE**

1. Assist in analyzing bids for awarding general contract.
2. Assist in obtaining proposals from testing laboratories, if needed.
3. Prepare structural clarification sketches during construction as needed.
4. Visit the construction site at appropriate times to observe the progress of construction and its general conformance to the structural drawings.  
Maximum number of visits: 3.

**III. COMPENSATION**

A. Our fees for the Basic Services described above will be charged on an hourly basis, at the rates quoted below, on an as-needed basis, excluding reimbursable costs.

B. Our current billing rates are as follows:

General Manager:	\$ 217 per hour	Senior Engineer:	\$ 163 per hour
Engineer III:	\$ 145 per hour	Engineer II:	\$ 125 per hour
Engineer I:	\$ 114 per hour	Designer III:	\$ 122 per hour

C. Invoices shall be submitted monthly, based on the work completed during the preceding month. Payments shall be made within thirty days of invoice date. We reserve the right to unilaterally suspend work on this project if any payments have not been received within thirty days of invoice date. In this event, work could resume upon receipt of the payment(s) in question.

- D. All past due accounts are subject to a late charge of 1.00 per cent per month based on the outstanding balance.
- E. If the construction services phase work is done after December 31, 2017, the hourly rates in effect at the time the work is done will apply.

#### IV. EXCLUSIONS

The services described above will be provided. Excluded services are services which can be foreseen but are not necessary to enable the building to withstand code mandated vertical and lateral (wind and seismic) forces.

- A. Seismic strengthening measures for the building.
- B. Items relating to architectural issues, such as wall finishes and moisture protection measures. An Architect can be hired, if needed, to address these issues.
- C. Structural design of retaining walls independent of the building.
- D. Structural design of landscape elements such as benches and trellises.
- E. Conducting site-specific soils evaluations and the preparation of a soils report.
- F. Preparation of documents for alternate bids.
- G. Special inspections as defined in Section 1704, 2016 California Building Code.
- H. Continuous and/or detailed inspections of construction.
- I. Physical submission of drawings and calculations for building permit application. Normally this is done by the contractor.
- J. Establishing design criteria for or designing temporary shoring.
- K. Plan review fees, and building permit and permit application fees.
- L. Cost estimating and/or quantity takeoffs.
- M. Preparation of "as-built" or record set of drawings after completion of the project.
- N. Consultations required to answer questions from third party engineering reviews.
- O. Consultations required to respond to questions from value engineering studies.
- P. Changes requested by the third party consultants noted above.
- Q. Any services associated with asbestos abatement or hazardous material removal.
- R. Design related to handicapped or disabled access to the building.

#### V. EXTRA SERVICES

Extra services are those which arise as a result of unforeseen circumstances during the design or construction of the project and which are not included above. The following items are considered extra services and shall be billed on a time and materials basis per our standard billing rates given above, in addition to fees quoted for Basic Services. Written notification will be given before proceeding with any extra services.

- A. Services resulting from changes in scope of the project as described above.
- B. Redesign to reduce construction cost.
- C. Redesign requested to accommodate particular construction materials or methods.
- D. Services required to create as-built drawings of the buildings, if the original drawings cannot be located.

- E. Corrective actions required because of Contractor deviations from the drawings.
- F. Services in connection with a public hearing or legal proceeding.
- G. Services necessitated by fire or other damage to construction.
- H. Services requested after completion of the structural part of the project.

## **VI. REIMBURSABLE EXPENSES**

Reimbursable costs are in addition to the fees quoted for basic services and include actual expenditures made by the Structural Engineer in the interest of the project. They shall be billed at direct cost and are payable monthly as incurred. Reimbursable costs include, but are not limited to, the following:

- A. The cost of reproduction of all documents for your use.
- B. Messenger and other special delivery services.
- C. Travel to and from the site at federally approved standard mileage rates.

## **VII. INFORMATION TO BE FURNISHED TO THE STRUCTURAL ENGINEER BY OTHERS, IF NEEDED**

- A. Original building drawings.
- B. Site specific geotechnical report.
- C. Description of site conditions, including topographic, boundary, and utility surveys, existing structures, etc.

## **VIII. OWNERSHIP & USE OF DOCUMENTS**

Documents produced by Coffman Engineers under this agreement are instruments of service and shall remain the property of Coffman Engineers. They shall not be used for any other purpose without express written agreement and appropriate compensation to Coffman Engineers. Copies of all drawings and other project documents will be sent to you as requested.

## **IX. EXPIRATION & TERMINATION OF AGREEMENT**

This authorization will expire if not accepted within 30 days of the date of execution by Coffman Engineers. This agreement may be terminated by either party without cause upon 10 days written notice. In the event of termination you shall pay for all services performed and reimbursable expenses incurred prior to such termination.

## **X. INSURANCE**

Coffman Engineers maintains general liability and professional liability insurance coverage. Any other design professionals hired for this project shall also maintain such insurance policies.

## **XI. VERIFICATION OF EXISTING CONDITIONS**

Inasmuch as the remodeling and/or rehabilitation of an existing building requires that certain assumptions be made regarding existing conditions, and because some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the building, the Owner agrees that except for negligence on the part of the Design Professional, the Owner will hold harmless, indemnify, and defend the Design Professional from and against any and all claims arising out of any assumptions made regarding existing conditions.

## XII. LIMITATION OF LIABILITY

The Structural Engineer's limit of liability to the Owner on the project, due to Structural Engineer's negligent acts, errors, omissions, or breach of contract, shall be in the amount of Structural Engineering fees collected on this project, or \$500,000.00, whichever is greater.

## XIII. MISCELLANEOUS

If a dispute arises out of or relates to this agreement, or the breach thereof, and if such disputes cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation under the Construction Industry Mediation Rules of the American Arbitration Association, before resorting to arbitration. If any such dispute cannot be settled by mediation, it shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. In the event either party institutes any legal proceeding concerning the enforcement or interpretation of this agreement, the prevailing party shall be entitled to receive reasonable attorney's fees in an amount to be determined by the court.

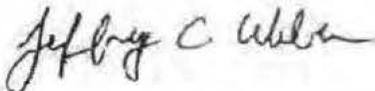
## XIV. SCOPE OF AGREEMENT

This is the entire agreement between the parties, and there are no agreements or representations between the parties except as expressed herein.

If this contract is acceptable, please indicate so by signing and returning a copy.

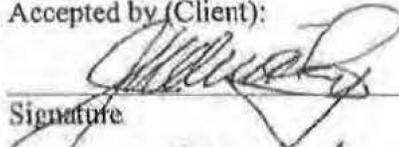
Sincerely,

Coffman Engineers

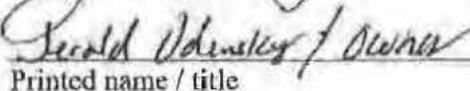


Jeffrey C. Weber, SE #2866  
General Manager, Vice President

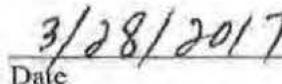
Accepted by (Client):



Signature



Printed name / title



Date



INVOICE DATE: 5/5/17  
INVOICE NO: 17048113  
CLIENT: Happy Home Partners, LLC  
PROJECT: 170460 1924 Ninth Avenue

**LABOR AND EXPENSE DETAIL**

Balcony repairs

Labor		Hours	Rate	Amount
General Manager	Weber, Jeffrey C.	4.50	217.000	976.50
				<u>976.50</u>
		<b>Invoice Total</b>	<b>\$</b>	<b><u>976.50</u></b>

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

**000408** L0133



Happy Home Partners, LLC  
2941 Telegraph Avenue  
Berkeley, CA 94705

INVOICE DATE: 5/5/17  
INVOICE NO: 17048113

MEMO

ATTENTION: George Shafazand  
george@happyhomepartners.com

PROJECT: 170460 1924 Ninth Avenue

Invoice for Professional Services rendered for the period ending 4/25/2017:

<u>Basic Services:</u>	<u>Fee</u>	<u>% Complete</u>	<u>Total Billed</u>	<u>Billed Previous</u>	<u>This Invoice</u>
Stairs & Pool - Prelim Dsn	\$7,000.00	90	\$6,300.00	\$0.00	\$6,300.00
Balcony repairs		T&E	\$976.50	\$0.00	\$976.50
Stairs & Pool - C/D	\$7,000.00	0	\$0.00	\$0.00	\$0.00
Construction Administration		T&E	\$0.00	\$0.00	\$0.00
Expenses		T&E	\$0.00	\$0.00	\$0.00
<b>Invoice Total</b>			<b>\$7,276.50</b>	<b>\$0.00</b>	<b>\$7,276.50</b>

DRY ROT / 1924

Please call me directly if you have any questions. We appreciate your business and thank you for your attention to this invoice.

Jeffrey C. Weber  
Project Manager

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

ADDRESS

000409 L0134



# Operation Image Browser 2.0

Site	VIEWPOINTE	Paid Date	05232017	Serial No	[REDACTED]
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	7276.50	Sequence	[REDACTED]	Capture Source	00007114

## Front Black & White Image



## Back Black & White Image





INVOICE DATE: 6/9/2017
INVOICE NO: 17058112
CLIENT: Happy Home Partners, LLC
PROJECT: 170460 1924 Ninth Avenue

LABOR AND EXPENSE DETAIL

Balcony repairs

Table with 5 columns: Labor, Hours, Rate, Amount. Rows include General Manager (Weber, Jeffrey C.), Senior Engineer (Tabuchi, Patrick A.), Engineer II (Liu, Eric L.), and Invoice Total (\$6,459.00).

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612
Telephone (510) 251-9578

000411 L0136



INVOICE DATE: 7/10/2017  
INVOICE NO: 17068107  
CLIENT: Happy Home Partners, LLC  
PROJECT: 170460 1924 Ninth Avenue

**LABOR AND EXPENSE DETAIL**

**Balcony repairs**

Labor		Hours	Rate	Amount
General Manager	Weber, Jeffrey C.	1.00	217.000	217.00
Engineer II	Liu, Eric L.	26.00	125.000	3,250.00
				<u>3,467.00</u>
		<b>Invoice Total</b>	<b>\$</b>	<b><u>3,467.00</u></b>

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

**000412** L0137



**INVOICE DATE:** 9/8/2017  
**INVOICE NO:** 17088099  
**CLIENT:** Happy Home Partners, LLC  
**PROJECT:** 170460 1924 Ninth Avenue

**LABOR AND EXPENSE DETAIL**

**Balcony repairs**

<b>Labor</b>		<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
General Manager	Weber, Jeffrey C.	0.50	217.000	108.50
Designer III	Canlas, Rachel M.	2.50	122.000	305.00
Engineer II	Liu, Eric L.	13.00	125.000	1,625.00
				2,038.50

**Construction Administration**

<b>Labor</b>		<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Engineer II	Liu, Eric L.	1.50	125.000	187.50
				187.50

**Invoice Total** \$ 2,226.00

# WELLS FARGO

THE PRIVATE BANK

## Check Details

Check Number



Date Posted

04/12/18

Check Amount

\$12,152.00

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-42954216

4/4/2018

PAY TO THE ORDER OF **Coffman Engineers** \$ **12,152.00**

Twelve Thousand One Hundred Fifty-Two and 00/100 DOLLARS

Coffman Engineers  
1838 Harrison Street Suite 820  
Oakland CA 94612

MEMO 1924

DOUBLE SIGNATURES REQUIRED

*Caroline S. Young*

*[Signature]*

Place Save Deposits  
Media on Back

FOR DEPOSIT ONLY. THE ORDER OF  
U.S. BANK  
FOR DEPOSIT ONLY  
COFFMAN ENGINEERS, INC.  
453501083601

CHECKED HERE IF MOBILE DEPOSIT

Credited to Acct:  
153501083601 60000  
Return Acct 153501083601

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

000414 L0139

Applications for which no permit is issued within 180 days shall expire by limitation. No refund more than 180 days after expiration or final.



# CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA ▪ 2ND FLOOR ▪ OAKLAND, CA 94612

Planning and Building Department  
www.oaklandnet.com

PH: 510-238-3891  
FAX: 510-238-2263  
TDD: 510-238-3254

**Permit No:** B1702754      **Non-Residential Building - Repair**      **Filed Date:** 6/22/2017  
**Job Site:** 1924 9TH AVE      **Schedule Inspection by calling:** 510-238-3444  
**Parcel No:** 021 026901101      *Field Check*  
**District:**  
**Project Description:** Structurally repair 6 deteriorated balconies on multifamily residential building. Replace guard rails with open style. Partial abatement of #1700169.  
**Related Permits:** DRX171144

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
<b>Owner:</b>	LAKE1925 LP		2941 TELEGRAPH AVE BERKELEY, CA		
<b>Owner-Agent:</b>	George Shafazand, LOA dtd 06/08/17	X	2941 TELEGRAPH AVE BERKELEY, CA	510-599-2015	

**PERMIT DETAILS:** Building/Non-Residential/Building/Repair  
**General Information**

Sets Of Plans: 2      Report - Soil/Geotech:  
 Structural Calculations: 1

**Existing Building Information**

**Building Use:** Apartment > 5 Units      **Number Of Stories:**  
**Occupancy Group:** R-2 Residential > 2 Units      **Fire Sprinklers:**  
**Construction Type:** VB - Combustible Construction; No Fire Rating      **Number Of Units:**      **Floor Area (sq ft):**

**Work Information**

**Job Value:** \$15,000.00

**TOTAL FEES TO BE PAID AT FILING: \$1,020.35**

Application Fee	\$70.00	CBSC	\$0.90	CITY CBSC	\$0.10
CITY SMIP	\$0.21	Field Check Inspection	\$202.00	General Plan Surcharge	\$64.50
Inspection Fee	\$463.50	Plan Check - Front Counter Support (1/2)	\$84.00	Records Management Fee	\$84.47
SMIP	\$3.99	Technology Enhancement Fee	\$46.68		

**APPLICANT COPY**

City of Oakland  
Acce/a  
City of Oakland  
Oakland, CA 94612

#140204

Jun 22 2017 10:24 am Trans#153199

TRANSACTION RECORD

Card Number : \*\*\*\*\*6299  
Card Ent : SWIPED  
Account : 'ISA  
Trans : PURCHASE  
Amount : 300.34  
  
Auth # : 03141G  
Sequence # : 000018  
Terminal # : 001  
Date : 17/06/22  
Time : 10:24:25

\*\*\*\*\* TRANSACTION APPROVED \*\*\*\*\*

\*\*\* CUSTOMER COPY \*\*\*

L0141

000416

inspection has been approved within 180 days shall expire by  
ifund more than 180 days after expiration or final.

1924 9TH AVE

1924 9TH AVE



**CITY OF OAKLAND**  
250 FRANK H. OGAWA PLAZA ▪ 2ND FLOOR ▪ OAKLAND, CA 94612

Planning and Building Department  
www.oaklandnet.com

PH: 510-238-3891  
FAX: 510-238-2263  
TDD: 510-238-3254

Permit No: B1702754 Non-Residential Building - Repair Filed Date: 6/22/2017  
Job Site: 1924 9TH AVE Schedule Inspection by calling: 510-238-3444  
Parcel No: 021 026901101  
District:  
Project Description: Structurally repair 6 deteriorated balconies on multifamily residential building. Replace guard rails with open style. Partial abatement of #1700169.  
Related Permits: DRX171144

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
Owner:	LAKE1925 LP		2941 TELEGRAPH AVE BERKELEY, CA		
Owner-Agent:	George Shafazand, LOA dtd 06/08/17	X	2941 TELEGRAPH AVE BERKELEY, CA	510-599-2015	

**PERMIT DETAILS: Building/Non-Residential/Building/Repair**

**General Information**

Sets Of Plans: 2 Report - Soil/Geotech:  
Structural Calculations: 1

**Existing Building Information**

Building Use: Apartment > 5 Units  
Occupancy Group: R-2 Residential > 2 Units  
Construction Type: VB - Combustible Construction; No Fire Rating

Number Of Stories:  
Number Of Units:  
Fire Sprinklers:  
Floor Area (sq ft):

**Work Information**

Job Value: \$15,000.00

**TOTAL FEES TO BE PAID AT FILING: \$568.45**

Records Management Fee - (\$7.98)	Recrd Mangmnt & Tech Enhancement Fee	\$81.05
-----------------------------------	--------------------------------------	---------

Plans Checked By \_\_\_\_\_ Date \_\_\_\_\_ Permit Issued By TD Date 7-17-17  
Finalized By \_\_\_\_\_ Date \_\_\_\_\_

**APPLICANT  
COPY**

**000417 L0142**

000417-17-17-153-1518-CAPP 568.45



# City of Oakland Online Access

Announcement

Register for an Account

Login

For best results, use one of the following browsers: Internet Explorer 11, Google Chrome 42, Mozilla Firefox 37, or Safari 8.

Global Search

Home **Building** Planning Enforcement Fire

Apply for a Building Permit Search Building Records

## Search for Records

Enter information below to search for records.

- Site Address
- Contractor License Information
- Parcel Number
- Record Information
- Contact Information

Select the search type from the drop-down list.

## General Search

Search All Records

Record Number:  Record Type:  Record Status:

Filing Date (Start):  Filing Date (End):

Street No.:  Street Name:  Street Type:

Unit No.:  Zip:  Parcel No.:

License Type:  State License Number:

First:  Last:

Name of Business:

[Search Additional Criteria](#)

6 Record results matching your search results

Click any of the results below to view more details.

Showing 1-6 of 6 | Download results

<input type="checkbox"/>	File Date	Status	Record Number	Record Type	Address	Description	Action	Short Notes
<input type="checkbox"/>	06/24/2019	Certificate Issued	R1900452	Residential Trade - ReRoofing	1924 9TH AVE, Oakland CA 94606	RE-ROOFING CERT-OBSTRUCTION PERMIT FOR: CURBSIDE PARKING-OBSTRUCT SIDEWALK/STREET		

000418 L0143

	03/12/2018	Final	CG518054	OPW - Curb Gutter Sidewalk	1924 9TH AVE, Oakland CA 94606	(SCAFFOLDING, FENCING, DUMPSTERS, ETC.) SEPARATE BUILDING PERMIT REQUIRED FOR: STRUCTURAL CHANGES  Install #2 sidewalk under-drain(s) per City Standards. No structure allowed beyond property line w/o ENMI. If working within 25' feet of a monument you must comply with State Law 8771, contact the inspector prior to starting excavation: minimum \$5,800.00 fine for non-compliance. Comply with all terms of City of Oakland Public Works Standards, Street Excavation Rules, Revised March 2015 and City Council Ordinance No. 13300 C.M.S. Five day prior notice required for work lasting five days or less in business/commercial districts; 72 hour notice in residential districts. Ten day prior notice required for work lasting six days or more in all districts. USA # and date must be provided in order to have a permit issued. Permit valid 30 days. Call PWA INSPECTION prior to start: 510-238-3651. 4th Floor. USA #
	10/04/2017	Final	B1704557	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	Repair foundation per engineered plans
	09/05/2017	Final	B1704095	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	1/5/18 Replace stairs with same material. 9/5/17 Repair & replace existing concrete stairs w/ metal stairs at courtyard. Framing to remain. DRX171144 To abate CE #1700169.
	06/22/2017	Final	B1702754	Non-Residential Building - Repair	1924 9TH AVE, Oakland CA 94606	Structurally repair 6 deteriorated balconies on multifamily residential building. Replace guard rails with open style. Partial abatement of #1700169.
	08/25/2011	Expired	SS111251	Building/Misc/Soft Story/NA	1924 9TH AVE, OAKLAND CA	EXEMPTED - NO LARGE OPENINGS ON GROUND LEVEL



**BALCONIES: Before Improvement**



**000420**

**BALCONIES: Before Improvement**



**000421**

**BALCONIES: After Improvement**



**000422**

**BALCONIES: After Improvement**



**000423**

# **PARKING LOT**

**000424**

**CATO'S PAVING**  
 22302 Hathaway Ave.  
 Hayward, CA 94541

Tax ID #46-5300149

License No. 1000087

# Invoice

Date	Invoice #
9/12/2018	4029
Client's P.O. No.	
Estimator	RD

<b>Bill To:</b>
Happy Home Partners LLC Jessica 2941 Telegraph Avenue Berkeley, CA

<b>Project Name:</b>
Option 2
1924 9th Ave Oakland CA

Description	Amount
Remove designated area of failed pavement, excavate to a depth of 4 inches and off-haul debris. Re-grade and compact sub-grade. Tack coat all edges with SS-1 oil. Furnish and place 4 compacted inches of asphalt concrete placed in 2 lifts for maximum compaction. Seal and sand all edges.	12,219.90
Clean designated area and apply liquid asphalt binder and furnish and install 2 inches of compacted asphalt concrete overlay. Taper edges for smooth transition to adjoining asphalt grade.	7,776.34

*Need Permit*

Payment is due upon receipt.  
 Please make all checks payable to: Cato's Paving

**Thank you for your business!**

<b>Total</b>	<b>\$19,996.24</b>
--------------	--------------------

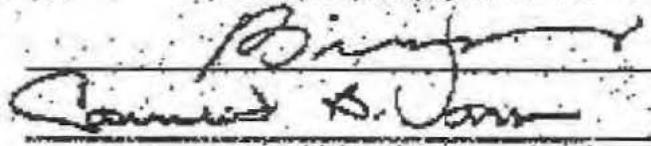
alfonso@catospaving.com

www.catospaving.com

000425 L0150 *12*

Check Details

Check Number	[REDACTED]
Date Posted	12/18/18
Check Amount	\$9,998.12

<b>Happy Home Partners LLC</b> 2941 Telegraph Ave Berkeley, CA 94705		<b>WELLS FARGO BANK, N.A.</b> 11-4288/1210	10021
PAY TO THE ORDER OF <b>CATO'S PAVING</b>		12/5/2018	\$ 9,998.12
Nine Thousand Nine Hundred Ninety-Eight and 12/100			DOLLARS
MEMO Improvements / 1924		<b>DOUBLE SIGNATURES REQUIRED</b>  AUTHORIZED SIGNATURE	
CATO'S PAVING 22302 Hatheway Ave. Hayward, CA 94541			



L0152

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

 Equal Housing Lender

Check Details

Check Number	[REDACTED]
Date Posted	02/01/19
Check Amount	\$9,998.12

**Happy Home Partners LLC**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
1-4288/1210

1/4/2019

PAY TO THE ORDER OF **CATO'S PAVING** \$ **\*\*9,998.12**

Nine Thousand Nine Hundred Ninety-Eight and 12/100 DOLLARS

CATO'S PAVING  
22302 Hatheway Ave.  
Hayward, CA 94541

MEMO

DOUBLE SIGNATURES REQUIRED

*[Signature]*  
*[Signature]*

1031



L0154

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

 Equal Housing Lender

CATO'S PAVING

12/5/2018

1924 / 4029 50%

9,998.12

WF Checking #4391 Improvements / 1924

9,998.12

LMP100 M/P CHECK

HAPPY HOME PARTNERS LLC



CATO'S PAVING

1/4/2019

1924 / 4029 full payment

9,998.12

WF Checking #4391 Improvements / 1924

9,998.12

LMP100 M/P CHECK

# NANCY'S HAULING

# INVOICE

2126 41ST AVE  
OAKLAND, CA 94601  
510-478-5051

DATE: 08/20/2018  
INVOICE #  
FOR: 2941 TELEGRAPH  
AVE BERKELEY CA

Bill to: HAPPY HOME PARTNERS

DESCRIPTION	AMOUNT
EXCAVATION, PREPARATION AND NEW CONCRETE ON THE REAR PATIO ON 1925 10TH AVE OAKLAND CA 08/18/2018 \$ 4,300	\$5,244
3.5 EXTRA YARDS OF CONCRETE AND LABOR 1924 9TH AVE OAKLAND CA 08/18/2018 \$ 944	

TOTAL \$ 5,244.00

Make all checks payable to NANCY'S HAULING

THANK YOU FOR YOUR BUSINESS!

000431 L0156

Check Details

Check Number	[REDACTED]
Date Posted	08/23/18
Check Amount	\$5,244.00

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
1-800-225-5310

8/21/2018

PAY TO THE ORDER OF **Nancy's Hauling**

\$ 5,244.00

Five Thousand Two Hundred Forty-Four and 00/100 \*\*\*\*\* DOLLARS

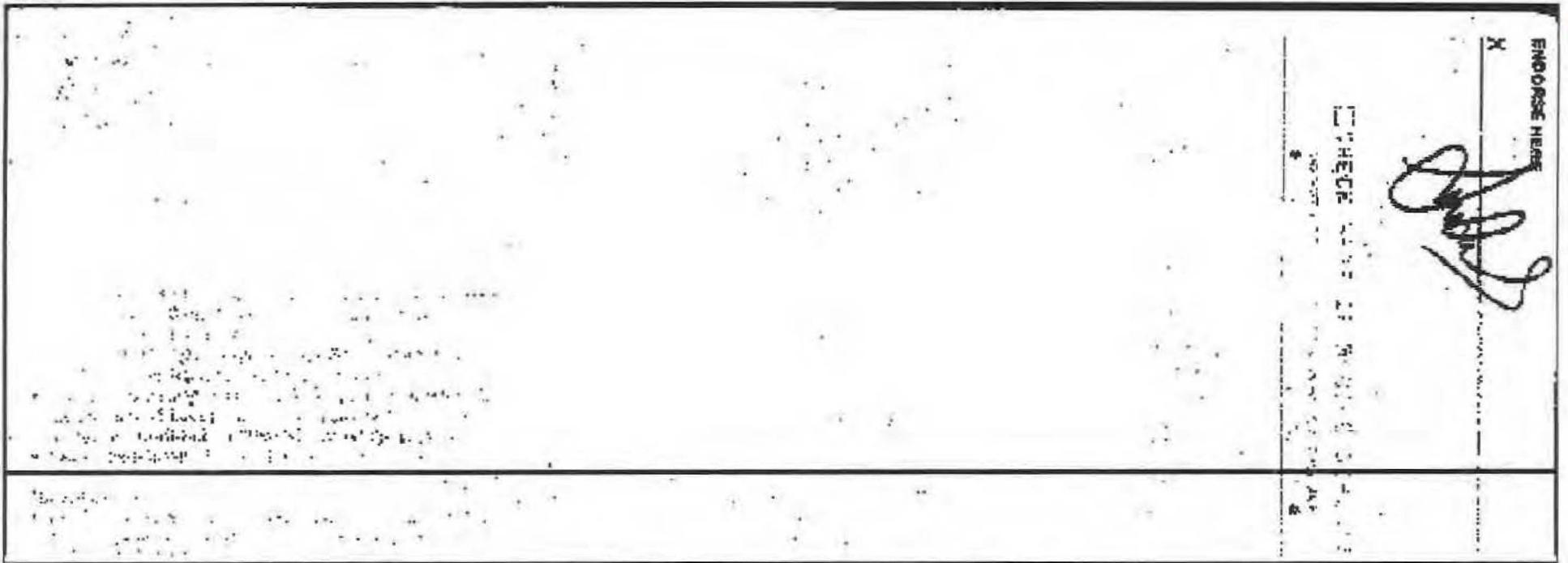
Nancy's Hauling  
2126 41st Avenue  
Oakland CA 94601

MEMO: Improvements / 1925 / 1924

DOUBLE SIGNATURES REQUIRED

*[Signature]*  
*[Signature]*

AUTHORIZED SIGNATURE



L0158

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

 Equal Housing Lender

000433

Nancy's Hauling

8/21/2018

1925  
1924

4,300.00  
944.00

WF Checking # [REDACTED] Improvements / 1925 / 1924

5,244.00

LMP100 M/P CHECK



# PERMIT APPLICATION WORKSHEET

Planning and Building Department  
 250 Frank H. Ogawa Plaza  
 2<sup>nd</sup> Floor, Suite 2114  
 Oakland, CA 94612  
 Tel (510) 238-3443  
 Fax (510) 238-2263  
 Hours:  
 8 am-4pm M,Tu,Th,F  
 9:30 am-4 pm Wed

**PLEASE COMPLETE ALL INFORMATION. APPLICANTS WITH INCOMPLETE WORKSHEETS MAY BE ASKED TO GET A NEW NUMBER. INACCURATE INFORMATION MAY LEAD TO SUSPENSION OF THE PERMIT. ADDITIONAL PERMITS MAY BE REQUIRED, i.e., Electrical, Plumbing, Mechanical, Sewer, Obstruction.**

SCHOOL FEE (SF) Commercial \$0.56 Residential \$3.48  
ADDRESS FEE Commercial \$154.91 Residential \$56.23 Change of Address for Any Occupancy \$403.92

TYPE OF PERMIT: (circle one)		
<u>BUILDING</u>	DEMOLITION ( _____ SF)	SOLAR      SIGN      CERTIFICATE OF OCCUPANCY
IS THIS APPLICATION RELATED TO ANY OTHER PERMIT OR COMPLAINT?		IF YES, INDICATE PERMIT #, PLANNING CASE FILE # OR COMPLAINT #:
<input type="radio"/> YES <input checked="" type="radio"/> NO		2W1900040
SITE ADDRESS/JOB LOCATION		ASSESSOR'S PARCEL NO.
1924 9th Ave, Oakland		0-21-0269-011-01
DESCRIPTION OF PROPOSED WORK		
Re Paving existing parking lot. Keeping same # of stalls.		
VALUATION OF PROPOSED WORK	EXISTING # OF RESIDENTIAL UNITS	# OF STORIES:
\$ 3,500	30	OCCUPANCY:
	NUMBER OF UNITS TO BE ADDED	TYPE OF CONSTRUCTION:
	N/A	OCCUPANT LOAD:
PROPERTY OWNER'S NAME		EXISTING FIRE SPRINKLERS:
Lake1925 LP		<input type="radio"/> YES <input type="radio"/> NO
PROPERTY OWNER'S ADDRESS (street, city and zip code)		PROPERTY OWNER'S PHONE NUMBER
2941 Telegraph Ave. Berkeley CA 94705		510-204-9922 ex 3
PERSON SUBMITTING APPLICATION	PHONE NUMBER	EMAIL
GEORGE SAKAZAWA	510-599-2015	GEORGE@HAPPYHOMEPARTNERS.COM
ARCHITECT'S/DESIGNER'S NAME	PHONE NUMBER	EMAIL
CONTRACTOR'S LICENSE NUMBER	SIGNATURE OF APPLICANT	DATE
		1/16/19



Update Results



CITY OF OAKLAND

Record Detail with Comments

**Record ID: ZW1900040**

**Description: Zoning ok to allow for repair or replacement of parking facilities (parking and maneuvering pavement ). no change in scope of existing use. in-kind / like-for-like work (change of materials ok, as allowed by Bureau of Building). Moe X3973**

**APN: 021 026901101**

**Address: 1924 9TH AVE**

**Unit #:**

**Date Opened: 1/16/2019**

**Record Status: Counter Discussion Only**

**Record Status Date: 1/16/2019**

**Job Value:**

**Requestor:**

**: George Shafazand (applicant / agent)**

**Business Name:**

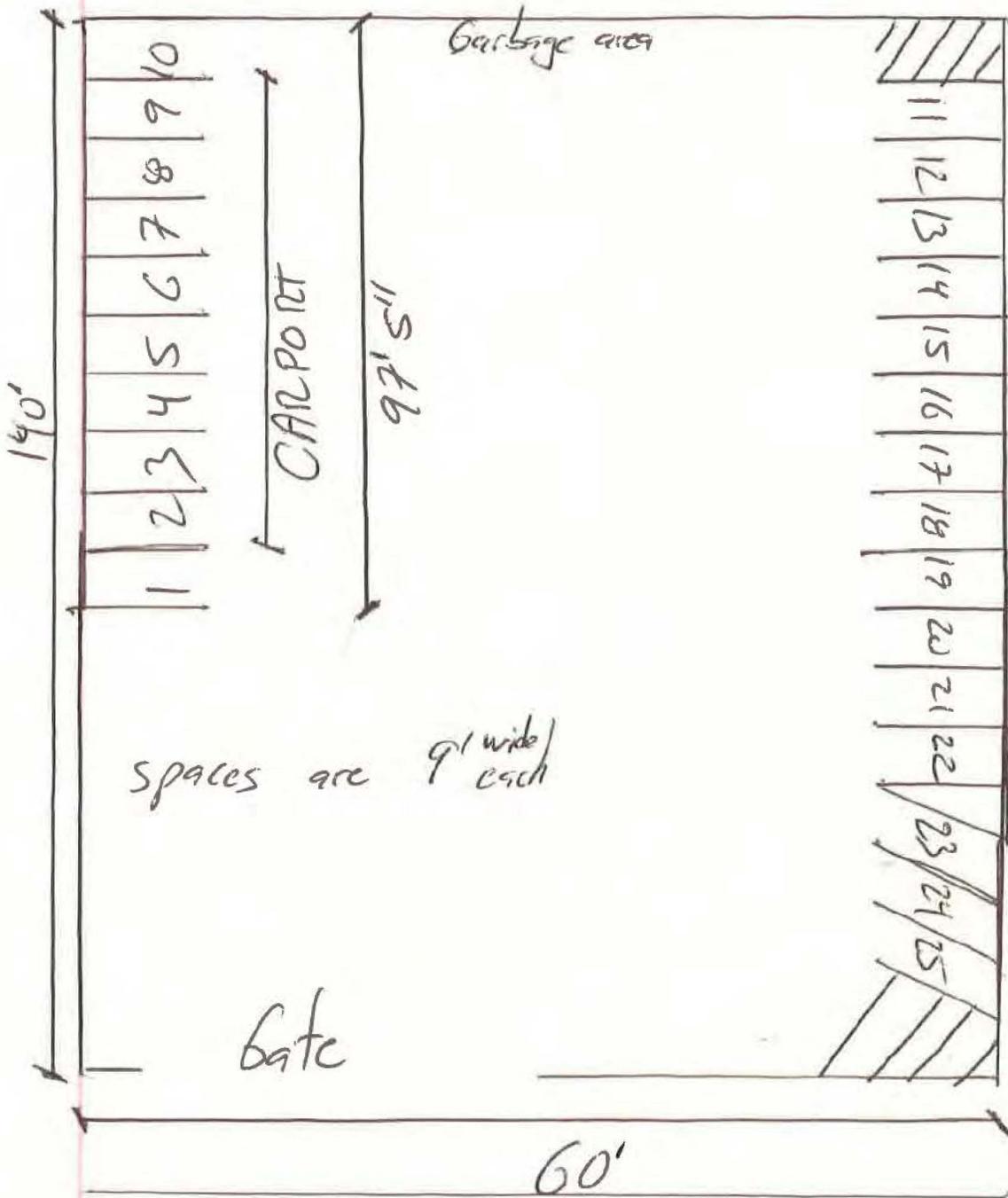
**License #:**

Comment Date	Commenter	Comment
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For real-time, direct access to information via the Internet, 24 hours a day - <https://aca.accela.com/oakland>

# 1924 9th Ave Parking lot

25 spots



Before on this side was letter from A to D

ZONING WORKSHEET  
MORZ  
PLANNING AND BUILDING-ZONING DIVISION

ZU/A 50090

000437 L0162



ZONING WORKSHEET

PLANNING AND BUILDING - ZONING DIVISION

Zw 1950040



E 19th St

E 19th St

1924 9th Avenue

L0164

000439

# **ELEVATOR**

**000440**



Contractors License No. 847268  
5650 Imhoff Dr., Ste. B, Concord, CA 94520  
Office: 510-281-0920 Fax: 510-281-0930  
Email: aes@advancedelevatorsolutions.com

## Repack Repair Proposal and Contract

**DATE:** April 25, 2019

**PURCHASER:** Happy Home Partners, LLC      **EMAIL:** George@happyhomepartners.com  
2941 Telegraph, No. 5  
Berkeley, CA 94705

**PROPERTY:** 1924 9<sup>th</sup> Avenue, Oakland, CA - REPACK

**CONTRACT NUMBER:** RE-19249<sup>TH</sup>-04252019

---

Due to the deterioration of the existing seal/packing in the elevator, we recommend and propose to furnish all materials and perform all labor necessary to complete the following repairs for the elevator at 1924 9<sup>th</sup> Avenue, Oakland, CA

1. Hoist elevators and secure
2. Remove existing seal/packing
3. Install New seal/packing
4. Wipe down and sand pistons

**PRICE:** Total price for elevator work is \$2,475.00

**Payment Schedule:** Payment will be comprised of the following payments. All payments are due within five (5) days of the invoice date.

**Deposit:** \$1,237.50 - Required at the time the contract is signed for approval.  
**Final Payment:** \$1,237.50 - Due upon completion.

**ADDITIONAL CHARGES:**

**Finance Charge:** A finance charge of two percent (2%) per month will be imposed on all charges thirty (30) days past due with an annual percentage rate of twenty-four percent (24%).

**Non-Payment Charge:** If payment is received late or not made, there will be an additional \$50.00 late payment penalty charge.

**Credit Card Charge:** There will be a three percent (3%) fee added if a Credit or Debit card is used for any portion of the contract price.

**NSF Check Charge:** If for any reason a payment by check is returned due to non-sufficient funds, there will be a \$50.00 return check charge imposed on the account.

**WARRANTY:**      Material – One (1) Year      Labor – Sixty (60) Days

1924 9<sup>th</sup> Avenue, Oakland, CA – REPACK  
April 25, 2019

**Negligence or Misuse by Owner** – *Advanced Elevator Solutions, Inc.* shall not be obligated to make adjustments, renewals or repairs necessitated by the negligence or misuse of equipment on the part of the Purchaser or its agents and employees, or by reason of product or installation defects, tampering, vandalism, weather conditions, or any cause or act beyond *Advanced Elevator Solutions, Inc.*'s control, excepting ordinary wear and tear caused by normal use of the equipment, which *Advanced Elevator Solutions, Inc.* shall repair.

All warranty work to be completed during regular business hours 7:00 a.m. to 3:30 p.m., Monday through Friday, holidays excluded. Overtime will be charged at overtime rates.

In the event of a claim, Purchaser must give *Advanced Elevator Solutions, Inc.* prompt notice, and provided all payments due under the terms of this Contract have been made in full, we shall, at our own expense, correct any proven defect by repair or replacement. We will not, under this warranty, reimburse Purchaser for cost of work done by others; nor shall we be responsible for equipment to which revisions, additions or alterations have been made by others. This warranty is in lieu of any other liability for defects. WE MAKE NO WARRANTY OF MERCHANTABILITY AND NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION IN THIS CONTRACT, NOR ARE THERE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be in writing.

This document shall become a valid Contract only when accepted by the Purchaser and subsequently by an Authorized Representative of *Advanced Elevator Solutions Inc.*, and shall constitute the entire Agreement between the parties.

Accepted: Happy Home Partners, LLC.  
(Full Company Name or Individual Purchaser)

By: *George Stafazand*  
(Signature of Authorized Official)

Title: General Manager

Date Signed: 04/26/2019

Tax Payer ID: \_\_\_\_\_

Billing Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

**Advanced Elevator Solutions**  
5650 Imhoff Drive, Suite B  
Concord, CA 94520  
(510) 281-0920 (Office)  
(510) 281-0930 (Fax)

By: \_\_\_\_\_  
VICTOR LATRONICA, President

Date Signed: \_\_\_\_\_

Witnessed By: \_\_\_\_\_

Date Signed: \_\_\_\_\_

*This contract is valid for thirty (30) days from the date of the contract.*

**APPROVED**

**000442** L0167

Check Details

Check Number	[REDACTED]
Date Posted	05/02/19
Check Amount	\$1,237.50

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
1-4288-7210

[REDACTED]

4/28/2019

PAY TO THE ORDER OF **Advance Elevator Solutions, Inc.** \$ **1,237.50**

One Thousand Two Hundred Thirty-Seven and 50/100 **DOLLARS**

Advance Elevator Solutions, Inc.  
5650 Imhoff Drive, Suite B  
Concord, CA 94520

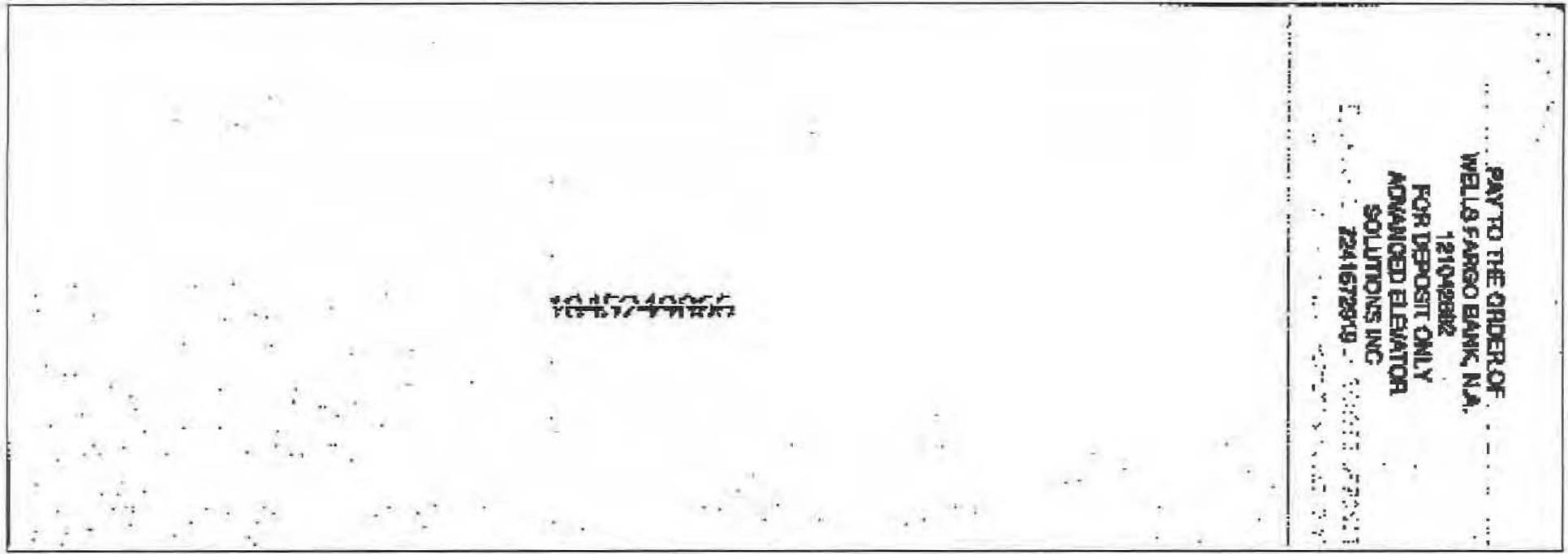
MEMO Elevator / 1924

DOUBLE SIGNATURES REQUIRED

[Signature 1]  
[Signature 2]

AUTORIZED SIGNATURE

Printed on Demand



L0169

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 Equal Housing Lender

000444

Check Details

Check Number	[REDACTED]
Date Posted	05/22/19
Check Amount	\$1,237.50

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-6288/1210

5/16/2019

PAY TO THE ORDER OF **Advance Elevator Solutions, Inc.**

\$ **1,237.50**

One Thousand Two Hundred Thirty-Seven and 50/100 \*\*\*\*\* DOLLARS

Advance Elevator Solutions, Inc.  
5550 Imhoff Drive, Suite B  
Concord, CA 94520

MEMO Elevator / 1924

DOUBLE SIGNATURES REQUIRED

*[Signature]*  
*[Signature]*

AUTHORIZED SIGNATURE

Photo State Department  
Wells Fargo Bank



For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

 Equal Housing Lender

## Repair Proposal and Contract

**DATE:** February 26, 2019

**PURCHASER:** Happy Home Partners  
2941 Telegraph Avenue  
Berkeley, CA 94705

Email: George@happyhomepartners.com  
Phone: 510.522.5130

**BUILDING LOCATION:** 1924 9th Avenue, Oakland, CA - REPAIR

**CONTRACT NUMBER:** RE-19249THAV-2262019

We recommend and propose to furnish all materials and perform all labor necessary to complete the following for the elevator located at 1924 9th Avenue, Oakland, CA.

1. Remove original door operator.
2. Install new MAC Door operator.
3. Add new relays and wiring to controller as needed.
4. Adjust operator and return to normal service.

**PRICE:** Total price for elevator work is \$6,800.00

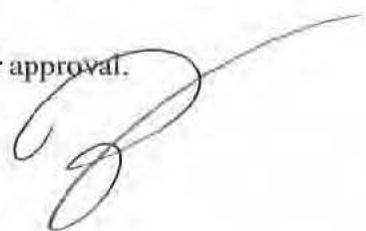
**Payment Schedule:** Payment will be comprised of the following payments. All payments are due within five (5) days of the invoice date.

**Deposit:** → \$3,400.00 - Required at the time the contract is signed for approval.  
**Final Payment:** \$3,400.00 - Due upon completion.

**ADDITIONAL CHARGES:**

**Finance Charge:** A finance charge of two percent (2%) per month will be imposed on all charges thirty (30) days past due with an annual percentage rate of twenty-four percent (24%).

*NOT CONTRACT DEPOSIT AES*



1924 9th Avenue, Oakland, CA – Door Operator/Repair  
February 26, 2019

**Non-Payment Charge:** If payment is received late or not made there will be an additional \$50.00 late payment penalty charge.

**NSF Check Charge:** If for any reason a payment by check is returned due to non-sufficient funds, there will be a \$50.00 return check charge imposed on the account.

**Credit Card Charge:** There will be an additional three percent (3%) surcharge if a Credit/Debit card is used for any portion of this contract.

**WARRANTY:**       Material – One (1) Year       Labor – Sixty (60) Days

**Negligence or Misuse by Purchaser** – *Advanced Elevator Solutions, Inc.* shall not be obligated to make adjustments, renewals or repairs necessitated by the negligence or misuse of equipment on the part of the Purchaser or its agents and employees, or by reason of product or installation defects, tampering, vandalism, weather conditions, or any cause or act beyond *Advanced Elevator Solutions, Inc.*'s control, excepting ordinary wear and tear caused by normal use of the equipment, which *Advanced Elevator Solutions, Inc.* shall repair.

All warranty work to be completed during regular business hours 7:00 a.m. to 3:30 p.m., Monday through Friday, holidays excluded. Overtime will be charged at overtime rates.

In the event of a claim, the purchaser must give us prompt notice, and provided all payments due under the terms of this contract have been made in full, we shall, at our own expense, correct any proven defect by repair or replacement. We will not, under this warranty, reimburse Purchaser for cost of work done by others; nor shall we be responsible for equipment to which revisions, additions or alterations have been made by others. This warranty is in lieu of any other liability for defects. WE MAKE NO WARRANTY OF MERCHANTABILITY AND NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION IN THIS CONTRACT, NOR ARE THERE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be in writing.

This document shall become a valid Agreement only when accepted by the Purchaser and subsequently by an Authorized Representative of the *Advanced Elevator Solutions Inc.*, and shall constitute the entire Agreement between the parties.

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1924 9th Avenue, Oakland, CA – Door Operator/Repair  
February 26, 2019

Accepted: HAPPY HOME PARTNERS (GEORGE)  
(Full Company Name or Individual Purchaser)

**Advanced Elevator Solutions**  
5650 Imhoff Drive, Suite B  
Concord, CA 94520  
(510) 281-0920 (Office)  
(510) 281-0930 (Fax)

By: [Signature]  
(Signature of Authorized Official)

Title: General Manager

Date Signed: 3/18/2019

Tax Payer ID: 46-2895001

Billing Address: 2941 Telegraph Ave  
Berkeley, CA 94705

By: \_\_\_\_\_  
VICTOR LATRONICA, President

Date Signed: \_\_\_\_\_

Witnessed By: \_\_\_\_\_

Email: MGMT@HAPPYHOMEPARTNERS.COM Date Signed: \_\_\_\_\_

**Please Note: This contract is valid for thirty (30) days from the date of the contract.**

Check Details

Check Number	[REDACTED]
Date Posted	03/26/19
Check Amount	\$3,400.00

**Happy Home Partners Llc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
11-4288/1210

[REDACTED]

3/20/2019

PAY TO THE ORDER OF **Advance Elevator Solutions, Inc.** \$ **3,400.00**

Three Thousand Four Hundred and 00/100 \*\*\*\*\* DOLLARS

Advance Elevator Solutions, Inc.  
5550 Imhoff Drive, Suite B  
Concord, CA 94520

MEMO **Repair Proposal and Contract / 1924**

DOUBLE SIGNATURES REQUIRED

*[Signature]*  
*Carroll B. [Signature]*  
AUTHORIZED SIGNATURE

Photo Bank Image

Wells Fargo



### Check Details

Check Number	[REDACTED]
Date Posted	05/02/19
Check Amount	\$3,400.00

**Happy Home Partners Lc**  
2941 Telegraph Ave  
Berkeley, CA 94705

WELLS FARGO BANK, N.A.  
www.wellsfargo.com  
1-4258-1240

4/28/2019

PAY TO THE ORDER OF **Advance Elevator Solutions, Inc.**

\$ **3,400.00**

Three Thousand Four Hundred and 00/100 ..... DOLLARS

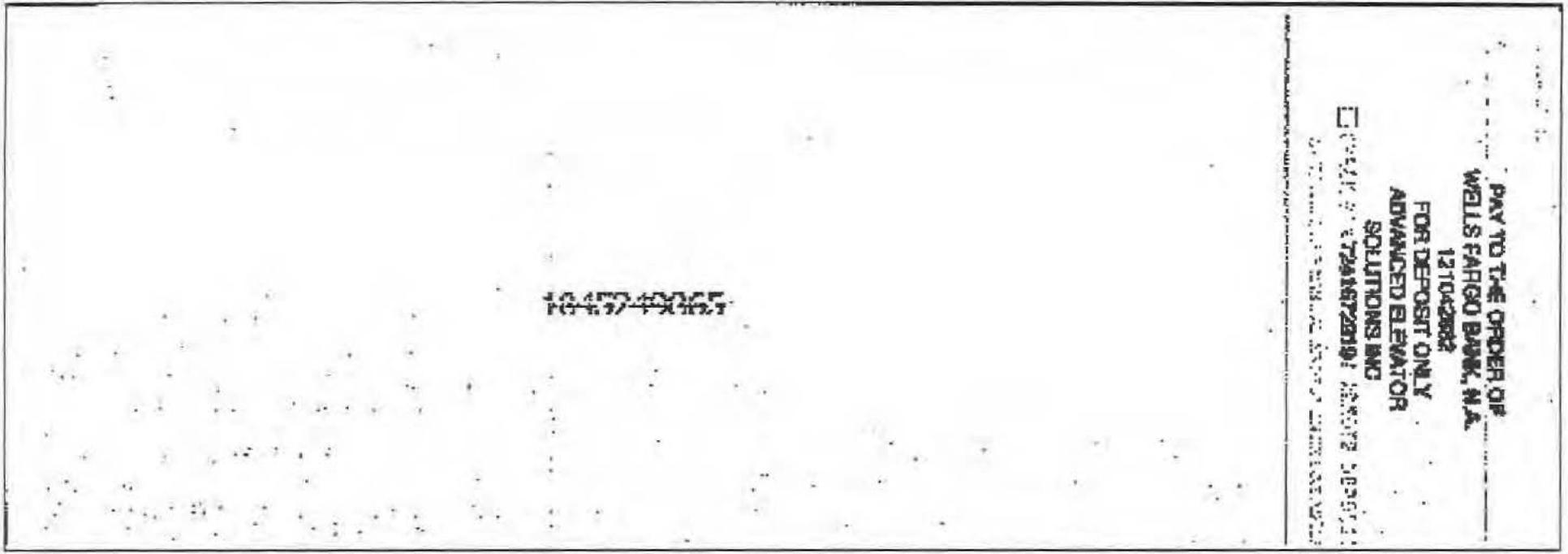
Advance Elevator Solutions, Inc.  
5850 Imhoff Drive, Suite 6  
Concord, CA 94520

DOUBLE SIGNATURES REQUIRED

*Carolina D. Jones*  
AUTHORIZED SIGNATURE

MEMO Elevator / 1924

Printed on Recycled Paper



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 Equal Housing Lender



Contractors License No. 847268  
5650 Imhoff Drive, Ste. B, Concord, CA 94520  
Office: 510-281-0920 Fax: 510-281-0930  
Email: aes@advancedelevatorsolutions.com

## STATE – PROPOSAL AND CONTRACT

**DATE:** September 18, 2019

**PURCHASER:** Happy Home Partners, LLC  
2941 Telegraph, No. 5  
Berkeley, CA 94705

**EMAIL:** george@happyhomepartners.com  
**PHONE:** 510.204.9922 x. 102

**BUILDING LOCATION:** 1924 9<sup>th</sup> Avenue, Oakland, CA – State No. 039427

**CONTRACT NUMBER:** STATE-19249<sup>TH</sup>-09182019

*Advanced Elevator Solutions, Inc.* submits this estimate for labor and material for the following state required work per State Preliminary Order dated **August 26, 2019** and witnessed by a State inspector per ASME A17.1-2007, section 8.10.1.1.1 (“The acceptance inspection shall be made by an inspector employed by the authority having jurisdiction, or by a person authorized by the authority having jurisdiction.”); and ASME A17.2-2007, section 2(2) (“The testing and detailed examination or operation of equipment at specified intervals witnessed by an inspector to check for compliance with the applicable Code requirements.”).

### WORK REQUIRED:

State No. 039427

**APPROVED**

1. Item 1 – Will perform 1,600 lb. load test.
2. Item 2 – Will attach tag upon completion of successful load test.
3. Complete and send the compliance form to the Department of Industrial Relations, Elevator Unit.

**CONTRACT PRICE:** The cost to complete above listed items will be the sum of \$1,995.00.

**Payment Schedule:** Payment will be due upon completion.

### ADDITIONAL CHARGES:

**Finance Charge:** A finance charge of two percent (2%) per month will be imposed on all charges thirty (30) days past due with an annual percentage rate of twenty-four percent (24%).

**Credit Card Fee:** If payment is made by Credit or Debit Card there will be a three percent (3%) surcharge on the transacted amount.

**Non-Payment Charge:** If payment is received late or not made, there will be an additional \$50.00 late payment penalty charge.

1924 9<sup>th</sup> Avenue, Oakland, CA – STATE  
September 18, 2019

**NSF Check Charge:** If for any reason a payment by check is returned due to non-sufficient funds, there will be a \$50.00 return check charge imposed on the account.

**DISPUTES:** In the event of disputes involving litigation, both parties agree that the prevailing party be paid all attorneys' fees incurred.

**WARRANTY:** No Warranty for testing.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be in writing.

This document shall become a valid Agreement only when accepted by the Purchaser and subsequently by an Authorized Representative of *Advanced Elevator Solutions Inc.*, and shall constitute the entire Agreement between the parties.

George Shafazand for  
Accepted: Happy Home Partners, LLC.  
(Full Company Name or Individual Purchaser)

By: George shafazand  
(Signature of Authorized Official)

Title: General Manager

Date Signed: 09/18/2019

Tax Payer ID: ON file

Billing Address: On File

Phone: 510-204-9922 Fax: \_\_\_\_\_

*Advanced Elevator Solutions*  
5650 Imhoff Drive, Suite B  
Concord, CA 94520  
(510) 281-0920 (Office)  
(510) 281-0930 (Fax)

By: \_\_\_\_\_  
VICTOR LATRONICA, President

Date Signed: \_\_\_\_\_

Witnessed By: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**Please Note:** This contract is valid for thirty (30) days from the date of the contract.

**APPROVED**

### Check Details

**Check Number** [REDACTED]  
**Date Posted** 10/17/19  
**Check Amount** \$1,995.00

<b>Happy Home Partners Llc</b> 2941 Telegraph Ave Berkeley, CA 94705		<b>WELLS FARGO BANK, N.A.</b> www.wellsfargo.com 11-4288/1210	[REDACTED]
PAY TO THE ORDER OF <b>Advance Elevator Solutions, Inc.</b>		<b>10/14/2019</b>	
One Thousand Nine Hundred Ninety-Five and 00/100		<b>\$ 1,995.00</b>	
Advance Elevator Solutions, Inc. 5850 Imhoff Drive, Suite B Concord, CA 94520		<b>DOUBLE SIGNATURES REQUIRED</b>	
<b>MEMO</b> 1924 9TH		<i>[Signature]</i> <i>[Signature]</i> AUTHORIZED SIGNATURE	

1747209757

PAY TO THE ORDER OF  
WELLS FARGO BANK, N.A.  
121042882  
FOR DEPOSIT ONLY  
ADVANCED ELEVATOR  
SOLUTIONS, INC.  
7241672919

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images. You can see full or partial fronts and backs of the images by using the link at the top of the window.

Equal Housing Lender

# **ROOFING**

**000457**



# California ROOF TECHNICIANS, INC.

California License # 1013170

(510) 205-0211  
CaRoofTech@gmail.com  
1017 L Street #762  
Sacramento, CA 95814

CUSTOMER'S NAME	Happy Homes			PHONE	
ADDRESS	2941 Telegraph	CITY	Buckley	STATE	CA
EMAIL					

DESCRIPTION OF WORK PERFORMED

work site address 1924 9th Ave Oakland CA

Cut out (2) Areas of roof w/ dry rot Total (4300) sqft. Replace all dry rot in areas plywood & beams.

Broom & machine clean entire roof from all debris.

Over apply G.A.F App-160 Smooth torch down to entire roof.

Over apply Aluminum roof coating to entire roof.

All labor under full warranty for (10) years from date of completion.

California Roof Technicians, Inc. is insured with one million dollars general liability and one million workmen's compensation insurance. Certificates available upon request.

PAYMENT TO BE MADE AS FOLLOWS:

DATE	upon clean & prep	\$ 13,850.00
DATE	upon completion	\$ 13,850.00
DATE		\$

TOTAL PRICE

Accepted by:  \$ 27,700.00 # 000458 L0183 Date: 7/30/2017

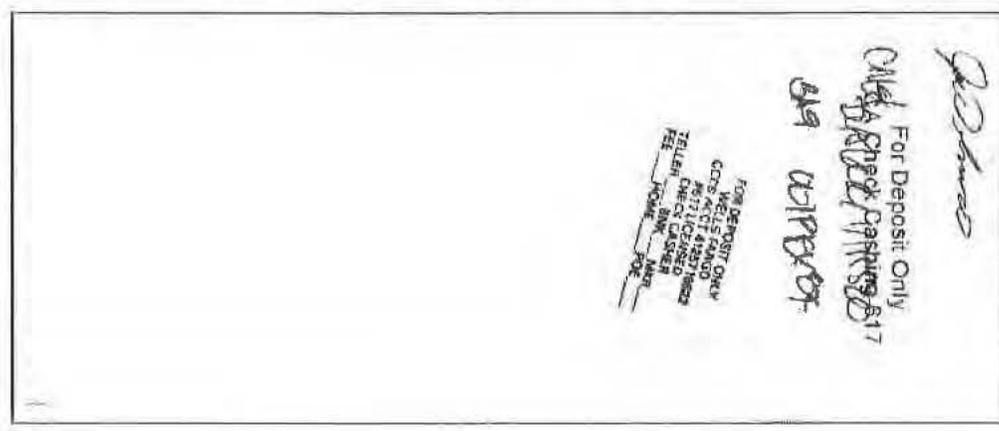
I have read the information printed on the reverse side of this form.

Site	VIEWPOINTE	Paid Date	02012017	Serial No	5095
Routing		Account		PC	000060
Amount	16350.00	Sequence	-	Capture Source	00010000

Front Black & White Image



Back Black & White Image



HAPPY HOME PARTNERS LLC

5095

California Roof Technicians, Inc.

1/31/2017

1924 9TH  
629 e19TH

13,850.00  
2,500.00

HAPPY HOME PARTNERS LLC

6017

California Roof Technicians, Inc.

6/23/2017

101

13,850.00

WF Checking #4391 Dry Rot / 1924

13,850.00

LMP100 M/P CHECK

HAPPY HOME PARTNERS LLC

6016

California Roof Technicians, Inc.

6/23/2017

102

3,850.00

WF Checking #4391 Dry Rot / 1924

3,850.00

LMP100 M/P CHECK

**000460** L0185

# California

## ROOF TECHNICIANS, INC.

California License # 1013170

INVOICE # 101

(408) 663-7170 • (510) 205-0211  
CaRoofTech@gmail.com  
30166 Industrial Pkwy. S.W., #245 • Hayward, CA 94544

DATE 06/20/2017

CUSTOMER'S NAME

Happy Homes

1924

PHONE

510-204-9922

ADDRESS

1294 9th Ave

CITY

Oakland

STATE

CA

ZIP

94606

### DESCRIPTION OF WORK PERFORMED

Work Completed 1294 9th Ave Oakland CA. 94606

Clean off entire roof of debris and haul away.

Install Rubberized torch down rubber roof system  
to aprx: 8,500 sqft.

Apply 75. fiberglass membrane where needed.

Seal all pipe Jacks and Vents.

Clean up all job debris haul away

All labor warranted for 10- years from date of  
Completion TEW

PLEASE PAY FROM THIS INVOICE. NO STATEMENT WILL BE SENT.

**NOTICE TO THE OWNER:** In the State of California, mechanics' lien are provided in the California constitution. Article XIV, section 3 of the California constitution provides: any contractor, subcontractor, laborer, materialman, supplier or other person who helps improve your property but is not paid in full for his labor, services, work, material, equipment or supplies, furnished or to be furnished, has a right to enforce a claim against your property. This means that after a court hearing, your property could be sold by a court officer and the proceeds of the Sale used to satisfy the indebtedness. This can happen even if you have paid your own contractor in full, if any subcontractor, laborer or supplier remains unpaid.

INVOICE TOTAL

\$ 27,700

DEPOSIT

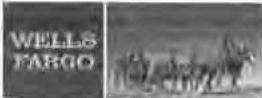
\$ 13,850

BALANCE DUE

\$ 13,850

Thank You for Your Prompt Payment

00046110186



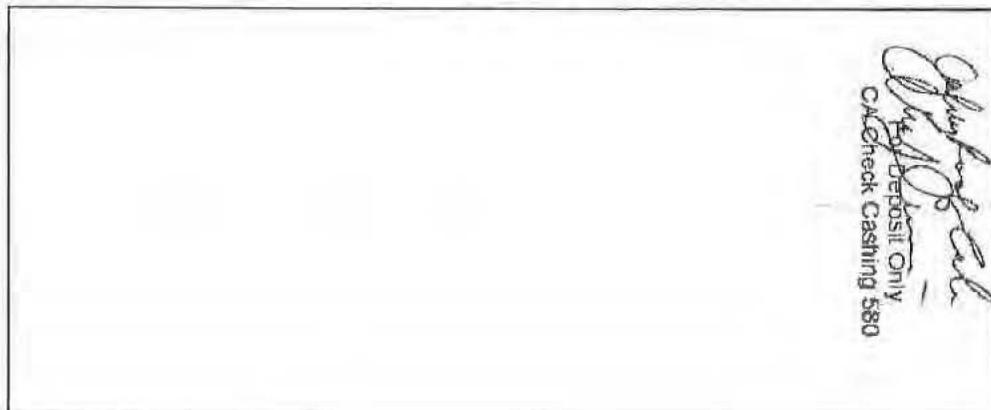
# Operation Image Browser 2.0

Site	VIEWPOINTE	Paid Date	06272017	Serial No	6017
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	13850.00	Sequence	-	Capture Source	00010000

### Front Black & White Image



### Back Black & White Image



# California

## ROOF TECHNICIANS, INC.

California License # 1013170

INVOICE # 102

(408) 663-7170 • (510) 205-0211  
CaRoofTech@gmail.com  
30166 Industrial Pkwy. S.W., #245 • Hayward, CA 94544

DATE 06/20/2017

CUSTOMER'S NAME

Happy Homes

PHONE

570 205-9922

ADDRESS

1294 9th Ave

1924

CITY  
Oakland

STATE

CA

ZIP

94606

### DESCRIPTION OF WORK PERFORMED

\* Dry rot repair new work order \*

Install new sheeting 1/2 inch to apx: 1,000 Sq Ft  
due to dry rot and low area to Allow proper  
drainage add 2x4 Beams where needed.

Cover ply wood with fine resistant base sheet.

1,000 Sq Ft at \$ 3.85.00 per Sq Ft = \$ 3,850

PLEASE PAY FROM THIS INVOICE. NO STATEMENT WILL BE SENT.

**NOTICE TO THE OWNER:** In the State of California, mechanics' lien are provided in the California constitution. Article XIV, section 3 of the California constitution provides: any contractor, subcontractor, laborer, materialman, supplier or other person who helps improve your property but is not paid in full for his labor, services, work, material, equipment or supplies, furnished or to be furnished, has a right to enforce a claim against your property. This means that after a court hearing, your property could be sold by a court officer and the proceeds of the Sale used to satisfy the indebtedness. This can happen even if you have paid your own contractor in full, if any subcontractor, laborer or supplier remains unpaid.

INVOICE TOTAL \$ 3,850  
DEPOSIT \$ 0  
BALANCE DUE \$ 3,850

Thank You for Your Prompt Payment

000463 L0188

Site	VIEWPOINTE	Paid Date	06272017	Serial No	6016
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	3850.00	Sequence	-	Capture Source	00010000

Front Black & White Image



Back Black & White Image



Issued Date: June 24, 2019

Application Number: R1900452

Site Address: 1924 9TH AVE

Assessor Parcel Number: 021 026901 01

Project Description: REROOFING GEN. OBSTRUCTION PERMIT FOR: CURBSIDE

Description of Roofing System  
Roofing System Fire Class Rating

Name	Address	Phone	License #
Owner: LAKE1925 LP	2911 BLISS AVE BERKELEY CA	(510) 205-0211	1013170
Contractor: JOSEPH DELMARO	1017 L ST #202 SACRAMENTO, CA		

TOTAL FEES TO BE PAID AT ISSUANCE: \$34.43

0.00 Recrd Mangmnt & Tech Enhanc4.43



000465

CITY OF OAKLAND  
INSULATION / REROOFING CERTIFICATION  
PLANNING AND BUILDING DEPARTMENT  
BUREAU OF BUILDING  
(510) 238-3891

\*\*\*\*\*  
This Certification will expire 180 days after issuance  
\*\*\*\*\*  
Upon completion of the work, affix proper postage and mail in this card.

Valuation of work \$ \_\_\_\_\_ Completion Date \_\_\_\_\_

Owner \_\_\_\_\_

Contractor \_\_\_\_\_ Telephone \_\_\_\_\_

Description of roofing system or insulation \_\_\_\_\_

State License# \_\_\_\_\_ City Business tax # \_\_\_\_\_ W C policy# \_\_\_\_\_

\*\*\*\*\*  
This building is \_\_\_ is not \_\_\_ located in the Fire Hazard Area as defined in OMC  
sec 15.12.030 Section 4904.3

Roof system fire rating: Class A \_\_\_ B \_\_\_ C \_\_\_

Residential\* \_\_\_ Commercial \_\_\_ Industrial \_\_\_

\*I certify that smoke and carbon monoxide alarms are installed in accordance  
with OBC sec R314 & R315

Signature: \_\_\_\_\_

Owner/Agent \_\_\_ Contractor \_\_\_

I certify that the insulation and/or roofing system is installed in accordance with  
the OBC and all applicable manufacturer's requirements.

Signature: \_\_\_\_\_

PERMIT # R1900452 ADDRESS: 1924 9TH AVE

PLACE  
STAMP  
HERE

L0191

**SMOKE ALARMS**

**R314.1 General.** Smoke alarms shall comply with NFPA 72

**R314.1.1 Listings.** Smoke alarms shall be listed in accordance with UL 217. Combination smoke and carbon monoxide alarms shall be listed in accordance with UL 217 and UL 2034. Systems and components shall be California State Fire Marshal listed and approved in accordance with California Code of Regulations, Title 19, Division 1 for the purpose for which they are installed.

**R314.2 Where required.** Smoke alarms shall be provided in accordance with this section.

**R314.2.1 New construction.** Smoke alarms shall be provided in dwelling units

**R314.2.2 Alterations, repairs and additions.** Where alterations, repairs or additions requiring a permit occur, or where one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms located as required for new dwellings.

**R314.3 Location.** Smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. Smoke alarms shall be installed not less than 3 feet horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section R314.3.3

**R314.4 Interconnection.** Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with intervening doors closed.

**Exceptions:**

1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.
3. Smoke alarms are not required to be interconnected where repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
4. Smoke alarms are not required to be interconnected when work is limited to the installation, alteration or repairs of plumbing or mechanical systems or the installation, alteration or repair of electrical systems which do not result in the removal of interior wall or ceiling finishes exposing the structure.

**R314.4 Power source.** Smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

**Exceptions:**

1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.
4. Smoke alarms are permitted to be solely battery operated where repairs or alterations are limited to the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck.
5. Smoke alarms are permitted to be solely battery operated when work is limited to the installation, alteration or repairs of plumbing or mechanical systems or installation, alteration or repair of electrical systems which do not result in the removal of interior wall or ceiling finishes exposing the structure.

**CARBON MONOXIDE ALARMS**

**R315.1.1 Listings.** Carbon monoxide alarms shall be listed in accordance with UL 2034. Combination carbon monoxide and smoke alarms shall be listed in accordance with UL 2034 and UL 217. No person shall install, market, distribute, offer for sale, or sell any carbon monoxide device in the State of California unless the device and instructions have been approved and listed by the Office of the State Fire Marshal.

CITY OF OAKLAND  
PLANNING AND BUILDING DEPT  
BUREAU OF BUILDING  
250 FRANK H. OGAWA PLAZA - 2ND FLOOR  
OAKLAND, CA 94612



# CITY OF OAKLAND

Revenue Division - Business Tax Section  
250 Frank H. Ogawa Plaza, #1320  
Oakland, CA 94612  
(510) 238-3704 TDD (510) 238-3254  
www.oaklandnet.com

## Acknowledgement of Payment Received

Date: June 24, 2019

The City of Oakland acknowledges receipt of the following payment on the date printed above.

This payment will be tendered against the following account(s)

Account #: 00212366  
Account Name: CALIFORNIA ROOF TECHNICIANS INC  
Account Address: 1017 L ST # 762 SACRAMENTO, CA 95814-3805  
Account Paid: H - CONTRACTORS  
Business Address: 1017 L ST # 762 SACRAMENTO, CA 95814-3805

Please keep this acknowledgement for your records. Thank you.

Payment received by: JG

<b>2019</b>	
BT Registration Fee	
<i>Cash</i>	\$88.00
BT Recordation and Tech	
<i>Cash</i>	\$3.00
BT Contractor 1st yr estimate	
<i>Cash</i>	\$60.00
BT SB1186 (AB1379)	
<i>Cash</i>	\$4.00
<b>Total</b>	<b>\$155.00</b>



City of Oakland

Planning and Building Department

250 Frank H. Ogawa Plaza  
510-238-4774

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844 Accela Permit	1x	0.00	0.00
Permit Number: R1900452			
Fee			
Installation/Registration/Inspection Cer	1x	30.00	30.00
Fee			
Recrd Mangmnt & Tech Enhancement Fee	1x	4.43	4.43

Payer Name: JOSEPH DELMARD

---

SubTotal:	34.43
Total:	34.43

---

Cash	35.00
Change	0.57

6/24/2019 14:39  
#1021392 /77/24\_

Thank You

000468 L0193

**MISC.**

**000469**

**An Agreement for the Provision of Limited Professional Services**  
Adapted from the Council of American Structural Engineers  
CASE Document 1

**Structural Engineer (SE):** Coffman Engineers  
1939 Harrison Street, Suite 320  
Oakland, CA 94612

**Client:** Happy Home Partners, LLC  
2941 Telegraph Ave.,  
Berkeley, CA 94704

**Proposal No:** P17118

**Date:** June 13, 2017

**Project Name:** Requested additional structural engineering services -Retrofit

**Location:** 1924 Ninth Ave, Oakland, CA 94606

**Scope of Services:** Structural engineering services associated with requested design revisions relating to separation of phasing of the Balcony Handrail, Concrete Walkway, and Stair retrofits. We will coordinate with Happy Home Partners to prepare separate construction document sets as requested for each phase. These tasks were not anticipated in the original scope of work in the March 27, 2017 work authorization. These services therefore constitute additional services. All other aspects of this work are as defined in that same work authorization.

**Fee Arrangement:** Hourly at our rates given below, not to exceed \$1500 excluding reimbursable costs:

General Manager:	\$ 217 per hour	Senior Engineer:	\$ 163 per hour
Engineer III:	\$ 145 per hour	Engineer II:	\$ 125 per hour
Engineer I:	\$ 114 per hour	Designer III:	\$ 122 per hour

Prepared by (SE):

Coffman Engineers

*Jeffrey C. Weber*

Jeffrey C. Weber, SE #2866  
General Manager, Vice President

Accepted by (Client):

*Bing Udinsky*  
Signature

BING UDINSKY  
Printed name / title

9/19/2017  
Date

The terms and conditions in the original work authorization dated March 27, 2017 are part of this agreement.

**STRUCTURAL CALCULATIONS**

for:

**Building Improvements: Balconies, Stairs, Courtyard**

at:

1924 Ninth Ave.,  
Oakland, CA 94606

Coffman Engineers Project #170460

May 26, 2017

**Project Scope:**

Project consist of Structural design to address building improvements recommended by the City of Oakland. The subject building is a four-story apartment consisting of concrete and masonry retaining walls at the ground level with wood construction for the units. The primary entrance to the building is located on the North side along 9<sup>th</sup> Ave, and the secondary entrance is located on the South side, which has access the buildings parking area.

The improvements proposed include replacing existing balcony steel handrails with code compliant wood handrails, addressing settlement issues at the courtyard concrete walkway, and retrofitting existing cracked concrete treads at the North and South staircases with wood treads supported by steel plates.

**Applicable Codes:**

2016 California Building Code  
2016 ASCE-7  
2015 NDS  
2014 ACI-318

**Designed By:**

Eric Liu, P.E.

**Reviewed By:**

Jeff Weber, S.E.



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USGS DESIGN SUMMARY	D2
COURTYARD WALKWAY:	C1
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CONCRETE RETAINING WALL	C4
CONCRETE RETAINING WALL FOOTING	C6
WALL ANCHORAGE	C7
WOOD STAIRS:	W1
STEEL PLATE TREAD	W2
TREAD WELD	W3
BALCONY HANDRAIL:	B1
AMP 510-92 - HANDRAIL LOAD PROPORTION FACTOR	B2
WOOD HANDRAIL	B3
WOOD POST	B5
POST CONNECTION	B10

	project	Retrofit	by	EL, JW	sheet no.
	location	1924 Ninth Ave., Oakland, CA 94606	date	5/30/2014	
	client	Nancy Norton	checked	JW	job no.
			date	5/30/2017	170460

**000472** L0197

# DESIGN CRITERIA

# USGS Design Maps Summary Report

## User-Specified Input

**Report Title** 170460 - 1924 9th Ave., Oakland, CA  
 Mon May 15, 2017 23:04:34 UTC

**Building Code Reference Document** ASCE 7-10 Standard  
 (which utilizes USGS hazard data available in 2008)

**Site Coordinates** 37.79617°N, 122.24535°W

**Site Soil Classification** Site Class D - "Stiff Soil"

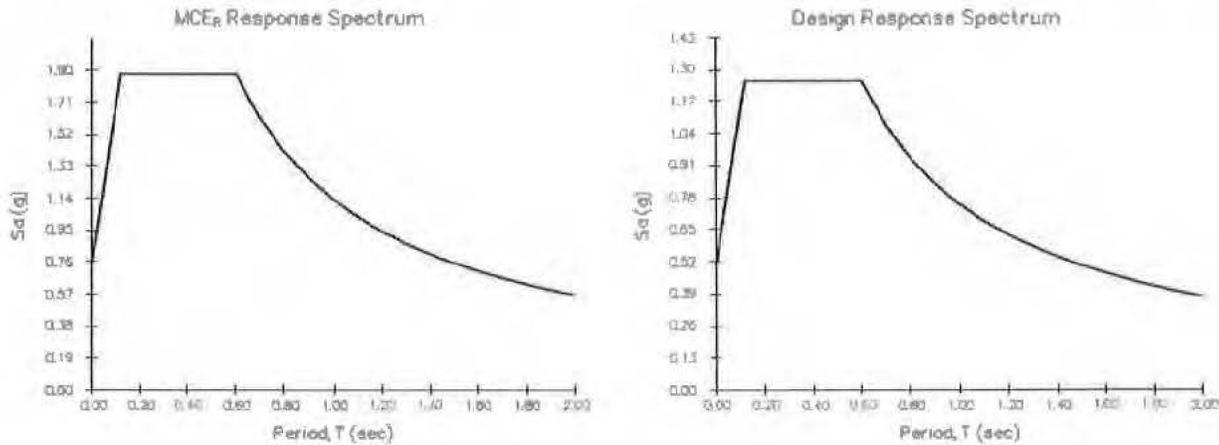
**Risk Category** I/II/III



## USGS-Provided Output

$S_s = 1.877\text{ g}$	$S_{MS} = 1.877\text{ g}$	$S_{DS} = 1.251\text{ g}$
$S_1 = 0.755\text{ g}$	$S_{M1} = 1.132\text{ g}$	$S_{D1} = 0.755\text{ g}$

For information on how the  $S_s$  and  $S_1$  values above have been calculated from probabilistic (risk-targeted) and deterministic ground motions in the direction of maximum horizontal response, please return to the application and select the "2009 NEHRP" building code reference document.



For  $PGA_w$ ,  $T_L$ ,  $C_{RS}$ , and  $C_{R1}$  values, please [view the detailed report](#).

Although this information is a product of the U.S. Geological Survey, we provide no warranty, expressed or implied, as to the accuracy of the data contained therein. This tool is not a substitute for technical subject-matter knowledge.

# COURTYARD WALKWAY

(W) Concrete Slab Walkway

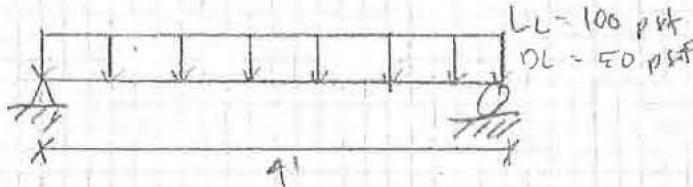
→ Design Criteria:

Live Load = 100 psf (IBC TABLE 1607.1, Stairs & Carts)

Dead Load =  $(150 \times 9/12) = 50$  psf (Assume 9" slab)

- Min Thickness (ACI 318 - 14 Sect 7.3)

Simply Supported  $l = L/20 = 4' / 20 = 0.2 \text{ ft} = 2.4''$   
(OK)



$$1.2 DL + 1.6 LL = (50 \text{ psf}) \times 4 + 1.6(100 \text{ psf}) = 220 \text{ psf}$$

$$- M_0 = \frac{wL^2}{8} = \frac{(220 \text{ psf}) \times (4 \text{ ft})^2}{8} = 440 \text{ ft} \cdot \text{ft} / \text{ft}$$

$$- V = wL/2 = (220 \text{ psf}) \times (4 \text{ ft}) / 2 = 440 \text{ ft} / \text{ft}$$

Concrete Slab

$$\frac{M_u}{f'_c b d^2} = \frac{(440)(12)}{(2500)(12)(2^2)} = 0.044$$

$$\rightarrow \frac{M_u}{f'_c b d^2} = \omega(0.9 - 0.5294\omega)$$

$$\Rightarrow \omega = 0.05$$

$$\rho = \omega f'_c / f_y = (0.05)(2500) / 40000 = 0.003125$$

$$\rho_{min} = \min\left(\frac{4}{3}\rho, \max\left(\frac{3\sqrt{f'_c}}{f_y}, \frac{200}{d}\right)\right) = \min(0.00417, \max(0.00375, 0.005))$$

$$\rho_{min} = 0.00417$$

$$\rho_{max} = 0.364 \beta_1 f'_c / f_y = 0.019$$

$$\rho_{stirrup} = 0.002$$

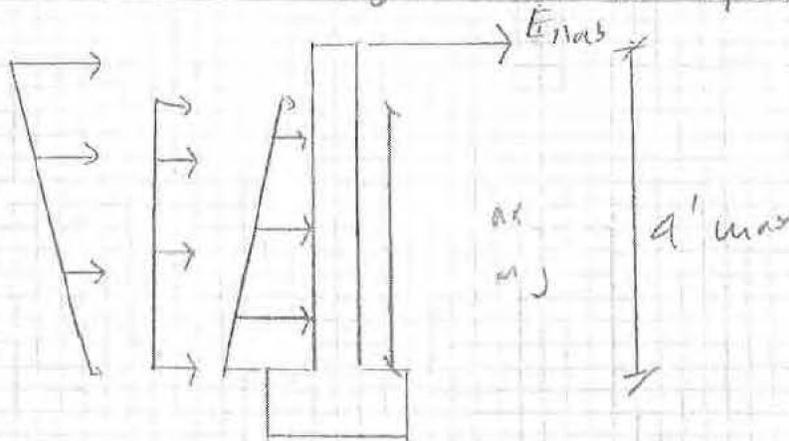
$$\Rightarrow \rho_{min} = \min\left[\begin{array}{l} \max(\rho, \rho_{min}, \rho_{stirrup}) \\ \rho_{max} \end{array}\right] = 0.00417$$

$$\rho_f = 0.319 \beta_1 f'_c / f_y = 0.0169 > 0.00417 \text{ (Tension Controlled)}$$

$$\rightarrow A_{s, req} = \rho_{req} A = (0.00417)(4)(12) = 0.20 \text{ in}^2/\text{ft}$$

$$\rightarrow \text{USE \#4 @ 12" o.c} = 0.20 \text{ in}^2/\text{ft} \text{ OK}$$

## CONCRETE Retaining Wall at Courtyard



→  $W_s$ , Active Pressure =  $P_a h$  , Assume  $P_a = 95 \text{ pcf}$

$W_s = (95 \times 9) = 855 \text{ plf}$

$\Rightarrow F_s = (855 \times 3/2) = 1282.5 \text{ plf @ } h/3 \uparrow$

→  $W_o$ , Surcharge =  $(150 \times 9/12) (0.375) = 18.75 \text{ pcf } k_s = 0.375$

$\Rightarrow F_o = (18.75 \times 9) = 168.75 \text{ plf @ } h/2$

→ Force due to slab

$W_{slab} = (150 \times 9/12) (9/2) = 100 \text{ pcf}$

$C_s = 0.8 \rho_s / (R/I_c) = 0.8 (0.755) / (2/1.25)$

$C_s = 0.3775$

$\Rightarrow F_s = (100 \times 0.3775) = 37.75 \text{ plf @ Top of Wall}$

→ Force due to wall

$W_{wall} = (150 \times 8/12 \times 9) = 900$

$\Rightarrow F_w = (900 \times 0.3775) = 340 \text{ plf @ } 2/3 H \uparrow$

$$M_o = (M_{s.o.l}) 1.6 + M_{slab} + M_{wall} + M_{swichase}$$

$$= (2025)(\frac{2}{3})(1.6) + (56.25)(\frac{3}{2}) + (37.75)(9) + (151)(\frac{2}{3})(9)(1.2)$$

$$\Rightarrow M_o = 1042.6 \# - ft / ft$$

$$\frac{M_o}{f'_c b d^2} = \frac{(1042.6)(12)}{(2500)(12)(4^2)} = 0.02606$$

$$0.02606 = \omega(0.9 - 0.5294\omega)$$

$$\Rightarrow \omega = 0.0295$$

$$\rightarrow \rho_{req} = \omega f'_c / f_y = (0.0295)(2500/40000) = 0.00189$$

$$\rho_{req} > \rho_{min} = 0.0012$$

$$A_{req} = \rho_{req} A = 0.00189(8)(12) = 0.1766 \text{ in}^2 / ft$$

$$\Rightarrow \text{Use } \#4 @ 12'' \text{ o.c.} = 0.2 \text{ in}^2 / ft \text{ OK}$$

## Horizontal Reinforcement

$$\rho_{min} = 0.002 \rightarrow A_{req} = \rho_{min} A = (0.002)(8)(12)(9)$$

$$A_{req} = 0.768 \text{ in}^2$$

$$\Rightarrow \text{Use } \#4 @ 12'' \text{ o.c.} = 0.8 \text{ in}^2 \text{ OK}$$

Project: Apartments  
 Date: 5/30/2017  
 Line: Concrete Retaining Wall

<b>Soil Design Criteria (allowable)</b>			
Soil Bearing Pressure, $\sigma$	1500 psf	1/3 increase =	2000 psf
Coefficient of Soil Friction, $\mu$	0.30		
Lateral Bearing Resistance, $p$	250 pcf		
Overburden	115 pcf		

<b>Footing Dimensions</b>	
Length of Wall, L	0.00 ft
Length of Footing, B	2.25 ft
Width of Footing, W	1.00 ft
Thickness of Footing, t	12 in
Depth below grade, D	0.00 ft
Area, A	2.3 ft <sup>2</sup>
Section Modulus, S	1 ft <sup>3</sup>

**Components**

*Allowable*

Note: Reduce earthquake reactions at foundation per ASCE 7-10 12.13.4

$P_D + P_{self} + P_L =$	0.8 k
$0.6 P_D + P_{self} =$	0.8 k
$0.75 M_{E, ASD} =$	1 k-ft
$0.75 V_{E, ASD} =$	0 k
$0.75 P_{E, ASD} (+) =$	0 k
$0.75 P_{E, ASD} (-) =$	0 k

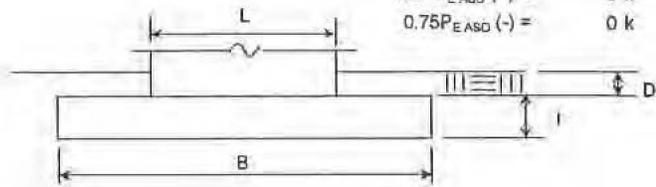
**Footing Loads**

*Gravity*

$P_{self}$	0.8 k
$P_{overburden}$	0 k
$P_D$	0 k
$P_L$	0 k

*Seismic*

$M_u$	0.674 k-ft
$V_u$	0.39 k
$P_u (+)$	0 k
$P_u (-)$	0 k

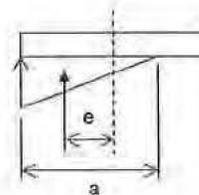


**Bearing Stress (allowable)**

$P_D + P_L$	
$q' =$	0.4 ksf
Footing size:	ok

$P_D + P_L + E/1.4$			
$e = M/P =$	0.8 ft	$B/e =$	2.8 ok
$q_{max}' =$	1.74 ksf	$q_{min}' =$	partial uplift ksf
Footing size:	ok	Pressure Distribution, a =	1.0 ft

$0.9 P_D +/- E/1.4$ (assumes symmetry about center of footing)			
$e = M/P =$	0.8 ft	$B/e =$	2.8 ok
$q_{max}' =$	1.74 ksf	$q_{min}' =$	partial uplift ksf
Footing size:	ok	Pressure Distribution, a =	1.0 ft



**Resistance to Sliding (allowable)** - At this time  $\rho$ , is not removed from seismic loads.

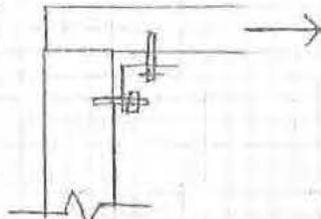
<i>Lateral Force</i>	
Lateral Load $V/1.4 =$	0 k

<i>Resistance due to:</i>	
Soil Friction, $0.9 P_d \mu =$	0 k
Lateral Bearing =	0.1 k

Total Resistance = 0 k, sliding occurs

Remaining Lateral Force = 0 k  
 Required Additional Dead Load = 0 k, use adjacent footings to provide lateral resistance.

## Concrete Wall Anchorage



- 8" concrete wall x 4' High w/ Anchorage @ 48" o.c.

$$F_p = \max(0.4 S D S I_e W_{wall}, 0.10 W_{wall})$$

$$= \max(0.4)(1.25)(1.0)(8/12 \times 4/2 \times 150), (0.10)(8/12)(4/2)(150)$$

$$= \max(100, 20) = 100 \# \text{ out of plane}$$

⇒ Titen HD  $\frac{5}{8}'' \times 5''$

Tension Capacity w/ 3" Edge Distance

$$\rightarrow 1690 (3/4.5) = 1120 \# > 100 \# \text{ (OK)}$$

- Seismic shear @ Walkway

$$F_p = \frac{0.4 a_p S D S W_p}{(R_p / I_p)} (1 + 2 Z / h)$$

$$= \frac{(0.4)(1)(1.25)(4/12 \times 8/2 \times 4/2 \times 150)}{(2.5/1.25)} (1 + 0)$$

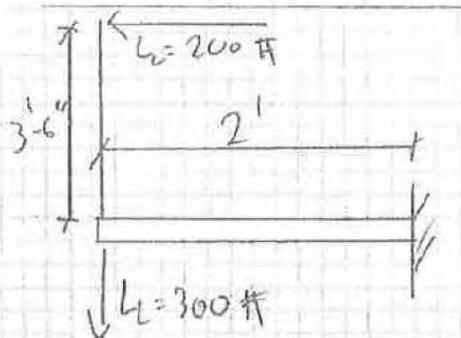
$$= 400.32 \# (0.7) = 280 \# \text{ per Bolt}$$

↳ ASD

$$\text{Titen HD } \frac{5}{8}'' \times 5'' = 1765 \# \text{ (OK)}$$

# WOOD STAIR TREADS

## Steel TREAD



$$M_{max} = (200 \#)(3.5)(1.6) = 1120 \#-ft$$

OK

$$= (300)(1.6)(2') = 960 \#-ft$$

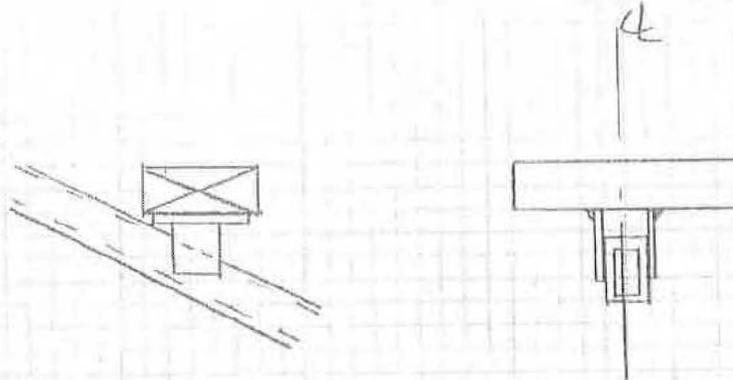
$$\Rightarrow \phi M_n = 0.9 F_y Z_x, \quad Z_x = \frac{b h^2}{4}$$

$$\rightarrow T_{ry} \quad \frac{1}{2} \text{ PL}$$

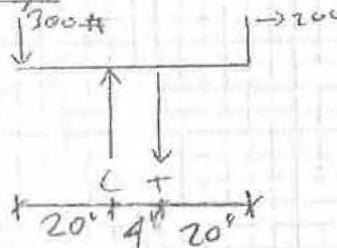
$$Z_x = \frac{(10)(0.5^2)}{4} = 0.625$$

$$\phi M_n = 0.9(36)(0.625) = 1687.5 \#-ft$$

$$\phi M_n > M_u \quad (\text{OK})$$



Check Weld Capacity:



$(300 \times 44 / 12) / 2$  or  $(200 \times 2.5) \Rightarrow$  Horizontal Load Governs  $-(16 \times 200 \times 2.5)$

$\rightarrow F_y = 0 = C - T \Rightarrow C = T = 1120 \# - \text{ft}$

$M_o = 0 = (1120) - (C \times 4 / 12) = 0 \Rightarrow C = 3360 \# = T$

$C = 3360 \#$

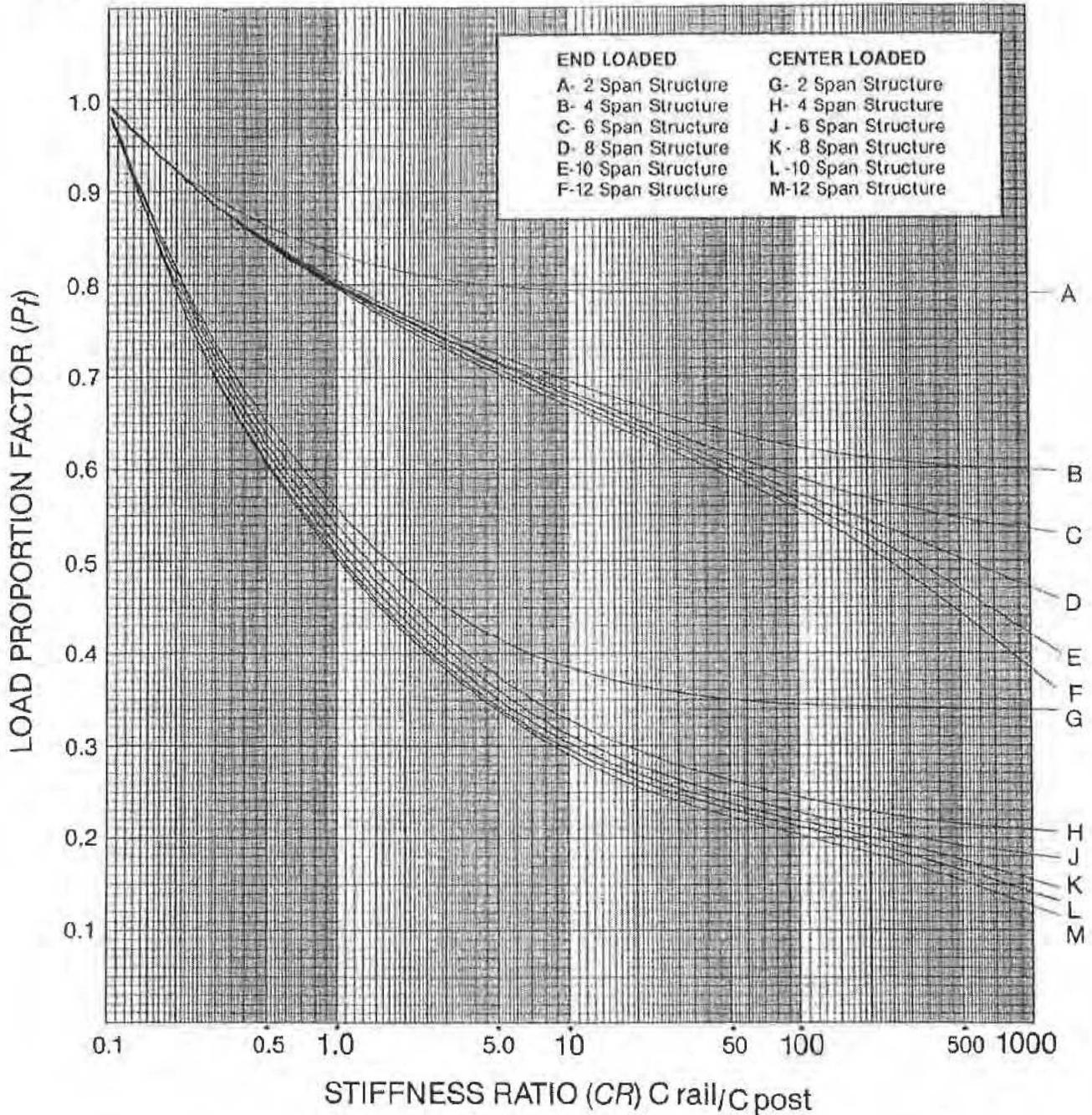
$T = 3360 \#$

$\rightarrow$  Capacity of Weld

$\phi R_n = 0.75 (0.707 u_L F_w) = 0.75 (0.707 (3/16) (45) (0.6 \times 70))$   
 $= 18.79 \text{ kips (3/16" x 6" weld OK)}$

# BALCONY HANDRAIL

**RAILING LOAD DISTRIBUTION DATA**



The stiffness of a rail or post is

$$C = \frac{E \times I}{h} \text{ for the post}$$

$$C = \frac{E \times I}{L} \text{ for the rail}$$

Stiffness ratio is determined as

$$CR = \frac{C \text{ rail}}{C \text{ post}}$$

The stiffness ratio (CR) is then plotted on the graph above to obtain Load Proportion Factor ( $P_f$ ).

When the load proportion factor has been determined, it is multiplied by the total load to determine the load one post must sustain.

**Wood Beam**

File = P:\Oak17\jobs\157KW5-45R057M-C6NR8P8-1NSCA732-0\post.ec6  
 ENERCALC, INC. 1983-2017, Build# 6.17.3.29, Ver.6.17.3.29

Lic. #: KW-06003501

Licensee : COFFMAN ENGINEERS

Description : Balcony Handrail

**CODE REFERENCES**

Calculations per NDS 2015, IBC 2015, CBC 2016, ASCE 7-10

Load Combination Set : IBC 2015

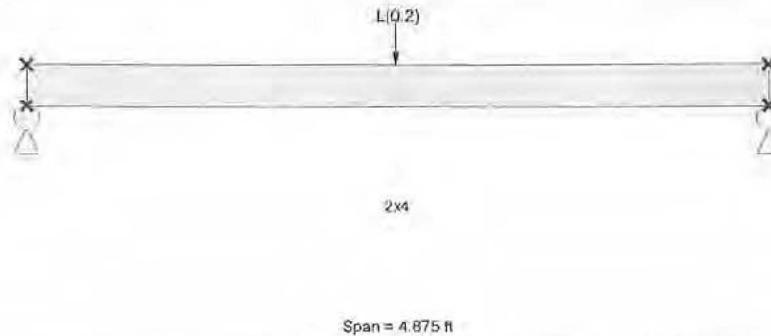
**Material Properties**

Analysis Method : Allowable Stress Design  
 Load Combination IBC 2015

Fb - Tension	1,000.0 psi	E : Modulus of Elasticity	
Fb - Compr	1,000.0 psi	Ebend- xx	1,700.0 ksi
Fc - Prll	1,500.0 psi	Eminbend - xx	620.0 ksi
Fc - Perp	625.0 psi		
Fv	180.0 psi		
Ft	675.0 psi	Density	31.20 pcf

Wood Species : Douglas Fir - Larch  
 Wood Grade : No.1

Beam Bracing : Completely Unbraced



**Applied Loads**

Service loads entered. Load Factors will be applied for calculations.

Beam self weight calculated and added to loads

Point Load : L = 0.20 k @ 2.438 ft, (Handrail Force)

**DESIGN SUMMARY**

**Design OK**

Maximum Bending Stress Ratio	=	<b>0.661 : 1</b>	Maximum Shear Stress Ratio	=	<b>0.163 : 1</b>
Section used for this span		<b>2x4</b>	Section used for this span		<b>2x4</b>
fb : Actual	=	968.34 psi	fv : Actual	=	29.27 psi
FB : Allowable	=	1,464.03 psi	Fv : Allowable	=	180.00 psi
Load Combination		+D+L+H	Load Combination		+D+L+H
Location of maximum on span	=	2.438 ft	Location of maximum on span	=	4.590 ft
Span # where maximum occurs	=	Span # 1	Span # where maximum occurs	=	Span # 1
Maximum Deflection					
Max Downward Transient Deflection		0.092 in	Ratio =		635 >=360
Max Upward Transient Deflection		0.000 in	Ratio =		0 <360
Max Downward Total Deflection		0.094 in	Ratio =		624 >=360.
Max Upward Total Deflection		0.000 in	Ratio =		0 <360.0

**Overall Maximum Deflections**

Load Combination	Span	Max. "-" Defl	Location in Span	Load Combination	Max. "+" Defl	Location in Span
+D+L+H	1	0.0937	2.455		0.0000	0.000

**Vertical Reactions**

Support notation : Far left is #1

Values in KIPS

Load Combination	Support 1	Support 2
Overall MAXimum	0.103	0.103
Overall MINimum	0.002	0.002
+D+H	0.003	0.003
+D+L+H	0.103	0.103
+D+Lr+H	0.003	0.003
+D+S+H	0.003	0.003
+D+0.750Lr+0.750L+H	0.078	0.078
+D+0.750L+0.750S+H	0.078	0.078

**Wood Beam**File = P:\Oak17\jobs187\KW5-45R057M-C5NR8P8-45CA732-0Apost.ec6  
ENERCALC, INC. 1983-2017, Build 6.17.3.29, Ver 6.17.3.20

Lic. #: KW-06003501

Licensee: COFFMAN ENGINEERS

Description: Balcony Handrail

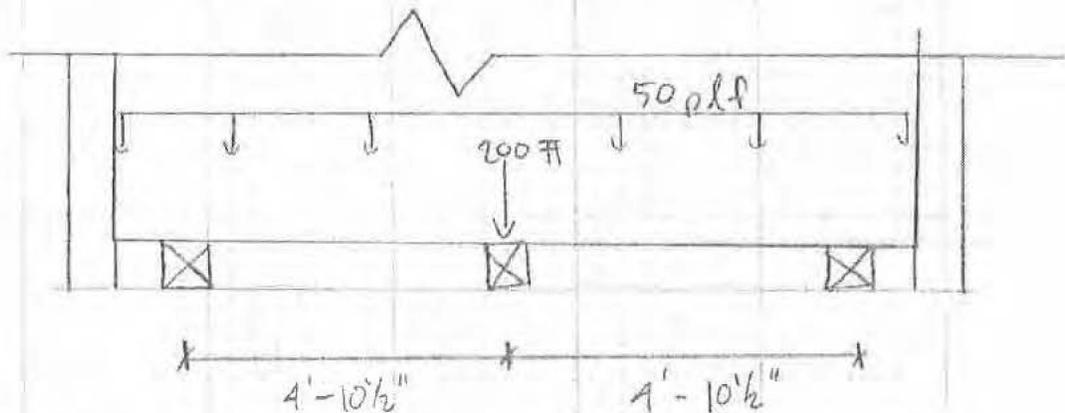
**Vertical Reactions**

Support notation : Far left is #1

Values in KIPS

Load Combination	Support 1	Support 2
+D+0.60W+H	0.003	0.003
+D+0.70E+H	0.003	0.003
+D+0.750Lr+0.750L+0.450W+H	0.078	0.078
+D+0.750L+0.750S+0.450W+H	0.078	0.078
+D+0.750L+0.750S+0.5250E+H	0.078	0.078
+0.60D+0.60W+0.60H	0.002	0.002
+0.60D+0.70E+0.60H	0.002	0.002
D Only	0.003	0.003
Lr Only		
L Only	0.100	0.100
S Only		
W Only		
E Only		
H Only		

## Balcony Handrail LOADING



Governing Load @ Post due to Handrail:

$$P_{\text{post}} = \text{Max}(200 \#, 50(9.75'/2)) = 244 \#$$

-Per Amp 510-92: Load Proportion Factor ( $P_F$ )

2-Span Centered Loaded Post

$$C_{\text{rail}} = I/L = [(1.5)(3.5)^3/12] / (9.75/2) = 1.1$$

$$C_{\text{post}} = I/h = [(3.5)(3.5)^3/12] / (4.5) = 2.77$$

$$C_R = \frac{C_{\text{rail}}}{C_{\text{post}}} = \frac{1.1}{2.77} = 0.40$$

$$\Rightarrow P_F = 0.70$$

$$\Rightarrow P_{\text{post}} = 0.70(244) = 171 \#$$

## COFFMAN ENGINEERS

1939 Harrison Street, Suite 320 | Oakland, CA 94612  
 ph 510.251.9578 | fax 510.251.9580  
 www.coffman.com  
 LASTING creativity | results | relationships

**Wood Beam**

File = P:\Oak17\jobs\197KW5-45R057M-C5NR8P8-45CA732-0\post.ec6  
ENERCALC, INC. 1983-2017, Build 6.17.3.29, Ver 6.17.3.29

Lic. #: KW-06003501

Licensee: COFFMAN ENGINEERS

Description: Balcony Guardrail Post  
(Strong Direction)

**CODE REFERENCES**

Calculations per NDS 2015, IBC 2015, CBC 2016, ASCE 7-10

Load Combination Set : IBC 2015

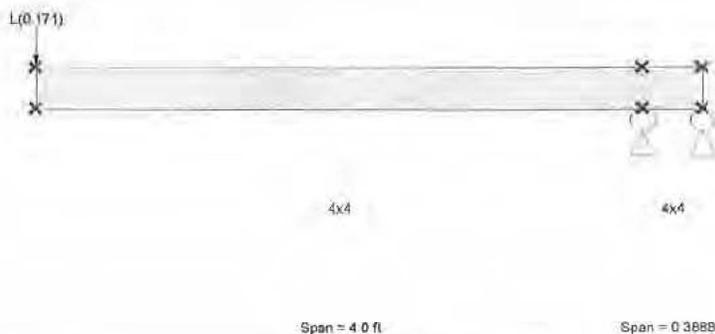
**Material Properties**

Analysis Method : Allowable Stress Design  
Load Combination IBC 2015

Fb - Tension	1,000.0 psi	E : Modulus of Elasticity	
Fb - Compr	1,000.0 psi	Ebend- xx	1,700.0 ksi
Fc - Prll	1,500.0 psi	Eminbend - xx	620.0 ksi
Fc - Perp	625.0 psi		
Fv	180.0 psi		
Ft	675.0 psi	Density	31.20 pcf

Wood Species : Douglas Fir - Larch  
Wood Grade : No.1

Beam Bracing : Completely Unbraced



**Applied Loads**

Service loads entered. Load Factors will be applied for calculations.

Load for Span Number 1

Point Load : L = 0.1710 k @ 0.0 ft, (Handrail Force)

**DESIGN SUMMARY**

**Design OK**

Maximum Bending Stress Ratio	=	<b>0.479</b>	1	Maximum Shear Stress Ratio	=	<b>0.748</b>	: 1
Section used for this span		<b>4x4</b>		Section used for this span		<b>4x4</b>	
fb : Actual	=	1,148.64	psi	fv : Actual	=	215.42	psi
FB : Allowable	=	2,400.00	psi	Fv : Allowable	=	288.00	psi
Load Combination		+D+L+H		Load Combination		+D+L+H	
Location of maximum on span	=	4.000 ft		Location of maximum on span	=	4.000 ft	
Span # where maximum occurs	=	Span # 1		Span # where maximum occurs	=	Span # 1	
Maximum Deflection							
Max Downward Transient Deflection		0.327	in	Ratio =		292	>=230.
Max Upward Transient Deflection		0.000	in	Ratio =		0	<230.0
Max Downward Total Deflection		0.327	in	Ratio =		292	>=230.
Max Upward Total Deflection		-0.001	in	Ratio =		8529	>=230.

**Overall Maximum Deflections**

Load Combination	Span	Max. "+" Defl	Location in Span	Load Combination	Max. "-" Defl	Location in Span
L Only	1	0.3266	0.000		0.0000	0.000
	2	0.0000	0.000	L Only	-0.0005	0.165

**Vertical Reactions**

Support notation : Far left is #1

Values in KIPS

Load Combination	Support 1	Support 2	Support 3
Overall MAXimum		1.930	-1.759
Overall MINimum		1.448	-1.319
+D+H			
+D+L+H		1.930	-1.759
+D+Lr+H			
+D+S+H			
+D+0.750Lr+0.750L+H		1.448	-1.319

**Wood Beam**

File = P:\Oak17\jobs\197KW6--45R057M--C6NR8P8--A5CA732--Cyposec6  
 ENERCALC, INC. 1993-2017, Build 6.17.3.29, Ver 6.17.3.29

**Lic. #: KW-06003501**

**Licensee: COFFMAN ENGINEERS**

Description: Balcony Guardrail Post  
 (Strong Direction)

**Vertical Reactions**

Support notation : Far left is #1

Values in KIPS

Load Combination	Support 1	Support 2	Support 3
+D+0.750L+0.750S+H		1.448	-1.319
+D+0.60W+H			
+D+0.70E+H			
+D+0.750Lr+0.750L+0.450W+H		1.448	-1.319
+D+0.750L+0.750S+0.450W+H		1.448	-1.319
+D+0.750L+0.750S+0.5250E+H		1.448	-1.319
+0.60D+0.60W+0.60H			
+0.60D+0.70E+0.60H			
D Only			
Lr Only			
L Only		1.930	-1.759
S Only			
W Only			
E Only			
H Only			

## Wood Beam

File = F:\Oak17\jobs\197KW5-4\6R057M-C\5NRBP8-4\CA732-0\post.ec6  
 ENERCALC, INC. 1983-2017, Build 6.17.3.29, Ver 6.17.3.29

Lic. #: KW-06003501

Licensee: COFFMAN ENGINEERS

Description: Balcony Guardrail Post  
 (Weak Direction)

### CODE REFERENCES

Calculations per NDS 2015, IBC 2015, CBC 2016, ASCE 7-10

Load Combination Set : IBC 2015

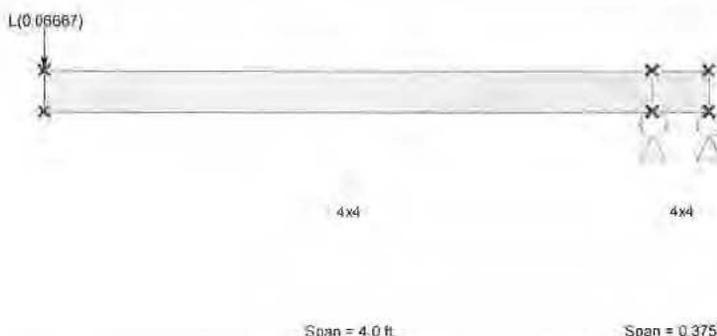
### Material Properties

Analysis Method : Allowable Stress Design  
 Load Combination IBC 2015

Fb - Tension	1,000.0 psi	E : Modulus of Elasticity	
Fb - Compr	1,000.0 psi	Ebend- xx	1,700.0 ksi
Fc - Prll	1,500.0 psi	Eminbend - xx	620.0 ksi
Fc - Perp	625.0 psi		
Fv	180.0 psi		
Ft	675.0 psi	Density	31.20 pcf

Wood Species : Douglas Fir - Larch  
 Wood Grade : No. 1

Beam Bracing : Completely Unbraced



### Applied Loads

Service loads entered. Load Factors will be applied for calculations.

Load for Span Number 1

Point Load : L = 0.06667 k @ 0.0 ft, (Handrail Force /3 Post)

### DESIGN SUMMARY

**Design OK**

Maximum Bending Stress Ratio	=	<b>0.187</b> : 1	Maximum Shear Stress Ratio	=	<b>0.302</b> : 1
Section used for this span		<b>4x4</b>	Section used for this span		<b>4x4</b>
fb : Actual	=	447.84 psi	fv : Actual	=	87.08 psi
FB : Allowable	=	2,400.00 psi	Fv : Allowable	=	288.00 psi
Load Combination		+D+L+H	Load Combination		+D+L+H
Location of maximum on span	=	4.000 ft	Location of maximum on span	=	4.000 ft
Span # where maximum occurs	=	Span # 1	Span # where maximum occurs	=	Span # 1
Maximum Deflection					
Max Downward Transient Deflection		0.127 in	Ratio =	756	>=360
Max Upward Transient Deflection		0.000 in	Ratio =	0	<360
Max Downward Total Deflection		0.127 in	Ratio =	756	>=360
Max Upward Total Deflection		-0.000 in	Ratio =	22681	>=360

### Overall Maximum Deflections

Load Combination	Span	Max. "+" Defl	Location in Span	Load Combination	Max. "+" Defl	Location in Span
L Only	1	0.1269	0.000		0.0000	0.000
	2	0.0000	0.000	L Only	-0.0002	0.159

### Vertical Reactions

Support notation : Far left is #1

Values in KIPS

Load Combination	Support 1	Support 2	Support 3
Overall MAXimum		0.778	-0.711
Overall MINimum		0.583	-0.533
+D+H			
+D+L+H		0.778	-0.711
+D+Lr+H			
+D+S+H			
+D+0.750Lr+0.750L+H		0.583	-0.533

**Wood Beam**

File = F:\Oak117\jobs\197\KW5-4\6R057M-C\5NR8P8-4\5CA732-C\post.ec6  
 ENERCALC, INC. 1983-2017, Build 6.17.3.29 Ver 6.17.3.29

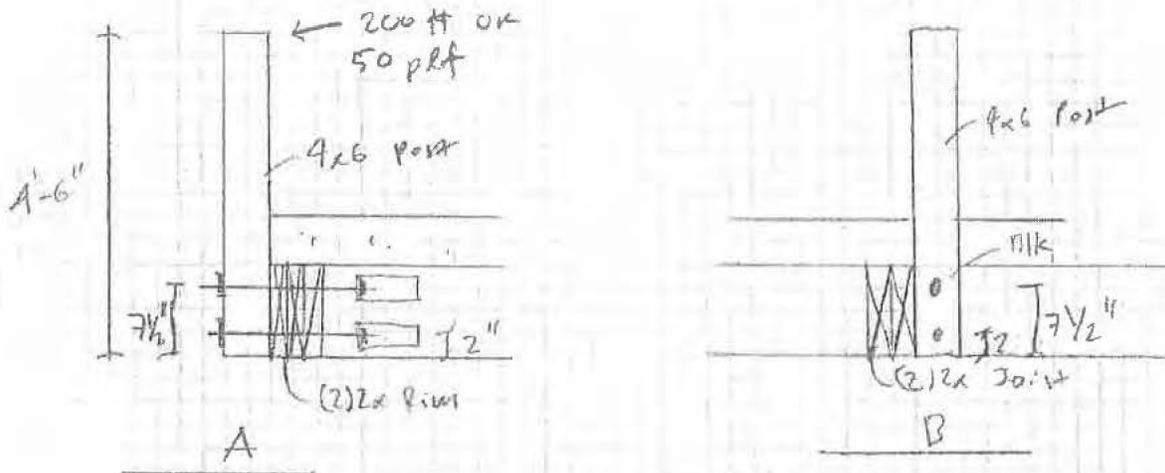
Lic. #: KW-06003501

Licensee: COFFMAN ENGINEERS

Description: Balcony Guardrail Post  
 (Weak Direction)

Load Combination	Support notation : Far left is #1			Values in KIPS
	Support 1	Support 2	Support 3	
+D+0.750L+0.750S+H		0.583	-0.533	
+D+0.60W+H				
+D+0.70E+H				
+D+0.750Lr+0.750L+0.450W+H		0.583	-0.533	
+D+0.750L+0.750S+0.450W+H		0.583	-0.533	
+D+0.750L+0.750S+0.5250E+H		0.583	-0.533	
+0.60D+0.60W+0.60H				
+0.60D+0.70E+0.60H				
D Only				
Lr Only				
L Only		0.778	-0.711	
S Only				
W Only				
E Only				
H Only				

Balcony Post & Connection



NOTE: CD = 1.6 (10-Minute Load Duration)

Connection A: STRONG Direction

From Enercalc Reactions:

- Max Tension @ Bolt = 1,930 #

→ Simpson:

# > 1,930#

⇒ USE Simpson HDU2 - SDS25

NOTE: END Post NOT Designed for Handrail Load  
BECAUSE Load IS TRANSFERRED to Side Rail Connected  
to Building.

- Withdrawal Capacity of HGA10 = 435#

HGA10 - 435# > 200# (OK)

<b>Design Method</b>	Allowable Stress Design (ASD) ▼
<b>Connection Type</b>	Lateral loading ▼
<b>Fastener Type</b>	Bolt ▼
<b>Loading Scenario</b>	Single Shear - Wood Main Member ▼

<b>Main Member Type</b>	Douglas Fir-Larch ▼
<b>Main Member Thickness</b>	-- Other (in inches) -- 3 ▼
<b>Main Member: Angle of Load to Grain</b>	0
<b>Side Member Type</b>	Douglas Fir-Larch ▼
<b>Side Member Thickness</b>	-- Other (in inches) -- 3 ▼
<b>Side Member: Angle of Load to Grain</b>	90
<b>Fastener Diameter</b>	1/2 in. ▼
<b>Load Duration Factor</b>	C <sub>D</sub> = 1.6 ▼
<b>Wet Service Factor</b>	C <sub>M</sub> = 1.0 ▼
<b>Temperature Factor</b>	C <sub>t</sub> = 1.0 ▼

## Connection Yield Modes

Im	2688 lbs.
Is	1512 lbs.
II	955 lbs.
III <sub>m</sub>	1104 lbs.
III <sub>s</sub>	818 lbs.
IV	778 lbs.

<b>Adjusted ASD Capacity</b>	<b>778 lbs.</b>
------------------------------	-----------------

- Bolt bending yield strength of 45,000 psi is assumed.
- The Adjusted ASD Capacity is only applicable for bolts with adequate end distance, edge distance and spacing per NDS chapter 11.

While every effort has been made to insure the accuracy of the information presented, and special effort has been made to assure that the information reflects the state-of-the-art, neither the American Wood Council nor its members assume any responsibility for any particular design prepared from this on-line Connection Calculator. Those using this on-line Connection Calculator assume all liability from its use.

The Connection Calculator was designed and created by Cameron Knudson, Michael Dodson and David Pollock at Washington State University. Support for development of the Connection Calculator was provided by American Wood Council.

Connection B: Weak Direction

From Erection Reaction:

- Max Shear per Bolt = 676 #

→ Capacity of  $\frac{1}{2}$ " Bolt

- From AISC Calculation for 3" side member &amp; 3" main member

 $\frac{1}{2}$  Capacity = 778 # w/CD = 1.5 includeSince  $\perp$  End distance  $< 4 = 1(\frac{1}{2}) = 2$ 

$$C_D = (3.5/2)/4 = 0.875$$

$$\Rightarrow \text{Capacity } \frac{1}{2} = 778(0.875) = 680 \# < 676 \# \text{ (OK)}$$

USE DTTZ S S 2.5



INVOICE DATE: 10/10/2017  
INVOICE NO: 17098094  
CLIENT: Happy Home Partners, LLC  
PROJECT: 170460 1924 Ninth Avenue

**LABOR AND EXPENSE DETAIL**

**Project phasing**

<b>Labor</b>		<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
General Manager	Weber, Jeffrey C.	1.00	217.000	217.00
Designer III	Canlas, Rachel M.	4.00	122.000	488.00
Engineer II	Liu, Eric L.	6.50	125.000	812.50
Less: To comply with NTE fee				-17.50
				<u>1,500.00</u>
			<b>Invoice Total</b>	<u>\$ 1,500.00</u>

Remittance address: 1939 Harrison Street, Suite 320, Oakland California 94612  
Telephone (510) 251-9578

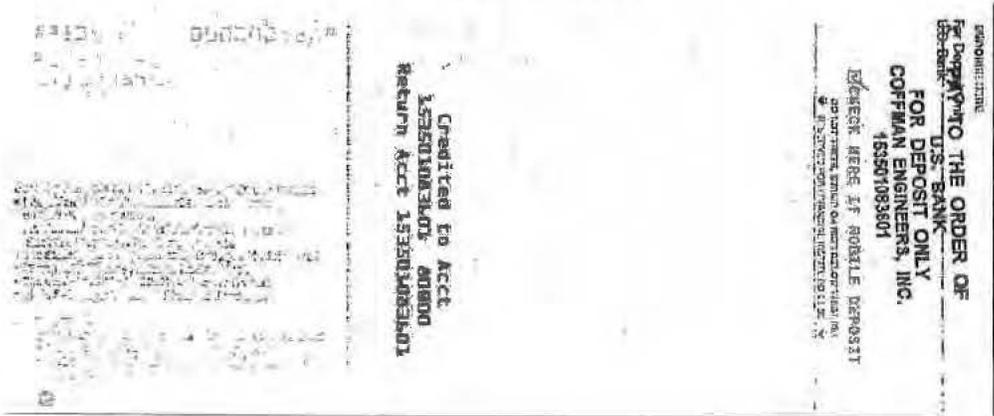
**000497**L0222

Site	VIEWPOINTE	Paid Date	11032017	Serial No	[REDACTED]
Routing	[REDACTED]	Account	[REDACTED]	PC	000060
Amount	1500.00	Sequence	8610734046	Capture Source	00007114

Front Black & White Image



Back Black & White Image





Happy Home Partners, LLC  
 2941 Telegraph Avenue  
 Berkeley, CA 94705

4/2/2018

ATTENTION: George Shafazand

PROJECT: 170460 1924 Ninth Avenue

PM: Eric Liu

**INVOICE STATEMENT**

Invoice No.		Invoice Date	Total Billed	Collected	Invoice Balance	1-90	Over 90
1704811301	Balcony repairs	5/5/2017	976.50	976.50	0.00	0.00	0.00
1705811201		6/9/2017	6,459.00	0.00	6,459.00	0.00	6,459.00
1706810701		7/10/2017	3,467.00	0.00	3,467.00	0.00	3,467.00
1708809901		9/8/2017	<u>2,226.00</u>	<u>0.00</u>	<u>2,226.00</u>	<u>0.00</u>	<u>2,226.00</u>
		Sub-Total		13,128.50	976.50	12,152.00	0.00
1705811202	Stair replacement	6/9/2017	4,900.00	4,900.00	0.00	0.00	0.00
1706810702		7/10/2017	2,100.00	2,100.00	0.00	0.00	0.00
1710808802		11/17/2017	2,605.00	2,605.00	0.00	0.00	0.00
1711808402		12/12/2017	980.50	480.50	500.00	0.00	500.00
1802807902		3/9/2018	<u>500.00</u>	<u>0.00</u>	<u>500.00</u>	<u>500.00</u>	<u>0.00</u>
	Sub-Total		11,085.50	10,085.50	1,000.00	500.00	500.00
1704811303	Foundation repair	5/5/2017	6,300.00	6,300.00	0.00	0.00	0.00
1705811203		6/9/2017	700.00	700.00	0.00	0.00	0.00
1801808103		2/7/2018	<u>796.00</u>	<u>0.00</u>	<u>796.00</u>	<u>796.00</u>	<u>0.00</u>
		Sub-Total		7,796.00	7,000.00	796.00	796.00
1709809404	Requested Add'l Service: Phasing	10/10/2017	1,500.00	1,500.00	0.00	0.00	0.00
<b>Totals</b>			<b>33,510.00</b>	<b>19,562.00</b>	<b>13,948.00</b>	<b>1,296.00</b>	<b>12,652.00</b>

*Pay*

**Sullivan, Margaret**

RECEIVED

**From:** Jay, Cynthia  
**Sent:** Tuesday, February 04, 2020 1:41 PM  
**To:** Sullivan, Margaret  
**Subject:** FW: Case Number L19-0163 submitted documents  
**Attachments:** IMG-4495.JPG; IMG-4498.JPG; IMG-4497.JPG; IMG-4500.JPG; IMG-4502.JPG

FEB 04 2020

RENT ADJUSTMENT PROGRAM  
OAKLAND

Hi Margaret,

I had a file review with Gokce yesterday, and she mentioned that she would be making a submittal. I guess she sent it to me because she didn't have your email. She might be calling you with questions that I was unable to answer.

Regards,  
~Cindy Jay

Administrative Analyst I  
City of Oakland  
Department of Housing and Community Development  
Rent Adjustment Program  
250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-2034  
Direct (510) 238-7050 FAX (510) 238-6181  
Main (510) 238-3721 Email [cjay@oaklandca.gov](mailto:cjay@oaklandca.gov)

**From:** Gokce Sencan <gokcesencan7@gmail.com>  
**Sent:** Tuesday, February 04, 2020 12:11 PM  
**To:** Jay, Cynthia <CJay@oaklandca.gov>  
**Subject:** Re: Case Number L19-0163 submitted documents

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

Hi Cindy,

I am sending you some photos of my apartment from before I moved in, so that I can demonstrate the improvements that had been done before my move-in. Can you add this to the file under my petition? Thank you very much!

Gokce

On Tue, Jan 28, 2020 at 9:59 AM Gokce Sencan <[gokcesencan7@gmail.com](mailto:gokcesencan7@gmail.com)> wrote:

Hello Cynthia,

I talked to you a couple months ago when I submitted my contest to the rent increase petition filed by my landlord, case number L19-0163. Our hearing date is approaching and I would like to know if the landlord submitted any additional documents since late October. And I would also like to make sure that my contest is in file and will be taken into consideration.

Thank you very much!  
Gokce Sencan

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Gokce Sencan  
Master's '18 | Bren School of Environmental Science & Management |  
University of California, Santa Barbara  
Email: [gokcesencan7@gmail.com](mailto:gokcesencan7@gmail.com) | Phone: (805)895-0595 | [LinkedIn](#)

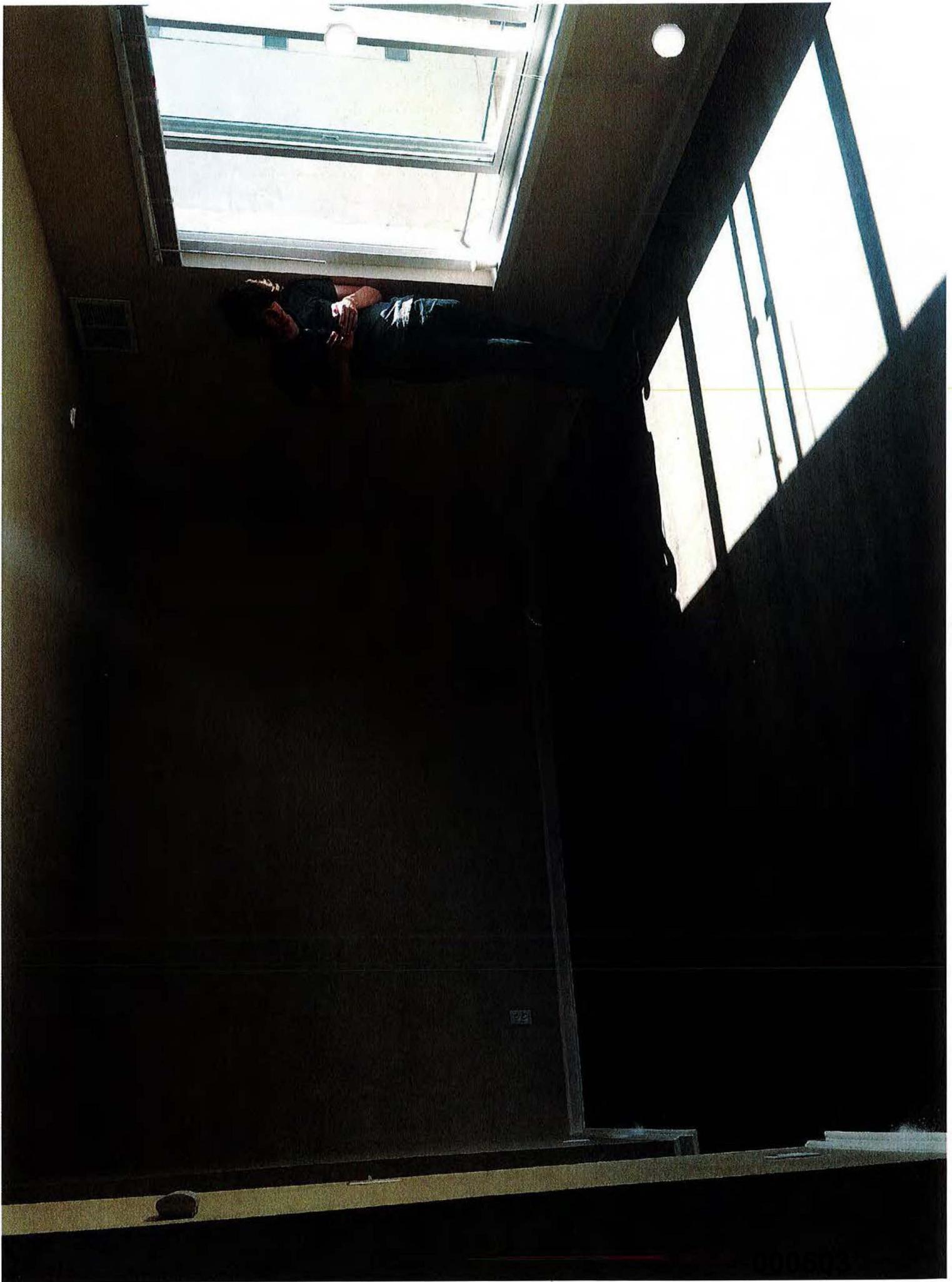
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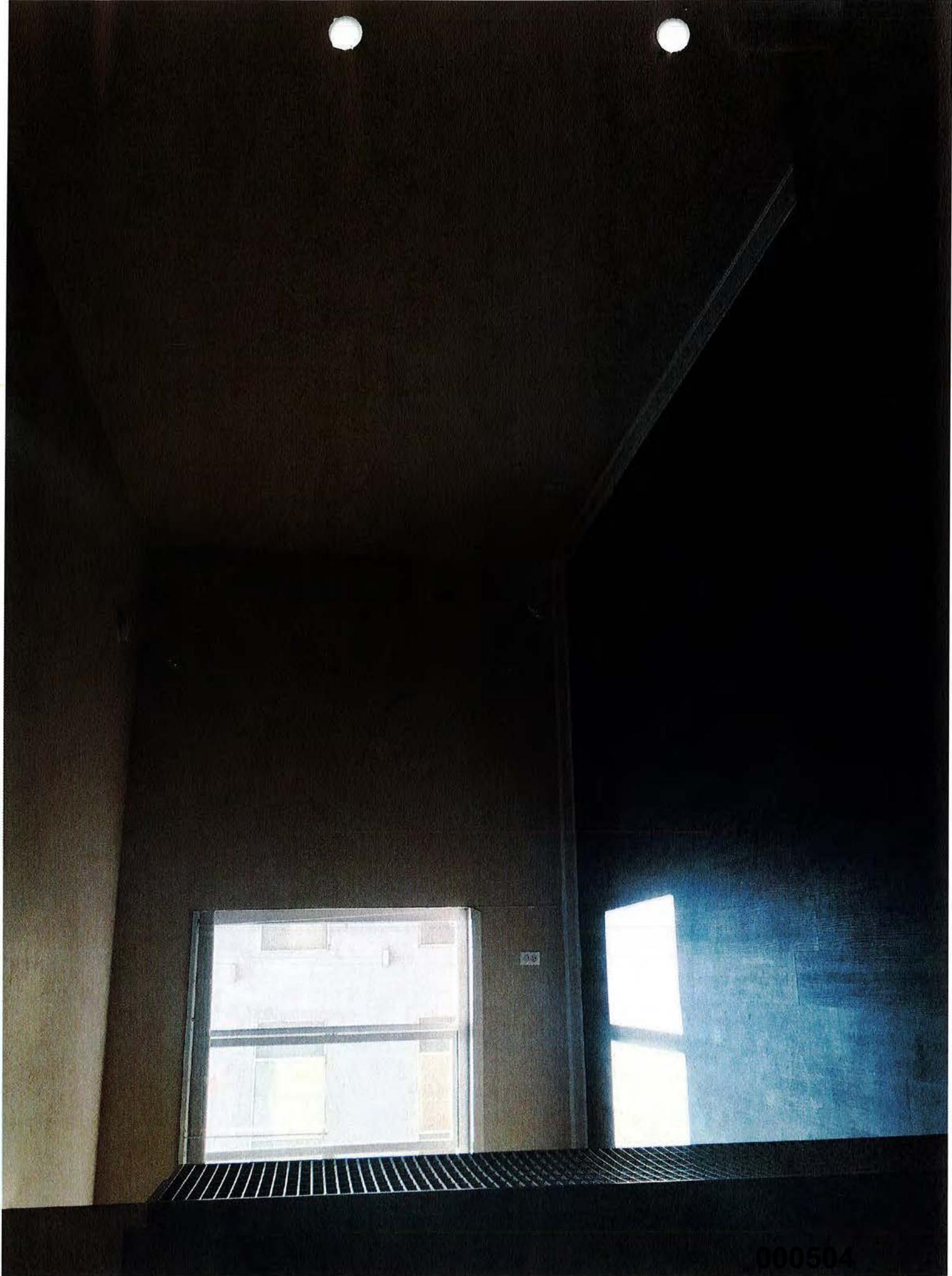
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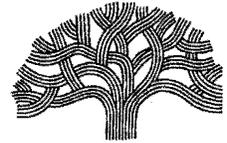


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CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

TEL (510) 238-3721  
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CA Relay Service 711

**HEARING DECISION**

**CASE NUMBER:** L19-0163, Lake 1925 LP v. Tenants  
**PROPERTY ADDRESS:** 1924 9th Avenue, Oakland, CA  
**DATE OF HEARING:** February 22, 2021  
**DATE OF DECISION:** April 23, 2021  
**APPEARANCES:** George Shafazand, General Manager, Happy Home Partners, LLC, Owner  
Kimberly Roehn, Owner Representative  
Katalina Balawanilotu, Tenant, Unit 208  
Sophia Stewart, Tenant, Unit 309  
Gokce Sencan, Tenant, Unit 411

**SUMMARY OF DECISION**

The owner's petition is partially granted. The allowable rent increase is detailed in the Order below and in the attached Decision Summary.

**PROCEDURAL HISTORY**

The owner filed a *Property Owner Petition for Approval of Rent Increase* on June 18, 2019, seeking approval to increase the rent on the unit on the grounds of capital improvement expenditures. The *Petition* lists five building-wide improvements: structural improvements, special inspections, structural design, re-roofing & parking lot re-paving.

Prior to the hearing, the owner submitted a revised list that included six building-wide improvements. The owner representative stated at the hearing that five of the items on the list did not include any new items but that the owner had reorganized the invoices and receipts to clarify the particular projects that were done on the building. These five items are as follows: structural (courtyard/foundations); structural (stairs); structural (balconies); parking lot re-paving; and roof.

The revised list did, however, include an additional item not listed on the original petition regarding the elevator in the building. The hearing officer stated at the outset of

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the hearing that the elevator item would not be included in the hearing, because it was not part of the original petition.

On November 18, 2019, Tenant Balawaniotu (Unit 208) submitted a *Tenant Response Contesting Rent Increase*. On November 22, 2019, Tenant Alan Bailey (Unit 308) submitted a *Tenant Response Contesting Rent Increase*.<sup>1</sup> On November 18, 2019, Tenants Ralph and Reynetta Glenn (Unit 408) submitted a *Tenant Response Contesting Rent Increase*.<sup>2</sup> On November 13, 2019, Tenant Gokce Sencan (Unit 411) submitted a *Tenant Response Contesting Rent Increase*.

Only Tenants Balawaniotu and Sencan attended the hearing. Tenant Stewart attended the hearing, but her participation was limited to being given an opportunity to cross-examine the owner's agent because she had not submitted a *Tenant Response* to the *Property Owner Petition*.

Prior to the hearing, the owner submitted an updated rent roll for the building with move-in dates and current rent amounts for the 30 units in the building. Only those tenants who were residing in the building at the time of the filing of the *Property Owner Petition* are subject to the decision in this case. In addition, those tenants who moved into the building after the completion of some of the repairs are only subject to the decision regarding projects that were completed after they moved in.

### **THE ISSUES**

1. Were the tenants served with the *RAP Notice*?
2. Is the owner entitled to a capital improvement rent increase and, if so, in what amount?

### **EVIDENCE**

#### **RAP Notice**

The *Property Owner Petition*, signed by the Owner under penalty of perjury, stated that each of the tenants had been served with the *RAP Notice*. Each of the tenants who filed a response stated that they had been served with the *RAP Notice*.

#### **Capital Improvements**

The building is a 30-unit apartment building. Mr. Shafazand, General Manager for Owner Happy Home Partners LLC, testified as to four items that covered the entire building and one item (balconies) that only covered six of the units.

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<sup>1</sup> By the time of the hearing, Tenant Bailey had moved out of the building.

<sup>2</sup> According to the rent roll submitted by the Owner dated February 1, 2021, Ralph Glenn still resides in the building but neither Mr. nor Mrs. Glenn attended the hearing.

### Courtyard/Foundations

Mr. Shafazand testified that there was formerly a swimming pool at the building. After the swimming pool was filled in, the building continued to resettle.<sup>3</sup> Water collected underneath the foundation, and the engineers who conducted an inspection in April or May 2017 determined that the foundation needed to be restructured.<sup>4</sup>

The owner submitted a contract with Perez & Perez General Contractor Inc., along with canceled checks, for an initial amount of \$78,000 for this work. (Owner Exh. 1, pp. 6-16.) The owner submitted a proposal from Perez & Perez for “(a)dditional concrete repairs pertaining to the foundation and walkway repairs” for an additional \$12,788, along with a canceled check demonstrating payment of this amount. (Owner Exh. 1, pp. 17-19.) The owner also submitted an invoice from Perez & Perez for “drainage in the ground floor lobby area” for an additional \$13,550, along with a canceled check demonstrating payment of this amount. (Owner Exh. 1, pp. 20-21.) Therefore, the owner demonstrated total payments to Perez & Perez of \$104,338 for this project.

The owner also submitted documentation of the engineering costs required for this project. An Authorization for Work from Coffman Engineers, dated March 27, 2017, listed the total amount as \$14,000, covering both the “swimming pool infill corrections” and the stair replacement project (discussed below). (Owner Exh. 1, pp. 22-27.) Half of this amount (\$7,000) was charged to the courtyard/foundation project. Therefore, the invoices and proofs of payment paid to Coffman for the courtyard/foundation project totaled \$7,796, which consisted of the initial invoices totaling \$7,000, then an additional \$796 “Construction Admin” charge. (Owner Exh. 1, pp. 28-37.)<sup>5</sup>

The owner submitted documentation of Materials Testing and Construction Inspection Services provided by Consolidated Engineering Laboratories for which the owner paid a total of \$2,089.51 (\$834.76 and \$1,254.75). (Owner Exh. 1, pp. 38-50.)

The owner also submitted documentation of the City of Oakland permit obtained for the project and inspection records establishing that the project passed final inspection on March 13, 2018. (Owner Exh. 1, pp. 51-56.) The owner did not, however, submit proof of payment of the \$860.63 permit fee paid to the City of Oakland. The owner submitted before and after photos of the project. (Owner Exh. 1, pp. 57-58.)

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<sup>3</sup> Tenant Balawaniotu asserted at the hearing that a capital improvement increase was previously imposed on the tenants over a period of five years when the pool at the building was filled in. She did not provide any documents supporting this assertion, and the owner representatives were not aware of this previous increase. There is no record of such a petition having been filed with the Rent Adjustment Program, therefore the Hearing Officer assumes that any such increase was imposed prior to owners’ being required to file capital improvement petitions and thus pertains to a different project than the one covered by this petition. The Authorization for Work from Coffman Engineers references the swimming pool infill as having taken place approximately 15 years prior to March 2017 (Owner Exh. 1, p. 23).

<sup>4</sup> Mr. Shafazand appears to be somewhat mistaken about the date of the inspection given that the Authorization for Work submitted by Coffman Engineers is dated March 27, 2017 (Owner Exh. 1, pp. 22-27).

<sup>5</sup> As will be discussed below, however, Check #5476 (representing \$6,300 of the payment to Coffman Engineers for this project) was dated May 23, 2017, more than 24 months prior to the filing of the *Property Owner Petition*.

## Stairs

Mr. Shafazand testified that the engineers who examined the foundation of the building determined that, since the ground had settled, the stair stringers had been displaced and needed work. The owners were also told that they must upgrade the railings on the stairs. According to Mr. Shafazand, there was not a code violation regarding the staircase. The Permit Record Card submitted by the owner, however, referenced the work being done "to abate CE #1700169." (Owner Exhibit 1, p. 113.) The owner did not submit a copy of CE #1700169 at the hearing. The permit was issued on October 30, 2017.

The proposal submitted by the owner from Perez & Perez General Contractor Inc., dated December 6, 2017, also stated as follows: "Replace all damaged landing and stairs w/ concrete stairs, pads, replace rotted landings, and raise handrails to code." (Owner Exh. 1, p. 60.)

The owner submitted a contract with Perez & Perez General Contractor Inc. for an initial amount of \$43,750 for this work. (Owner Exh. 1, pp. 60-65.) The owner also submitted a proposal from Perez & Perez for additional threads and new handrails totaling \$7,500. (Owner Exh. 1, pp. 67-69.) The owner submitted an invoice from Perez & Perez showing the total amounts charged. (Owner Exh. 1, p. 70.) The owner submitted canceled checks in the amount of \$10,937.50 and \$40,312.50 as proof of payment. (Owner Exh. 1, pp. 66 and 71.) Therefore, the owner demonstrated total payments to Perez & Perez of \$51,250 for this project.

The owner also submitted documentation of the engineering costs required for this project. As noted above, an Authorization for Work from Coffman Engineers listed the total amount as \$14,000, covering both the "swimming pool infill corrections" and the stair replacement project. (Owner Exh. 1, pp. 22-27.) Half of this amount (\$7,000) was charged to the stair replacement project. Therefore, the invoices from Coffman for the stairs project totaled \$11,105.50, which consisted of the initial invoices of \$7,000, then additional invoices of \$2,605 (Owner Exh. 1, pp. 82-83), \$980.50 (Owner Exh. 1, pp. 86-87), \$500 (Owner Exh. 1, pp. 90-91), and \$20 (Owner Exh. 1, p. 94).<sup>6</sup> The proofs of payment to Coffman submitted by the owner, with notations that correlated to the invoices, totaled only \$11,085.50: \$700 from Check #7272 (Owner Exh. 1, pp. 80-81); \$3085.50 from Check #7905 (Owner Exh. 1, pp. 84-85, pp. 88-89); \$980 from Check #9184 (Owner Exh. 1, pp. 92-93); and \$20 from Check #9294 (Owner Exh. 1, pp. 93 & 95).

The owner submitted documentation of Materials Testing and Construction Inspection Services provided by Consolidated Engineering Laboratories for which the owner paid a total of \$5,872.13. (Owner Exh. 1, pp. 96-108.)

The owner also submitted documentation of the \$2,183.56 permit fee paid to the City of Oakland, as well as the permit obtained for the project and City of Oakland records

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<sup>6</sup> The final \$20 invoice appears to be a remainder amount because initially only \$480 of the \$500 invoice was paid.

establishing that the project passed final inspection.<sup>7</sup> (Owner Exh. 1, pp. 109-118.) The owner submitted before and after photos of the project. (Owner Exh. 1, pp. 119-120.)

### Balconies

Mr. Shafazand testified that the engineers recommended restructuring balconies in six of the units after the owner noticed that the existing balconies were deteriorating in March or April of 2017. The engineers recommended using waterproofed wood to replace the concrete, which would reduce the weight of the balconies. Mr. Shafazand stated that the engineering inspection of the balconies in April or May of 2017 led to the other problems regarding the foundation and stairways being noticed and addressed.

The units for which the balconies were restructured are Units 101, 102, 201, 202, 301 and 302. Although Mr. Shafazand did not testify to having received a notice of violation from the City of Oakland, the authorization for work from Coffman Engineering states: "We understand that you have received a notice from the city that requests a response by April 4, 2017." (Owner Exh. 1, p. 128.) The permit records submitted by the owner, reference the work as a "Partial abatement of #1700169." (Owner Exhibit 1, p. 140, 142, 144.) This appears to be the same notice the owner received regarding the stairs but that was not submitted at the hearing.

The Coffman Engineering authorization for work states the following under "Description of Work":

(The) existing joists show signs of moisture intrusion, and will need repair or replacement. The existing guardrail post bases have corroded significantly, and will also need repair or replacement. (Owner Exh. 1, p. 128.)

The owner submitted a proposal from Perez & Perez General Contractor Inc. for an initial amount of \$43,000 for this project. (Owner Exh. 1, p. 122.) The invoices and proofs of payment the owner submitted from Perez & Perez, however, only totaled \$26,749 for this project. (Owner Exh. 1, pp. 123-127.)

The owner submitted invoices from Coffman Engineering totaling \$13,128.50 for this project (\$976.50, \$6,459, \$3,467, and \$2,226). (Owner Exh. 1, pp. 133-134, 136-138.) The proofs of payment to Coffman submitted by the owner, with notations that correlated to the invoices, also totaled \$13,128.50: \$976.50 from Check #5476 (Owner Exh. 1, pp. 29 & 135) and \$12,152 from Check #9294 (Owner Exh. 1, p. 139).<sup>8</sup>

The owner submitted documentation of the \$1,020.35 permit fee charged by the City of Oakland, but only submitted a partially obscured credit card receipt showing \$300.34 in payment. (Owner Exh. 1, pp. 140-141.) The owner also submitted City of Oakland

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<sup>7</sup> It should be noted, however, that the owner did not produce a copy of the permit for the project indicating the date it was finalized.

<sup>8</sup> As will be discussed below, however, Check #5476 (representing \$976.50 of the payment to Coffman Engineers for this project) was dated May 23, 2017, more than 24 months prior to the filing of the *Property Owner Petition*.

records establishing that the project passed final inspection.<sup>9</sup> (Owner Exh. 1, pp. 142-144.) The owner submitted before and after photos of the project. (Owner Exh. 1, pp. 145-148.)

#### Parking Lot Re-Paving

Mr. Shafazand testified that the parking lot behind the building had areas where water would gather due to the ground settling over a period of years. The owner decided to level and put a new topping on the parking lot. Tenants who pay for parking at the building are assigned slots. All tenants must walk through the parking lot area to throw their garbage away.

The owner submitted an invoice from Cato's Paving, along with two canceled checks, totaling \$19,996.24 for this project. (Owner Exh. 1, pp. 150-154.) The owner also submitted an invoice from Nancy's Hauling, along with a canceled check, for \$944 for this project.<sup>10</sup> (Owner Exh. 1, pp. 156-158.)

The owner submitted a copy of a zoning authorization from the City of Oakland regarding the parking lot work that was done (Owner Exh. 1, pp. 160-103), along with a photograph of the area (Owner Exh. 1, p. 164).

#### Roof

Mr. Shafazand testified that the roof on the building is a flat roof that started to dip down through the years. He received a couple of complaints from tenants regarding the roof leaking. He stated that he signed a contract with the roofing contractor within two weeks of receiving the first complaint. According to Mr. Shafazand, the contractor put new plywood in the roof and a new coating on the roof.

The owner submitted two invoices from California Roof Technicians, Inc., one for \$27,700 and one for \$3,850, which total \$31,550 for this project. (Owner Exh. 1, pp. 183, 186 and 188.) The proofs of payment to California Roof Technicians, Inc. submitted by the owner also totaled \$31,550: \$13,850 from Check #5095 (Owner Exh. 1, pp. 184-185); \$13,850 from Check #6017 (Owner Exh. 1, p. 187); and \$3,850 from Check #6016 (Owner Exh. 1, p. 189).<sup>11</sup>

The owner submitted a copy of a Reroofing Certificate from the City of Oakland (Owner Exh. 1, p. 190) stating that the permit fees were \$34.43, along with a cash receipt for payment of that amount (Owner Exh. 1, p. 193).<sup>12</sup>

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<sup>9</sup> It should be noted, however, that the owner did not produce a copy of the permit for the project indicating the date it was finalized.

<sup>10</sup> The invoice from Nancy's Hauling and canceled check actually totaled \$5,244, but the invoice states that \$944 is for the 1924 9<sup>th</sup> Avenue address.

<sup>11</sup> As will be discussed below, however, Check #5095 (representing \$13,850 of the payment to California Roof Technicians, Inc. for this project) was cashed on February 1, 2017, more than 24 months prior to the filing of the *Property Owner Petition*.

<sup>12</sup> The owner also submitted what appears to be a receipt from the City of Oakland for the business tax license for California Roof Technicians, Inc. for \$155, which is not a cost related to the roofing project, and therefore not properly included in the costs for this item. (Owner Exhibit 1, p. 192.)

The owner produced invoices and proof of payment as follows:

Item	Description	Vendor/Payee	Details	Date	Amount	Exhibits
1	Contract	Perez & Perez General Contractor	First floor walkway and courtyard foundation repair	12/20/17	\$78,000	Owner Exh. 1, pp. 6-10
2	Canceled check	Perez & Perez General Contractor	Check #7853	1/17/18	\$19,500	Owner Exh. 1, p. 11
3	Canceled check	Perez & Perez General Contractor	Check #7793	2/13/18	\$ 5,850	Owner Exh. 1, p. 12
4	Canceled check	Perez & Perez General Contractor	Check #7929	2/16/18	\$ 5,265	Owner Exh. 1, p. 13
5	Canceled check	Perez & Perez General Contractor	Check #8096	3/2/18	\$ 4,738.50	Owner Exh. 1, p. 14
6	Invoice	Perez & Perez General Contractor	Balance due	2/28/18	\$42,646.50	Owner Exh. 1, p. 15
7	Canceled check	Perez & Perez General Contractor	Check #8119	3/9/18	\$42,646.50	Owner Exh. 1, p. 16
8	Proposal	Perez & Perez General Contractor	Additional concrete repairs	2/28/18	\$12,788	Owner Exh. 1, pp. 17-18
9	Canceled check	Perez & Perez General Contractor	Check #8118	3/9/18	\$12,788	Owner Exh. 1, p. 19
10	Invoice	Perez & Perez General Contractor	Drainage and leak repair	3/16/18	\$13,550	Owner Exh. 1, p. 20
11	Canceled check	Perez & Perez General Contractor	Check #8138	3/21/18	\$13,550	Owner Exh. 1, p. 21
12	Authorization for Work	Coffman Engineers	Structural engineering services for two upgrades (stair replacement; swimming pool infill corrections)	3/27/17	\$14,000	Owner Exh. 1, pp. 22-27; and pp. 72-77
13	Invoice	Coffman Engineers	Foundation Repair	5/5/17	\$6,300	Owner Exh. 3, p. 28
14	Canceled check	Coffman Engineers	Check #5476	5/23/17	\$7,276.50	Owner Exh. 1, pp. 29 & 135
15	Allocation of check amounts	Coffman Engineers	Check #5476 (\$6,300 Foundation Repair, \$976.50 Balcony Repairs); Check #7272 (\$700 Foundation Repair, \$4,900 Stair Replacement); Check #9184 (\$480 Stair			Owner Exh. 1, pp. 30, 37 & 81

			Replacement 12/17 Invoice, \$796 Foundation Repair 2/18 Invoice, \$500 Stair Replacement 3/18 Invoice)			
16	Invoice	Coffman Engineers	Foundation Repair	6/9/17	\$700	Owner Exh. 1, p. 31
17	Canceled check	Coffman Engineers	Check #7272	10/11/17	\$7,700	Owner Exh. 1, pp. 32 & 80
18	Invoice	Coffman Engineers	Construction Admin – Foundation repair	2/7/18	\$796	Owner Exh. 1, pp. 34-35
19	Canceled check	Coffman Engineers	Check #9184	7/24/18	\$1,776	Owner Exh. 1, p. 36
20	Cost proposal	Consolidated Engineering Laboratories	Materials testing and construction inspection services	1/8/18	\$5,050.50	Owner Exh. 1, pp. 38-44
21	Invoice	Consolidated Engineering Laboratories	New Walkway Repairs	3/20/18	\$834.76	Owner Exh. 1, p. 45
22	Canceled check	Consolidated Engineering Laboratories	Check #8588	4/3/18	\$1,979.26	Owner Exh. 1, p. 46
23	Allocation of check amounts	Consolidated Engineering Laboratories	\$834.76 (Check #8588)			Owner Exh. 1, p. 47
24	Invoice	Consolidated Engineering Laboratories	New Walkway Repairs	2/23/18	\$1,254.75	Owner Exh. 1, pp. 48-49
25	Canceled check	Consolidated Engineering Laboratories	Check #8180	3/12/18	\$1,254.75	Owner Exh. 1, p. 50
26	Permit	City of Oakland	Repair foundation per engineered plans	10/14/17	\$860.63	Owner Exh. 1, p. 51
27	Proposal and Contract	Perez & Perez General Contractor	Front and rear stairway and landing repairs	12/6/17 and 1/24/18	\$43,750	Owner Exh. 1, pp. 60-65
28	Canceled check	Perez & Perez General Contractor	Check #7876	1/29/18	\$10,937.50	Owner Exh. 1, p. 66
29	Proposal	Perez & Perez General Contractor	Additional threads and new handrails	3/5/18	\$7,500	Owner Exh. 1, pp. 67-69
30	Invoice	Perez & Perez General Contractor	Balance due	3/18/18	\$40,312.50	Owner Exh. 1, p. 70
31	Canceled check	Perez & Perez General Contractor	Check #8139	3/21/18	\$40,312.50	Owner Exh. 1, p. 71
32	Invoice	Coffman Engineers	Stair replacement	6/9/17	\$4,900	Owner Exh. 1, p. 78

33	Invoice	Coffman Engineers	Stair replacement	7/10/17	\$2,100	Owner Exh. 1, p. 79
34	Invoice	Coffman Engineers	Stair replacement	11/15/17	\$2,605	Owner Exh. 1, pp. 82-83
35	Canceled check	Coffman Engineers	Check #7905	2/13/18	\$3,085.50	Owner Exh. 1, pp. 84 & 88
36	Allocation of check amounts	Coffman Engineers	\$2,605 and \$480.50 (Check #7905) for stair repair			Owner Exh. 1, pp. 85 & 89
37	Invoice	Coffman Engineers		12/12/17	\$980.50	Owner Exh. 1, pp. 86-87
38	Invoice	Coffman Engineers	Construction admin – stair replacement	3/9/18	\$500	Owner Exh. 1, pp. 90-91
39	Canceled check	Coffman Engineers	Check #9184	7/24/18	\$1,776	Owner Exh. 1, p. 92
40	Allocation of check amounts	Coffman Engineers	\$500 and \$480 for Stair Repair (Check #9184); \$20 for Stair Repair (Check #9294)			Owner Exh. 1, p. 93
41	Invoice	Coffman Engineers		8/1/18	\$20	Owner Exh. 1, p. 94
42	Canceled check	Coffman Engineers	Check #9294	8/24/18	\$20	Owner Exh. 1, p. 95
43	Cost proposal	Consolidated Engineering Laboratories	Materials Testing and Construction Inspection Services	2/7/18	\$1,764	Owner Exh. 1, pp. 96-101
44	Invoice	CEL Consulting, Inc.		12/8/17	\$4,391.63	Owner Exh. 1, p. 102
45	Canceled check	Consolidated Engineering Laboratories	Check #7734	1/22/18	\$4,391.63	Owner Exh. 1, p. 103
46	Invoice	Consolidated Engineering Laboratories		3/20/18	\$1,144.50	Owner Exh. 1, p. 104
47	Canceled check	Consolidated Engineering Laboratories	Check #8588	4/3/18	\$1,979.26	Owner Exh. 1, p. 105
48	Allocation of check amounts	Consolidated Engineering Laboratories	\$1,144.50 (Check #8588)			Owner Exh. 1, p. 106
49	Invoice	Consolidated Engineering Laboratories		4/12/18	\$336	Owner Exh. 1, p. 107
50	Canceled check	Consolidated Engineering Laboratories	Check #8695	4/24/18	\$336	Owner Exh. 1, p. 108

51	Permit fees & receipt	City of Oakland		9/5/17	\$2,183.56	Owner Exh. 1, pp. 109-110
52	Proposal	Perez & Perez General Contractor	Front Balconies repair and installation	6/8/17	\$43,000	Owner Exh. 1, p. 122
53	Canceled check	Perez & Perez General Contractor	Check #6027	6/28/17	\$10,000	Owner Exh. 1, p. 123
54	Canceled check	Perez & Perez General Contractor	Check #6211	7/31/17	\$8,000	Owner Exh. 1, p. 124
55	Invoice	Perez & Perez General Contractor	Front Balconies repair and installation	8/28/17	\$26,749 (\$8,749 balance due)	Owner Exh. 1, pp. 125-126
56	Canceled check	Perez & Perez General Contractor	Check #6304	9/8/17	\$8,749	Owner Exh. 1, p. 127
57	Invoice	Coffman Engineers	List includes Balcony Repairs	5/5/17	\$976.50	Owner Exh. 1, pp. 133-134
58	Invoice	Coffman Engineers		6/9/17	\$6,459	Owner Exh. 1, p. 136
59	Invoice	Coffman Engineers		7/10/17	\$3,467	Owner Exh. 1, p. 137
60	Invoice	Coffman Engineers		9/8/17	\$2,226	Owner Exh. 1, p. 138
61	Canceled check	Coffman Engineers	Check #8614	4/12/18	\$12,152	Owner Exh. 1, p. 139
62	Permit Application	City of Oakland	Fees	6/22/17	\$1,020.35	Owner Exh. 1, p. 140
63	Credit card receipt	City of Oakland	(Amount partially obscured)	6/22/17	\$300.34	Owner Exh. 1, p. 141
64	Invoice	Cato's Paving		9/12/18	\$19,996.24	Owner Exh. 1, p. 150
65	Canceled check	Cato's Paving	Check #10021	12/18/18	\$9,998.12	Owner Exh. 1, pp. 151-152
66	Canceled check	Cato's Paving	Check #10163	2/1/19	\$9,998.12	Owner Exh. 1, pp. 153-154
67	Invoice	Nancy's Hauling	\$944 for 1924 9 <sup>th</sup> Ave.	8/20/18	\$5,244	Owner Exh. 1, p. 156
68	Canceled check	Nancy's Hauling	Check #9335	8/23/18	\$5,244	Owner Exh. 1, pp. 157-158

69	Contract	California Roof Technicians, Inc.	"Cut out (2) Areas of roof & dry rot...Replace all dryrot in areas plywood & beams...Over apply Aluminum roof coating to entire roof."	1/30/17	\$27,700	Owner Exh. 1, p. 183
70	Canceled check	California Roof Technicians, Inc.	Check #5095	2/1/17	\$16,350	Owner Exh. 1, p. 184
71	Allocation of check amounts	California Roof Technicians, Inc.	\$13,850 of Check #5095 for 1924 9 <sup>th</sup> St.			Owner Exh. 1, p. 185
72	Invoice	California Roof Technicians, Inc.	\$13,850 balance due	6/20/17		Owner Exh. 1, p. 186
73	Canceled check	California Roof Technicians, Inc.	Check #6017	6/23/17	\$13,850	Owner Exh. 1, p. 187
74	Invoice	California Roof Technicians, Inc.	Dry rot repair new work order	6/20/17	\$3,850	Owner Exh. 1, p. 188
75	Canceled check	California Roof Technicians, Inc.	Check #6016	6/27/17	\$3,850	Owner Exh. 1, p. 189
76	Cash receipt	City of Oakland	Permit Fees	6/24/19	\$34.43	Owner Exh. 1, p. 193

Tenants' testimony

The tenants who appeared at the hearing did not present any evidence as to the owner's having failed to make timely repairs.

Both Ms. Balawanilotu and Ms. Sencan stated that they did not notice significant changes to the stairs from the work that was done.<sup>13</sup> Ms. Sencan stated that the roofing work did not achieve its purpose of insulating the units from weather because she lives on the top floor and the building gets very hot.

Ms. Sencan pointed out that she had moved into the building after all of the repairs had been made other than the parking lot repaving. She objected to being charged for the repaving because she does not park a car at the building. Ms. Balawanilotu objected to being charged for the repaving because tenants who park at the building are already charged for that service.

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<sup>13</sup> It should be noted that Ms. Sencan did not move into the building until October 19, 2018, approximately two months after the stair project was completed.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### **Were the tenants served with the *RAP Notice*?**

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>14</sup> and together with any notice of rent increase.<sup>15</sup> Additionally, an *Owner Petition* cannot be considered filed until the owner has produced evidence of having served each affected tenant with the *RAP Notice* prior to filing the petition.<sup>16</sup>

The parties agreed that the tenants had been served with the *RAP Notice*.

### **Is the owner entitled to a capital improvement rent increase and, if so, in what amount?**

The Ordinance: A rent increase in excess of the CPI Rent Adjustment may be justified by capital improvement costs.<sup>17</sup> Capital improvements costs are “those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes.”<sup>18</sup> Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.<sup>19</sup> In order for a capital improvement to be allowed, the improvement must primarily benefit the tenants rather than the owner.<sup>20</sup>

Items eligible for a capital improvement increase will be amortized over the useful life of the improvement unless the useful life would cause the rent increase to exceed 10% or the amount permitted by California Civil Code Section 1947.12, whichever is lower.<sup>21</sup> The current limit is 6.1% (5 percent plus 1.1% cost of living). If the limit would be exceeded, the amount of the amortization period is extended.<sup>22</sup> The owner is also entitled to imputed interest for the cost of the capital improvements.<sup>23</sup> Finally, for all expenses, the owner is entitled to pass through to the tenants a maximum of 70% of the costs expended (plus imputed interest).<sup>24</sup>

The reimbursement of capital expenses must be discontinued at the end of the amortization period. An owner has discretion to make such improvements, and does not need the consent or approval of tenants. Additionally, the improvements must have been completed and paid for within 24 months prior to the date the owner files a petition.<sup>25</sup> An owner has the burden of proving every element of his/her case by a

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<sup>14</sup> O.M.C. § 8.22.060(A)

<sup>15</sup> O.M.C. § 8.22.070(H)(1)

<sup>16</sup> O.M.C. § 8.22.090(B)(1)(c)

<sup>17</sup> O.M.C. § 8.22.070(C)(1)(a)

<sup>18</sup> Regulations Appendix A § 10.2

<sup>19</sup> Regulations Appendix A § 10.2.2(4)(e)

<sup>20</sup> Regulations Appendix A §§ 10.2 and 10.2.2(1)

<sup>21</sup> Regulations Appendix A § 10.2.3(2) and O.M.C. § 8.22.070(A)(2), amended July 21, 2020.

<sup>22</sup> Regulations Appendix A § 10.2.3(2)

<sup>23</sup> Regulations Appendix A § 10.2.3(3)(a)

<sup>24</sup> Regulations Appendix A § 10.2.3(3)(a)

<sup>25</sup> Regulations Appendix A § 10.2.1

preponderance of the evidence. Since the owner's petition was filed on June 18, 2019, the owner is entitled to pass through those allowable costs for improvements that were both completed and paid for after June 18, 2017.

One of the canceled checks submitted by the owner, Check #5476 to Coffman Engineers for \$7,276.50, was cashed on May 23, 2017. (Owner Exh. 1, pp. 29 and 135.) According to the account statement provided by the Owner, this check consisted of a \$6,300 payment towards the foundation repair and \$976.50 towards the balcony repairs. The owner submission stated that the balcony repairs were completed on April 4, 2018, and the courtyard/foundation repair was completed on July 24, 2018. Because these payments were made prior to June 18, 2017, however, they cannot be granted to the owner in this case.

Another of the canceled checks submitted by the owner, Check #5095 to California Roof Technicians, Inc. for \$16,350, was cashed on February 1, 2017. (Owner Exh. 1, p. 184.) The owner submission stated that the roof repair was completed on June 23, 2017. Because this payment was made prior to June 18, 2017, however, the portion attributable to the roof repair (\$13,850) from this check cannot be granted to the owner in this case.

Costs Allowed and Disallowed: To prove a capital improvement cost, both an invoice and proof of payment are necessary. The owner produced proof of payment and invoices for the costs being claimed.

Each item being claimed by the owner will be discussed individually. The items are as follows:

#### Courtyard/Foundations

The improvement to the courtyard/foundation primarily benefits the tenants by making the building safer and addressing drainage issues. The owner provided proof of the cost of this item, along with proof of payment and a permit for the work.

No evidence was presented at the hearing that this project falls within either of the two categories that may not be considered as capital improvements (certain Priority 1 or 2 Conditions or costs that could have been avoided by the owner's exercise of reasonable diligence in making timely repairs).<sup>26</sup>

The \$104,338 paid to Perez & Perez General Contractor for this item is an allowable cost.

As discussed above, of the \$7,796 paid to Coffman Engineers for this project, \$6,300 was paid prior to June 18, 2017. Therefore, only \$1,496 is an allowable cost.

The amount paid to Consolidated Engineering Laboratories (\$2,089.51) for this project is an allowable cost.

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<sup>26</sup> Regulations Appendix A § 10.2.2(4)

No proof of payment of the permit fees to the City of Oakland (\$860.63) was provided, therefore this is not an allowable cost.

Although the owner petition lists \$115,732.51 as to the total cost of this project (Owner Exhibit 1, p. 4), that figure was not supported by the evidence submitted. The total of the allowable costs for this item amounts to \$107,923.51 (the sum of \$104,388, \$1,496, and \$2,089.51).<sup>27</sup>

### Stairs

Although Mr. Shafazand testified that there was no code violation regarding the stairs, the permit that he submitted clearly states that the work was done to abate a Code Enforcement case. The proposal from the contractor also references rotted landings and bringing the railings up to code. Therefore, the work on the stairs was both a benefit to the tenants and a necessary repair.

There are two categories of items that may not be considered as capital improvements.

First, repairs for code violations may not be considered as capital improvements if the Tenant proves that the repair was performed to correct a Priority 1 or 2 Condition that was not created by the Tenant, and that the Owner failed to repair the condition within a reasonable time.<sup>28</sup> In this case, the tenants did not prove that the repair was performed to correct a Priority 1 or 2 Condition, although the documentary evidence submitted by the owner indicates that there was in fact such a condition regarding the stairs. Under "Structural" conditions, "Hazardous stairs" and "Collapsing structural members" are Priority 1 conditions, and "Loose or insufficient supporting structural members" are a Priority 2 condition.<sup>29</sup>

The question then becomes whether the owner repaired the condition within a reasonable time. The regulations define "a reasonable time" as ninety (90) days after the owner received notice of the condition absent the owner's showing good cause.<sup>30</sup> Although the owner testified that the initial building inspection by the engineers that indicated the need for this work was done in April or May 2017, the engineering proposal was actually dated March 27, 2017 (Owner Exhibit 1, p. 23). The owner obtained a permit to fix the stairs seven months later, on October 30, 2017 (Owner Exhibit 1, p. 113). The Owner actually applied for the permit on September 5, 2017 (Owner Exhibit 1, p. 109). The invoices from Coffman Engineering indicate that ongoing services were rendered for the period ending May 25, 2017 and June 25, 2017. (Owner Exhibit 1, pp. 78-79.) Therefore, progress was being made on the project in the months following the Coffman Engineering proposal. Given the large scale of the project, with major foundation and stairway repairs, there appears to be good cause for the repairs not being completed within 90 days after the owner received notice of the condition.

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<sup>27</sup> The Capital Improvement Calculator (Exhibit A) takes into account the fact that there are 30 units in the building and calculates the allowable pass through per unit for the building-wide improvements.

<sup>28</sup> Regulations Appendix A § 10.2.2(4)(a)

<sup>29</sup> Regulations Appendix A § 2.9(IV)

<sup>30</sup> Regulations Appendix A § 10.2.2(4)(a)(iv)(b)

The second category of items that may not be considered as capital improvements is:

Costs for work or portion of work that could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs after the landlord knew or should reasonably have known of the problem that caused the damage leading to the repair claimed as a capital improvement.<sup>31</sup>

No evidence was introduced by either the owner or tenants that any costs for the work on the stairs that was done could have been avoided by the owner in making timely repairs after the owner knew or should reasonably have known of the problem.

While Tenants Balawanilotu and Sencan testified that the stairs did not appear to be any different after the work was done, the appearance of the stairs is not at issue. The owner established that the work was actually done and paid for. Stairs that are safer, with railings up to code and landings that are not rotting, definitely benefit the tenants.

The total of the amounts established by the owner, based on the documents submitted as detailed above, is \$70,391.19 (\$51,250 to Perez & Perez; \$11,085.50 to Coffman Engineers; \$5872.13 to Consolidated Engineering Laboratories; and \$2,183.56 to the City of Oakland).<sup>32</sup> However, because the owner petition only claimed \$68,207.63 for this project (Owner Exhibit 1, p. 4), that is the limit of how much can be awarded to the owner.

Therefore, the \$68,207.63 paid for the stairs project is an allowable cost.

### Balconies

The testimony and evidence established that the balconies in the building were beginning to deteriorate. There is also a reference in both the Coffman Engineering Report and the City of Oakland records to the owner's having received a notice to abate regarding the condition of the balconies. Therefore, the work on the balconies was both a benefit to the tenants who lived in the six affected units and a necessary repair.

The question then becomes whether the balcony repairs fall within one of the two categories that cannot be considered capital improvements.

The first category are repairs that the Tenant proves were performed to correct a Priority 1 or 2 Condition that was not created by the Tenant, and that the Owner failed to repair within a reasonable time.<sup>33</sup> In this case, the tenants did not prove that the repair was performed to correct a Priority 1 or 2 Condition, although the documentary evidence submitted by the owner indicates that there was in fact such a condition regarding the balconies. Under "Structural" conditions, "Absence of handrail, loose, weakly-supported handrail" or "Collapsing structural members" are Priority 1

<sup>31</sup> Regulations Appendix A § 10.2.2(4)(b)

<sup>32</sup> The owner appears to have omitted the permit fee in the claim submitted.

<sup>33</sup> Regulations Appendix A § 10.2.2(4)(a)

conditions, and “Loose or insufficient supporting structural members” are a Priority 2 condition.<sup>34</sup>

The question then becomes whether the owner repaired the condition within a reasonable time. The regulations define “a reasonable time” as ninety (90) days after the owner received notice of the condition absent the owner’s showing good cause.<sup>35</sup> The Coffman Engineering Authorization for Work states that the City of Oakland requested a response from the owner by April 4, 2017 (Owner Exh. 1, p. 128). The owner signed the contract with Coffman on March 28, 2017 (Owner Exh. 1, p. 132). Therefore, it appears that the owner began the repair process in a timely manner, even though the nature of the work was such that the project was not completed until April 4, 2018, according to the owner (Owner Exh. 1, p. 4).

With regard to the second category of repairs that cannot be considered as capital improvements, no evidence was introduced by either the owner or tenants that any costs for the work on the balconies that was done could have been avoided by the owner in making timely repairs after the owner knew or should reasonably have known of the problem.

Because the balconies were only replaced on six of the units, these are the only tenants who can potentially be subject to a capital improvement passthrough regarding the balconies. The tenants in Units 101 (Schaefferkoetter), 201 (Nalliah) and 301 (Endrenyi) are subject to the balcony portion of this petition. The tenants in Units 102 (Ndegwa) and 202 (Singh) are not subject to this petition, however, because they moved into the building after the petition was filed. The tenant in Unit 302 (Roland) is also not subject to this portion of the petition because he moved into the building on October 19, 2018, after the balcony repair was completed.

The \$26,749 paid to Perez & Perez General Contractor for this item is an allowable cost.

As discussed above, of the \$13,128.50 paid to Coffman Engineers for this item, \$976.50 was paid prior to June 18, 2017. Therefore, only \$12,152 is an allowable cost.

The \$300.34 in permit fees to the City of Oakland for this item for which a proof of payment was provided is an allowable cost.

Therefore, the \$39,201.34 (the sum of \$26,749, \$12,152 and \$300.34) paid for the balcony project is an allowable cost, to be divided by the six units involved (which amounts to \$6,533.56 per unit) and applied only to the tenants in Units 101, 201 and 301. As stated above, the tenants in Units 102, 202 and 302 are not subject to this capital improvement item due to their move-in dates.

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<sup>34</sup> Regulations Appendix A § 2.9(IV)

<sup>35</sup> Regulations Appendix A § 10.2.2(4)(a)(iv)(b)

### Parking Lot Re-Paving

The repaving of the parking lot generated the most opposition from the tenants, particularly because the tenants with parking spaces must pay for them, and because those without parking spaces opposed the cost of this repair being passed through to them. As Mr. Shafazand testified, however, the parking lot is an area that all tenants must use in order to access the garbage area of the building. Because water was collecting in some areas of the lot prior to the repair, leveling and repaving this area is an improvement that benefits all of the tenants. The fact that tenants must pay to park at the building, or that some do not park at the building, does not negate the benefits of the repair that was done.

The \$19,996.24 paid to Cato's Paving for this item is an allowable cost. The \$944 paid to Nancy's Hauling for this item is an allowable cost. Therefore, the \$20,940.24 paid for the parking lot re-paving is an allowable cost.

### Roof

Mr. Shafazand testified that he received a couple of complaints from tenants regarding the roof leaking, that he then had the roofing contractor come out, and signed a contract with them within two weeks of the first complaint. His testimony, as well as the mention of dry rot on the invoices, establishes that the roof work needed to be done, and that there was no delay on the owner's part in making the necessary roof repairs. A roof that doesn't leak benefits the tenants.

The invoice from California Roof Technicians, Inc., dated June 20, 2017, indicates that the work was completed by that date. (Owner Exh. 1, p. 186.) Although Tenant Sencan complained about her unit's being hot, she did not move into the building until October 12, 2018, after the work was completed, therefore she did not have a point of comparison for the condition of the roof before the work was done. Furthermore, the potential need for a better insulated roof is not a defense to the instant capital improvement claim for a reroofing project that primarily addressed leaking. The tenants did not establish any delay on the owner's part in making this repair.

As discussed above, of the \$31,550 paid to California Roof Technicians, Inc. for this item, \$13,850 was paid prior to June 18, 2017. Therefore, only \$17,700 is an allowable cost.

The \$34.43 in permit fees to the City of Oakland for this item, for which a proof of payment, was provided is an allowable cost.

Therefore, the \$17,734.43 paid for the roof project is an allowable cost.

### What is the allowable pass-through?

The cost of the courtyard/foundations project (\$107,923.51), with an amortization period of 10 years according to the Amortization Schedule provided in the Rent Adjustment Board Regulations Appendix A, Exhibit 1, is an allowable cost. The cost of the stairs project (\$68,207.63), with an amortization period of ten (10) years, is an allowable cost. The cost of the balconies (\$6,533.56), with an amortization period of ten

(10) years, is an allowable cost against Units 101, 201, and 301 only. The cost of the parking lot re-paving (\$20,940.24), with an amortization period of ten (10) years, is an allowable cost. The cost of the roof project (\$17,734.43), with an amortization period of ten (10) years, is an allowable cost. These costs are added together and an amortization period of ten (10) years is applied, per the attached Capital Improvement Calculator (Exhibit A).

The owner is allowed to pass through 70% of the allowable costs, and the allocation of the costs for the building-wide improvements take into account the fact that there are 30 units in the building. The allocation of the costs for the balcony project take into account the fact that there were six balconies involved.

The attached Capital Improvement Calculator (Exhibit A) shows the allowable amortized cost for each unit that is subject to the petition. Page 2 shows the allowable amortized cost per unit of the building-wide improvements. Pages 3 through 5 show the allowable amortized cost for Units 101, 201 and 301 when the building-wide improvements are combined with the unit-specific balcony improvements.

As stated above, the tenants in Units 302 (Roland) and 411 (Sencan) are only subject to the portion of costs regarding the parking lot re-paving, because they moved into the building after the other repairs were made.

Items eligible for a capital improvement increase will be amortized over the useful life of the improvement unless the useful life would cause the rent increase to exceed 10% or the amount permitted by California Civil Code Section 1947.12, whichever is lower.<sup>36</sup> The amortization periods for the units affected by the balcony repair pass-through (Units 101, 201 and 301) needed to be adjusted to bring their rent increase under the current limit of 6.1%. Therefore, as indicated on Exhibit A, the adjusted amortization periods are as follows: 17 years for Unit 101 (Schaefferkoetter), 11 years for Unit 201 (Nalliah), and 17 years for Unit 301 (Endrenyi).

During the Local Emergency, no rent increase greater than the CPI (currently 2.7%) can be served on any tenant. While this Hearing Decision ultimately permits the owner to increase the rent on the units listed on Exhibit A by the amounts stated, **any rent increase that exceeds 2.7% cannot be served at this time.** Once the Local Emergency is lifted, the owner may serve those rent increases that could not be served during the Local Emergency.

### ORDER

1. Petition L19-0163 is partially granted.
2. The owner is entitled to the monthly rent increase for each tenant listed on Exhibit A based on capital improvements, which will be effective 30 days (35 days if served by

<sup>36</sup> Regulations Appendix A § 10.2.3(2) and O.M.C. § 8.22.070(A)(2), amended July 21, 2020.

mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. **The owner may not serve the monthly rent increase on those tenants for whom the rent increase would exceed 2.7% until after the Local Emergency is lifted.**

3. No rent increase can be served with an effective date any earlier than 12 months after the tenant's last rent increase.

4. The capital improvement rent increase expires 120 months after it goes into effect for all units listed in Exhibit A other than Unit 101, 201 and 301. The capital improvement rent increase expires 204 months after it goes into effect for Units 101 and 301. The capital improvement rent increase expires 132 months after it goes into effect for Unit 201.

**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 fifteen (15) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: April 23, 2021

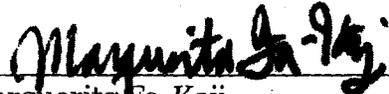
  
\_\_\_\_\_  
Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program



EXHIBIT A  
Capital Improvement Calculator\_L19-0163

TOTAL RENT INCREASE FOR EACH UNIT

Unit	Current Rent	Allowed Pass Through Rent Increase from 2014 building-wide	Imputed Interest	Imputed Interest Rate	Allowed Rent Increase	Allowed Rent Increase %
101 (Devin Schaefferkoetter)	\$1,073.87	\$5,012.14		3.842%	\$50.37	4.69%
103 (Adam Yohannes)	\$1,044.05	\$5,012.14		3.842%	\$50.37	4.82%
105 (Antonio Castellanos-Herrera)	\$1,163.47	\$5,012.14		3.842%	\$50.37	4.33%
201 (Kamalraj Nalliah)	\$1,548.24	\$5,012.14		3.842%	\$50.37	3.25%
206 (Kisha Walton)	\$1,044.64	\$5,012.14		3.842%	\$50.37	4.82%
207 (Karim Chibane)	\$1,139.44	\$5,012.14		3.842%	\$50.37	4.42%
208 (Katalina Balawanilottu)	\$971.34	\$5,012.14		3.842%	\$50.37	5.19%
301 (Alexander Endrenyi)	\$1,051.65	\$5,012.14		3.842%	\$50.37	4.79%
302 (Jeremy Roland)	\$1,925.00	\$488.61		4.194%	\$4.99	0.26%
303 (Salvador Nunez)	\$1,096.87	\$5,012.14		3.842%	\$50.37	4.59%
305 (Eva Nunez)	\$1,106.50	\$5,012.14		3.842%	\$50.37	4.55%
306 (Daniel Feldman)	\$1,070.70	\$5,012.14		3.842%	\$50.37	4.70%
307 (Angela Emerson)	\$963.61	\$5,012.14		3.842%	\$50.37	5.23%
309 (Sophia Stewart)	\$1,114.94	\$5,012.14		3.842%	\$50.37	4.52%
408 (Ralph Glenn)	\$969.68	\$5,012.14		3.842%	\$50.37	5.19%
409 (Corliss Ard)	\$1,047.50	\$5,012.14		3.842%	\$50.37	4.81%
411 (Gokce Sencan)	\$1,689.42	\$488.61		4.194%	\$4.99	0.30%

**EXHIBIT A**  
**Capital Improvement Calculator\_L19-0163**

<b>IMPROVEMENTS LIMITED TO SPECIFIC UNITS</b>									
Unit Number: 101			Current Rent	\$1,073.87					
IMPROVEMENT OR REPAIR	DATE PERMIT OBTAINED (or date started if permit not required)	DATE COMPLETED	COST	ALLOWABLE PASS THROUGH (70%)	Imputed Interest	Amortization Period (years)	Allowable Amortized	Pass Through	
Balconies	7/17/2017	04/04/18	\$6,553.56	\$4,587.49	3.782%	10	\$45.97	OK	
Weighted Average of unit specific improvements:				\$4,587.49	3.782%	10	\$45.97		
Combined unit specific with building wide				\$9,599.63	3.813%	10	\$64.02		
					<b>ADJUSTED AMORTIZATION PERIOD</b>	<b>17</b>	<b>Percent Increase</b>	<b>5.96%</b>	If percent increase is more than 6.1%, increase amortization period in cell H126 until percent increase is not more than 6.1%







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Housing and Community Development Department  
Rent Adjustment Program

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CA Relay Service 711

## **DECISION SUMMARY**

**CASE NUMBER:** L19-0163, Lake 1925 LP v. Tenants

**PROPERTY ADDRESS:** 1924 9th Avenue, Oakland, CA

**DATES OF HEARING:** February 22, 2021

**DATE OF DECISION:** April 23, 2021

1. Petition L19-0163 is granted in part.
2. As to the tenant in unit 101 (Devin Schaefferkoetter), the owner is entitled to a capital improvement rent increase of \$64.02 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 204 months after it goes into effect.
3. As to the tenant in unit 103 (Adam Yohannes), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
4. As to the tenant in unit 105 (Antonio Castellanos-Herrera), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
5. As to the tenant in unit 201 (Kamalraj Nalliah), the owner is entitled to a capital improvement rent increase of \$89.15 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 132 months after it goes into effect.

6. As to the tenant in unit 206 (Kisha Walton), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
7. As to the tenant in unit 207 (Karim Chibane), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
8. As to the tenant in unit 208 (Katalina Balawaniotu), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
9. As to the tenant in unit 301 (Alexander Endrenyi), the owner is entitled to a capital improvement rent increase of \$64.02 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 204 months after it goes into effect.
10. As to the tenant in unit 302 (Jeremy Roland), the owner is entitled to a capital improvement rent increase of \$4.99 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
11. As to the tenant in unit 303 (Salvador Nunez), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
12. As to the tenant in unit 305 (Eva Nunez), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.
13. As to the tenant in unit 306 (Daniel Feldman), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.

14. As to the tenant in unit 307 (Angela Emerson), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.

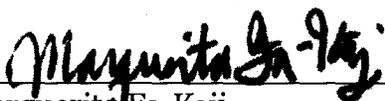
15. As to the tenant in unit 309 (Sophia Stewart), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.

16. As to the tenant in unit 408 (Ralph Glenn), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.

17. As to the tenant in unit 409 (Corliss Ard), the owner is entitled to a capital improvement rent increase of \$50.37 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.

18. As to the tenant in unit 411 (Gokce Sencan), the owner is entitled to a capital improvement rent increase of \$4.99 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 120 months after it goes into effect.

Dated: April 23, 2021

  
\_\_\_\_\_  
Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program



### **Notice re: Rent Increase Moratorium**

On March 27, 2020, the Oakland City Council adopted an Ordinance imposing a moratorium on all rent increases that exceed the consumer price index (CPI) unless required to provide a fair return. The current CPI effective July 1, 2020 – June 30, 2021 is 2.7%.

This rent increase moratorium remains in effect for the duration of the Local Emergency. The ordinance is still in effect and will remain in effect until the local emergency is declared to be over.

While a property owner may receive a hearing decision allowing for a rent increase larger than the current CPI, no rent increase for an amount larger than the CPI may be served until the Local Emergency has ended. The only exception to this moratorium is if the owner has received a final decision from the Rent Adjustment Program granting a rent increase to provide a fair return.

If the rent increase moratorium continues after July 1, 2021, and if the maximum rent increase allowed has increased above 6.1%,<sup>1</sup> the property owner may ask for a Compliance Hearing to recalculate the allowable increase.

For more information on the moratorium, please visit our website at [www.oaklandca.gov/rap](http://www.oaklandca.gov/rap) or email us at [rap@oaklandca.gov](mailto:rap@oaklandca.gov).

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<sup>1</sup> The City Council changed the maximum rent increase from 10 percent to align with the allowable increase under state law, the Tenant Protection Act of 2019 (TPA). The current TPA maximum is 6.1% until July 31, 2021.

**PROOF OF SERVICE**

**Case Number L19-0163**

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

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

**Documents Included**

Hearing Decision

Decision Summary

Notice re: Rent Increase Moratorium

**Owner**

Lake 1925 LP  
2941 Telegraph Ave.  
Berkeley, CA 94705

**Owner Representative**

George Shafazand, Happy Home Partners LLC  
2941 Telegraph Ave.  
Berkeley, CA 94705

**Owner Representative**

Kimberly Roehn, Roehn Law  
1954 Mountain Rd/ #13125  
Oakland, CA 94661

**Tenant**

Adam Yohannes  
1924 9th Ave. #103  
Oakland, CA 94606

**Tenant**

Ademola I Raji  
1924 9th Ave. #202  
Oakland, CA 94606

**Tenant**

Alan M. Bailey  
1924 9th Ave. #308  
Oakland, CA 94606

**000535**

**Tenant**

Alexander A. Endrenyi  
1924 9th Ave. #301  
Oakland, CA 94606

**Tenant**

Angela Emerson  
1924 9th Ave. #307  
Oakland, CA 94606

**Tenant**

Antonio Castellanos-Herrera  
1924 9th Ave. #105  
Oakland, CA 94606

**Tenant**

Corliss Ard  
1924 9th Ave. #409  
Oakland, CA 94606

**Tenant**

Daniel A. Fieldman  
1924 9th Ave. #306  
Oakland, CA 94606

**Tenant**

Devin M.B. Schaefferkoetter  
1924 9th Ave. #101  
Oakland, CA 94606

**Tenant**

Erika M. Cummings  
1924 9th Ave. #304  
Oakland, CA 94606

**Tenant**

Eva C. Nunez  
1924 9th Ave. #305  
Oakland, CA 94606

**Tenant**

Gizachew D. Tessema  
1924 9th Ave. #203  
Oakland, CA 94606

**Tenant**

Gokce Sencan  
1924 9th Ave. #411

Oakland, CA 94606

**Tenant**

Jeremy L. Roland  
1924 9th Ave. #302  
Oakland, CA 94606

**Tenant**

Kamalraj Nalliah  
1924 9th Ave. #201  
Oakland, CA 94606

**Tenant**

Karim Chibane  
1924 9th Ave. #207  
Oakland, CA 94606

**Tenant**

Katalina Balawanilotu  
1924 9th Ave. #208  
Oakland, CA 94606

**Tenant**

Kisha R. Walton  
1924 9th Ave. #206  
Oakland, CA 94606

**Tenant**

Lai Wa Wu  
1924 9th Ave. #407  
Oakland, CA 94606

**Tenant**

Ralph Glenn  
1924 9th Ave. #408  
Oakland, CA 94606

**Tenant**

Salvador C. Nunez  
1924 9th Ave. #303  
Oakland, CA 94606

**Tenant**

Sophia Steward  
1924 9th Ave. #309  
Oakland, CA 94606

**Tenant**

Sureshkumar Sivaloganathan  
1924 9th Ave. #106  
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 **April 26, 2021** in Oakland, CA.



Teresa Brown-Morris

Oakland Rent Adjustment Program

000538

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

<b>Appellant's Name</b> Lake 1925 LP		<input checked="" type="checkbox"/> <b>Owner</b> <input type="checkbox"/> <b>Tenant</b>	
<b>Property Address (Include Unit Number)</b> 1924 9th Avenue, Oakland CA 94606			
<b>Appellant's Mailing Address (For receipt of notices)</b> Happy Home Partners / Attn. George Shafazand 29 Orinda Way, #588, Orinda, CA 94563		<b>Case Number</b> L19-0163 (Lake 1925 LP v. Tenants)	
		<b>Date of Decision appealed</b> 4/23/2021 (proof of service 4/26/2021)	
<b>Name of Representative (if any)</b> Kimberly Roehn		<b>Representative's Mailing Address (For notices)</b> Roehn Law Offices LLP 1990 N. California Blvd., Ste 800 Walnut Creek, CA 94596	

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

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

For more information phone (510) 238-3721.

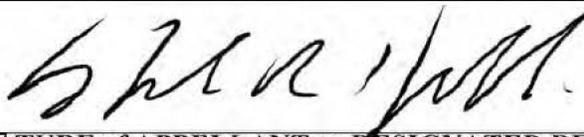
- f)  **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may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

**Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.** Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 4 (not including proof of service list)

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

I declare under penalty of perjury under the laws of the State of California that on May 7, 2021, 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><u>Name</u></b>	City of Oakland Rent Adjustment Program
<b><u>Address</u></b>	250 Frank Ogawa Plaza, Suite 5313
<b><u>City, State Zip</u></b>	Oakland, CA 94612      **Also delivered via email to: <a href="mailto:hearingsunit@oaklandca.gov">hearingsunit@oaklandca.gov</a>
<b><u>Name</u></b>	All Tenants - see attached list.
<b><u>Address</u></b>	
<b><u>City, State Zip</u></b>	

	5/7/2021
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 the information required, or your appeal cannot be processed and may be dismissed.
- 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 jurisdiction issues, 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.**

Service List: 22 tenants

Devin M.B. Schaefferkoetter 1924 9 <sup>th</sup> Ave, # 101 Oakland, CA 94606	John M. Wanjiru 1924 9 <sup>th</sup> Ave, # 102 Oakland, CA 94606	Adam Yohannes 1924 9 <sup>th</sup> Ave, # 103 Oakland, CA 94606
Nichol Mahania 1924 9 <sup>th</sup> Ave, #104 Oakland, CA 94606	Antonio Castellanos-Herrera 1924 9 <sup>th</sup> Ave, #105 Oakland, CA 94606	Valerie M. Mai 1924 9 <sup>th</sup> Ave, #204 Oakland, CA 94606
Kisha R. Walton 1924 9 <sup>th</sup> Ave, #206 Oakland, CA 94606	Karim Chibane 1924 9 <sup>th</sup> Ave, #207 Oakland, CA 94606	Katalina Balawanilotu 1924 9 <sup>th</sup> Ave, #208 Oakland, CA 94606
Alexander A. Endrenyi 1924 9 <sup>th</sup> Ave, #301 Oakland, CA 94606	Jeremy L. Roland 1924 9 <sup>th</sup> Ave, #302 Oakland, CA 94606	Salvador C. Nuñez 1924 9 <sup>th</sup> Ave, #303 Oakland, CA 94606
Francisco Perez 1924 9 <sup>th</sup> Ave, #304 Oakland, CA 94606	Eva C. Nuñez 1924 9 <sup>th</sup> Ave, #305 Oakland, CA 94606	Daniel A. Fieldman 1924 9 <sup>th</sup> Ave, #306 Oakland, CA 94606
Angela Emerson 1924 9 <sup>th</sup> Ave, #307 Oakland, CA 94606	Sophia Stewart 1924 9 <sup>th</sup> Ave, #309 Oakland, CA 94606	Jessie Chen 1924 9 <sup>th</sup> Ave, #311 Oakland, CA 94606
Ralph Glenn 1924 9 <sup>th</sup> Ave, #408 Oakland, CA 94606	Corliss Ard 1924 9 <sup>th</sup> Ave, #409 Oakland, CA 94606	Valerie B. Chua 1924 9 <sup>th</sup> Ave, #410 Oakland, CA 94606
Gokce Sencan 1924 9 <sup>th</sup> Ave, #411 Oakland, CA 94606		

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## **ATTACHMENT - OWNER APPEAL**

Owner/Appellant (1925 Lake LP, hereinafter “the owner”) files the following Appeal to portions of the underlying Hearing Decision dated April 23, 2021, wherein the owner’s Petition for Capital Improvement Pass-Through was granted in part.

Insofar as specific expenses were denied, the owner respectfully requests that the Appeal Board reverse the Hearing Decision and uphold the remainder of the decision.

### **I. PROCEDURAL FACTS**

The owner of 1924 9<sup>th</sup> Avenue filed the relevant Petition for Capital Improvement Pass-Through on June 18, 2019. The improvements at issue included work at the Courtyard/Foundations, Stairs, Balconies, Parking Lot, and Roof. Several tenants filed responses.

The hearing took place on February 22, 2021.<sup>1</sup> Several tenants appeared and lodged objections; each party was given the opportunity to present his or her facts and arguments in full.

On April 23, 2021, the Hearing Officer issued a detailed written decision granting the owner’s petition in part. In summary, the Hearing Officer found that all categories of work were allowable over the tenants’ objections. There was no dispute that all work was completed and final payment was issued within 24 months of the petition filing date.

However, the Hearing Officer determined certain progress payments to contractors were ineligible for pass-through on the grounds that they were made more than 24 months before the petition date (before June 18, 2017). Specifically:

1. \$6,300 payment to Coffman Engineers dated 5/11/2017 (Courtyard/foundations)
2. \$976.50 payment to Coffman Engineers dated 5/11/2017 (Balconies)
3. \$13,850 payment to California Roof Technicians dated 5/23/2017 (Roof)

All other contractor payments included in the petition were deemed allowable.

The owner appeals the exclusion of the above excluded expenses.

### **II. STANDARD OF APPEAL**

Owner appeals the above-discussed limited portions of the hearing decision under OMC § 8.22.120(B)(1-2, 4):

1. The decision is inconsistent with OMC Chapter 8.22, the Regulations, or prior decisions of the Board;
2. The decision is inconsistent with decisions issued by other Hearing Officers; and
4. The decision violates federal, state, or local law.

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<sup>1</sup> The hearing had been continued several times for various reasons, including the global pandemic.

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Because the basis of appeal is legal error (ie. that the Hearing Officer misinterpreted and/or misapplied a law or precedent), the applicable standard of review is *de novo*. (*People v. Cromer* (2001) 24 Cal.4th 889; *Pineda v. Williams-Sonoma Stores, Inc.* (2011) 51 Cal.4th 524.) The Appeal Board therefore does not defer to the Hearing Officer's judgment, and instead reviews the issues independently.

Further, the parties are bound by the factual record and may not present new evidence on appeal. (*Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 738; *Foreman*, 3 Cal. 3d at 881; see also *Rent Adjustment Program's Landlord's Guide to Rent Adjustment* which states parties "are responsible for making sure that a sufficient record (not new evidence) is before the Board to support [their] position.")

### **III. DISCUSSION**

This case involves extensive capital improvement work which required 225 pages of supporting evidence just to document the applicable contracts, invoices, proofs of payment, and city permitting.

There is no dispute regarding any piece of evidence, date of payment or completion, nor any factual determination by the Hearing Officer.

**The sole issue in this appeal is whether the hearing officer erroneously excluded the following three (3) charges totaling \$21,126.50, by misapplying the law:**

1. \$6,300 payment to Coffman Engineers dated 5/11/2017 (Courtyard/foundations)
2. \$976.50 payment to Coffman Engineers dated 5/11/2017 (Balconies)
3. \$13,850 payment to California Roof Technicians dated 5/23/2017 (Roof)

**The hearing officer made no finding that there was any unreasonable delay in completing any of the work at issue.**

- a. **The decision is inconsistent with OMC Chapter 8.22, the Regulations, and prior decisions of the Board.**

Per Oakland Regulations, capital improvement petitions must be filed within 24 months of an improvement being "completed and paid for." (See Regulations Appendix A § 10.2.1). The clock starts "running" on the 24 months when the project achieves a status of "completed and paid for" **in full.**

Only these two dates (completion and final payment) are requested on the Rent Adjustment Program's ("RAP") form petition.

**It is improper to analyze each individual progress payment against the 24-month time frame,** as doing so would create a new statute of limitations for each payment. This is not only contrary to the law, but also makes little practical sense. An owner is not even able to begin contemplating filing a petition until the project is fully paid for and complete, and large projects may span a

*CITY OF OAKLAND RENT ADJUSTMENT PROGRAM - APPEAL*

*Case: L19-0163 (Lake 1925 LP v. Tenants)*

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substantial period. Thus, to start the clock on the initial payment for a project would result in unintendedly absurd results.

For example, imagine a large earthquake retrofit project spans 2+ years due to necessary permitting, engineering, extensive inspections, etc. and costs \$300,000. There is no unreasonable delay. The project is completed and owner submits a final payment of \$100 on 5/1/2021, and, as allowed, files a Capital Improvement Petition on 4/30/2023. Under the Hearing Officer's analysis, only \$100 of the \$300,000 would be an allowable cost.

Furthermore, there is also absolutely no requirement in the code that an improvement project must have started, finished, and have a petition filed within a 24-month period. Such a rule would render the dates of final payment/completion irrelevant and would entirely change the RAP's current method of analysis in these cases.

Indeed, while the Hearing Officer provides extensive citations to regulations throughout the decision, **she provides no supporting citation or law for this application of the statute of limitations.** (See Hearing Decision page 13, lines 1-3 and 8<sup>th</sup> full paragraph; page 16, paragraph 5; page 17, paragraph 5.)

Finally, the owner intends to cite what appears to be applicable precedent by this Appeal Board; however, upon requesting the full case decisions from the Rent Adjustment Program, the owner was informed the hearing decisions are in storage and obtaining them could take several weeks--far exceeding the 15-day allowance to file this appeal. Therefore, owner reserves its right to amend and/or supplement its argument upon receipt of the applicable full case decisions.

**b. The decision is inconsistent with decisions issued by other Hearing Officers.**

This is the first case the owner's representative has seen a hearing officer attempt to apply a statute of limitations to progress payments. For example, cases L18-0086, L19-0012, and many others involved progress payments that were made more than 24 months before the petition filing, but the expenses were approved. (See L18-0086: petition filed 4/23/2018; approved progress payments beginning 4/7/2016 L19-0012 petition filed 10/12/2018, several approved progress payments beginning 8/2/2016.)

**c. The decision violates federal, state, or local law.**

For the reasons stated above in III(a), the decision in this case violates Regulations Appendix A §10.2.1.

Furthermore, "it is settled that a plaintiff's cause of action accrues for purposes of the statute of limitations upon the occurrence of the *last* element essential to the cause of action; that is when the plaintiff is first entitled to sue. (Code Civ. Proc., § 312; *Spear v. California State Auto. Assn.* (1992) 2 Cal.4th 1035, 1040." (*Buttram v. Owens-Corning Fiberglas Corp.*, 16 Cal. 4th 520, FN 4.)

Therefore, applying a statute of limitations to incremental elements of a project rather than when the project achieves completion and is paid in full is contrary to state law.

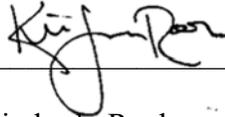
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**IV. CONCLUSION**

The Hearing Officer in this case misapplied the legal standards and, as a result, incorrectly excluded various expenses in the hearing decision. Therefore, the owner respectfully requests the decision to exclude these three expenses totaling \$21,126.50 be reversed, and that the remainder of the decision be upheld.

Dated: May 7, 2021

Respectfully submitted,



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Kimberly Roehn

Attorney for Owner/Appellant: Lake 1925 LP

## CHRONOLOGICAL CASE REPORT

Case No.: T19-0424

Case Name: Thornton v. Joyce

Property Address: 2809 8<sup>th</sup> Avenue Oakland, CA

Parties: Mike Joyce (Owner)  
Eddy Hughley (Owner Representative)  
Ronald Thornton (Tenant)  
Hadley Rood (Tenant Representative)  
Sabyl Landrum (Tenant Representative)

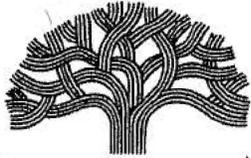
### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	September 11, 2019
No Owner Response filed	-----
Hearing Decision Mailed	July 17, 2020
Owner Appeal filed	July 31, 2020

T19-0424 Re/MA

RECEIVED  
CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM  
For date stamp.

2019 SEP 11 PM 1:57



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Ste. 5313  
Oakland, CA 94612-0243  
(510) 238-3721

**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 <i>RONALD THORNTON</i>	Rental Address (with zip code) <i>2809 8th St OAKLAND, CA</i>	Telephone: [REDACTED]
Your Representative's Name	Mailing Address (with zip code)	Email:
Property Owner(s) name(s) <i>MIKE JOYCE</i>	Mailing Address (with zip code) <i>3480 38th St OAKLAND, CA, 94619</i>	Telephone: [REDACTED] Email: [REDACTED]
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: [REDACTED] Email:

Number of units on the property: 11

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 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 type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) 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 type="checkbox"/>	(f) The rent increase notice(s) was (were) not given to me in compliance with State law.
<input type="checkbox"/>	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
<input type="checkbox"/>	(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)
<input checked="" type="checkbox"/>	(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)
<input type="checkbox"/>	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
<input type="checkbox"/>	(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).
<input type="checkbox"/>	(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)
<input type="checkbox"/>	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(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: June 8, 1993 Initial Rent: \$ 500 /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: NOT SURE. 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		
08/20/2019	09/20/2019	\$ 777.82	\$ 855.60	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
* 08/20/2019	10/1/2019	\$ 109	\$ 150	<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

\* Garage increase

\* 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:

19-0019, 14-0160, 7870358

**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

*Not a Disturbance*

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.

*Rodolfo*  
Tenant's Signature

9-11-19  
Date

\_\_\_\_\_

\_\_\_\_\_

Attachment to Tenant Position for Ron Thornton, 2809 8<sup>th</sup> St., #4

Housing services for my apartment have included a garage space. I have been making one payment which includes parking, and the prior two rent increases were based on a base rent which included parking. My landlord is now trying to separate out the parking payment and increase the cost of parking by more than is allowable based on the CPI. I disagree with his doing this. I also disagree with the amount he lists as the base rent for 2008.

000551

RC/MA

1950 University Ave., Suite 200, Berkeley, CA 94704  
(510) 548-4040 FAX (510) 849-1536  
www.ebclc.org

**East Bay Community Law Center**

**RECEIVED**

JAN 28 2020

**RENT ADJUSTMENT PROGRAM OAKLAND**

**Fax**

**To:** Oakland Rent Adjustment Program  
Hearing Officer **From:** Penn Scoble (x648)

---

**Fax:** (510)-238-6181 **Pages:** 19

---

**Phone:** 510-238-3721 **Date:** 1/28/2020

---

**Re:** Evidence for R. Thornton RAP **CC:**  
Hearing T19-0378

Urgent  For Review  Please Comment  Please Reply  Please Recycle

• **Comments:**

Dear RAP Representative,

Our office is representing Mr. Thornton in a hearing to take place next Wednesday, 2/5/2020. I am attaching copies of a brief detailing our position on Mr. Thornton's landlord's rent increase that violates Oakland Rent Adjustment Program regulations. Also attached are all 5 exhibits mentioned in the brief, labeled as "Exhibit" A through E. If you have any questions or concerns, feel free to call me at 510-548-4040 (ext 648) or email me at pscoble@ebclc.org. We will be sure to bring physical copies of the brief and exhibits to the mediation and hearing, as well.

Sincerely,



Penn Scoble  
Law Student Intern

PLEASE NOTE This facsimile transmission contains confidential information belonging to the sender who is protected by the attorney-client privilege and/or federal and state law. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone to arrange for the return of the documents.

000552



RD/MA  
**RECEIVED**

JAN 28 2020

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

January 28th, 2019

Oakland Rent Adjustment Program  
350 Frank Ogawa Plaza, Suite 5313

**Re: Tenant Petition Contesting Rent Increase; T19-0378**

Dear Hearing Officer,

Mr. Ronald Thornton filed a petition contesting a rent increase for his tenancy in unit 4 of 2809 8<sup>th</sup> Avenue, Oakland, CA 94610. Mr. Thornton believes this rent increase is invalid because it exceeds the ten percent maximum increase permissible under O.M.C. 8.22.070. By separating a parking fee out from the core rental payment and increasing that fee by more than ten percent, Benecia Lake, LLC's rent increase seeks to circumvent rent control protections.

Though CPI and Banking Rent Adjustments are not typically subject to petition, a tenant may petition such an increase when alleging that the Banking Rent increase is not correctly calculated. O.M.C. 8.22.070B.2.c. The below memorandum will detail why Mr. Thornton believes the rent increase in question has been incorrectly calculated and is thus in violation of the Oakland Municipal Code.

#### **I. STATEMENT OF RELEVANT FACTS**

Mr. Thornton inhabits a residential unit managed by Benecia Lake, LLC located at 2809 8<sup>th</sup> Avenue, Oakland, CA 94610. This unit has been his home since 1993. Prior to the rent increase in question, Mr. Thornton paid \$886.82 per month for rent. (See 12/13/2019 statement from Benecia Lake LLC., a true and correct copy of which is attached hereto as **Exhibit A**). The rent increase in question, which took effect October 1<sup>st</sup>, 2019, increased this amount to \$1005.50, with the total rent divided into a core rental payment of \$855.60 and an additional \$150 per month for the right to park an automobile on the premises. (See 8/20/2019 30 Day Notice of Change of Money Rent and Parking Agreement, true and correct copies of which are attached hereto as **Exhibit B**). Though



he disagrees with the calculations behind this rent increase, Mr. Thornton has continued to pay his rent in full.

Since he began using the garage on the premises in September of 2003, Mr. Thornton has paid a single payment that includes consideration for his use of a parking space on the premises. In order to confirm that this was the arrangement, a representative of Mr. Thornton's sent a letter on February 5<sup>th</sup>, 2008 explaining that per the Rent Adjustment Program Regulations and regardless of whether there were separate leases for the apartment and the parking space, any consideration given in exchange for "parking" was to be considered part of the base rent for any CPI and banking calculations. (See 2/5/2008 letter from Justin Hoogs, a true and correct copy of which is attached hereto as **Exhibit C**). The response, a 2008 letter from Landmark Real Estate Management -the management company that preceded Benecia Lake LLC- described a rent increase that would take effect February 1<sup>st</sup>, 2009. The notice stated "your rent will be increased . . . by \$29.00 to \$839.00" and noted that this was Mr. Thornton's "total rent" and "[included his] parking." (See 12/30/2008 letter from Holda Novelo, a true and correct copy of which is attached hereto as **Exhibit D**). As such, at that point in time the base rent changed from \$810 to \$839, with both totals including consideration for parking.

The next rent increase took effect June 1<sup>st</sup>, 2015, when the prior base rent of \$839, which included parking charges, was increased 5.7% to \$886.82. (See 4/29/2015 Notice in Changes in Terms of Tenancy and attached Calculation of Deferred CPI Increases, true and correct copies of which are attached hereto as **Exhibit E**). Though the base rent at that time was \$886.82, Mr. Thornton initially paid a higher amount as a result of an additional \$146.28 in prior capital improvements recovery costs, and a temporary surcharge of \$48.76 to make up for payments missed while a hearing on the matter was being conducted. As a result, Mr. Thornton paid a total of \$1081.86 for several months leading up to October 1<sup>st</sup>, 2015, and \$1033.10 thereafter. (See **Exhibit E**). The amortization period for those improvements ended June 1<sup>st</sup>, 2019, resulting in a return to the base rent of \$886.82. (See **Exhibit A**). The June 1<sup>st</sup>, 2015 rent adjustment was the most recent increase prior to the rent increase in question here.

## II. ARGUMENT

### **A. Parking should be included as Part of the Base Rent Because Mr.**

### **Thornton's Landlord Included it as Part of the Base Rent in Each of the Last Two Rent Increases**

In calculating the last two rent increases, the landlord in charge of Mr. Thornton's apartment building factored parking into the base rent. Mr. Thornton's landlord cannot unilaterally change the terms of the tenancy by removing parking services from the base rent. Removing parking services from the base rent as part of the rent increase in question would circumvent rent control protections that protect Mr. Thornton and other vulnerable tenants.

### **B. A Parking Fee is Considered Part of the Total Rent**

O.M.C. 8.22.020 defines rent as "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. The term "housing services" refers to "all services provided by the owner related to the use or occupancy of a covered unit, including . . . parking." O.M.C. 8.22.020. Therefore, any fee charged in exchange for the right to park at the unit is considered rent, and any adjustment to such a fee is a rent adjustment. Mr. Thornton's right to park on the premises is a housing service he receives, and the money he pays in exchange for that right is considered part of his rent. Mr. Thornton has always understood his total rent to be a single payment that covers both his right to inhabit the unit, and all housing services associated with his use of the unit. Benecia Lake LLC's choice to list the parking fee as something distinct from "rent" does not change the fact that any money paid for parking is still rent, as Mr. Thornton has understood to be the case since he began using the garage in 2003.

### **C. The Rent Increase in Question is Invalid Under O.M.C. 8.22.070A.2 Since it Results in a Rent Increase of More Than Ten Percent.**

The Residential Rent Adjustment Program limits the magnitude and frequency of rent increases a property owner can make, using the Consumer Price Index (CPI) as a guideline for yearly rent increases. It is true that landlords are permitted to bank CPI rent



adjustments for use in later years. O.M.C. 8.22.070B.5. Since the last rent increase occurred in 2015, Benecia Lake LLC has banked rent increases available to use. However, O.M.C. 8.22.070A.2 states that rent for any covered unit may not "increase by more than ten percent in any 12-month period for any and all rent increases based on the CPI Rent Adjustment." O.M.C. 8.22.070A.2.

The rent increase in question seeks to charge \$855.60 for rent and \$150 for a separate parking fee, for a total of \$1005.60. This would mean a total increase in rent of \$118.78. Per O.M.C. 8.22.070A.2, the maximum rent increase here should be \$88.68. This would be a 10% increase from the previous rental amount of \$886.28 and would raise the total rent to \$975.50. Since the rent increase in question exceeds this amount, it is not legal and should be invalidated. Permitting landlords to adjust additional fees for housing services like parking as they see fit would undermine the purpose of rent ceilings. In effect, landlords would be able to circumvent the regulations set out in the O.M.C. by breaking rent charges into numerous smaller fees and increasing those charges at a faster rate than allowed under Oakland rental law.

### III. CONCLUSION

The rent increase in question here violates Oakland Municipal Code and thus should not be allowed. Mr. Thornton requests that this rent increase proposal be invalidated and that the Rent Board affirmatively rule that any payment for parking is part of the base rent for any future rent increase calculations. Mr. Thornton also requests a credit towards future rent for any month(s) in which he paid the rent increase.

Sincerely,

Penn Scoble  
Law Student Intern  
Supervised by Liam Galbreth, Staff Attorney

# EXHIBIT A.

# Statement

Bencicia Lake LLC  
 3480 38th Street  
 Oakland, CA 94619-1333

Date
12/13/2019

To:
Ronald Thornton 2809 8th Ave. Oakland, CA 94610

		Amount Due	Amount Enc.		
		\$42.80			
Date	Transaction	Amount	Balance		
12/31/2018	Balance forward		311.00		
	4-Ronald Thornton-				
01/01/2019	INV #219.	924.10	1,235.10		
01/01/2019	INV #2211.	109.00	1,344.10		
01/06/2019	PMT #7947. Dec18-rent, ck date 12/18/18, fr APEB	-311.00	1,033.10		
01/06/2019	PMT #3684. Jan19-rent, ck date 12/18/18	-722.10	311.00		
02/01/2019	INV #260.	924.10	1,235.10		
02/01/2019	PMT #3690.	-722.10	513.00		
02/01/2019	INV #22124.	109.00	622.00		
02/02/2019	PMT #8010. Jan19-rent, ck date 1/2/19 fr APEB	-311.00	311.00		
02/02/2019	PMT #8110. FEB19 rent, ck date 1/23/19	-311.00	0.00		
03/01/2019	INV #327.	924.10	924.10		
03/01/2019	INV #3271.	109.00	1,033.10		
03/08/2019	PMT #3694.	-722.10	311.00		
03/08/2019	PMT #8188.	-311.00	0.00		
04/01/2019	INV #317935.	924.10	924.10		
04/01/2019	PMT #8319.	-311.00	613.10		
04/01/2019	INV #317940.	109.00	722.10		
04/17/2019	PMT #3702.	-722.10	0.00		
05/01/2019	INV #317972.	924.10	924.10		
05/01/2019	INV #318982.	109.00	1,033.10		
05/03/2019	PMT #3706.	-722.10	311.00		
06/01/2019	INV #318015.	797.82	1,108.82		
06/01/2019	PMT #8340.	-311.00	797.82		
06/01/2019	INV #319019.	109.00	906.82		
06/04/2019	PMT #3716.	-575.82	331.00		
06/05/2019	PMT #8876.	-311.00	20.00		
06/10/2019	GENJRNL #GJ 371. Bounced Check# 8340	311.00	331.00		
06/10/2019	GENJRNL #GJ 373. Bounced Check# 8876	311.00	642.00		
07/01/2019	INV #318053.	777.82	1,419.82		
07/01/2019	INV #319069.	109.00	1,528.82		
07/02/2019	PMT #3721.	-575.82	953.00		
07/08/2019	PMT #8466.	-311.00	642.00		
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
0.00	42.80	0.00	0.00	0.00	\$42.80

Benecia Lake LLC  
 3480 38th Street  
 Oakland, CA 94619-1333

# Statement

Date
12/13/2019

To:
Ronald Thornton 2809 8th Ave. Oakland, CA 94610

		Amount Due	Amount Enc.		
		42.80			
Date	Transaction	Amount	Balance		
07/12/2019	PMT #3722.	-196.92	445.08		
07/22/2019	PMT #8481.	-642.00	-196.92		
08/01/2019	INV #318126.	777.82	580.90		
08/01/2019	INV #318236.	109.00	689.90		
08/02/2019	PMT #3726.	-722.10	-32.20		
08/07/2019	PMT #8583.	-311.00	-343.20		
09/01/2019	INV #318134.	777.82	434.62		
09/01/2019	INV #318252.	109.00	543.62		
09/03/2019	PMT #3732.	-575.82	-32.20		
09/27/2019	PMT #8595.	-311.00	-343.20		
10/01/2019	INV #318285.	855.60	512.40		
10/01/2019	INV #318286.	150.00	662.40		
10/02/2019	PMT #3737.	-694.60	-32.20		
10/11/2019	PMT #8709.	-311.00	-343.20		
11/01/2019	INV #318299.	855.60	512.40		
11/05/2019	INV #318329.	150.00	662.40		
11/05/2019	PMT #3741.	-694.60	-32.20		
12/01/2019	INV #318381.	150.00	117.80		
12/04/2019	PMT #3746.	-694.60	-576.80		
12/06/2019	INV #318380.	930.60	353.80		
12/09/2019	PMT #8879.	-311.00	42.80		
<b>CURRENT</b>	<b>1-30 DAYS PAST DUE</b>	<b>31-60 DAYS PAST DUE</b>	<b>61-90 DAYS PAST DUE</b>	<b>OVER 90 DAYS PAST DUE</b>	<b>Amount Due</b>
0.00	42.80	0.00	0.00	0.00	42.80

# EXHIBIT B

# 30 Day Notice of Change of Monthly Rent

To Ronald Thornton (Resident) for the

(And all other occupants in possession)

premises located at: 2809 8th Ave.

(Address)

Unit 04, (if applicable) Oakland, California 94610

(City)

(Zip)

NOTICE IS HEREBY GIVEN, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or Sept 20, 2019, whichever is later, your monthly rent is payable in advance on or before the

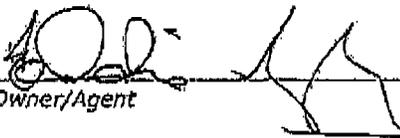
(Date)

first \_\_\_\_\_ day of each month, will be the sum of \$ 855.60, instead of \$ 777.80, the current monthly rent.

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

8/20/19

Date

  
Owner/Agent



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



000561

Parking Agreement

The Resident(s): RONALD THORNTON  
(And all other Occupants in possession)

of the Leased Premises: 2809 8<sup>th</sup> AVE  
(Address)

Unit 04, (if applicable) OAKLAND, California, 94610 ("Premises")  
(City) (Zip)

and Property Owner/Agent: BENEVA LAKE LLC agree as follows:

The number of parking space(s), carport(s) or garage space(s) provided to the Resident(s) is: ONE

Check one of the following:

These parking spaces are not assigned.

The following parking space(s), carport(s) or garage space(s) assigned to the Resident(s) is/are: \_\_\_\_\_

INSIDE BUILDING #1 (Insert number(s) or location(s)). Resident(s) shall only use assigned parking spaces and shall ensure guests park only in unassigned areas specifically designated guest parking if any. Resident(s) shall refrain from parking in unauthorized areas or in any other resident's designated parking space. Vehicles parked in unauthorized areas or in another Resident's space may be towed away at the vehicle owner's expense.

The term shall commence on OCT 1, 2019 and continue month to month. Either party may give written thirty (30) days in advance of any termination of this Agreement. Parking fees or other terms may be changed by Owner/Agent upon thirty (30) days notice unless a shorter period is required for reasons of health and safety.

Resident(s) agree to pay a monthly parking fee of \$ 150.00 for each space, carport or garage space provided. The fee for each parking space, carport or garage shall not be construed to be part of Premises or Property rent but shall be in addition to the monthly rent as required by the Rental Agreement and any Addendum or Amendment thereto.

Resident(s) is not required to pay for parking as a condition of their tenancy, and breach of this is not a breach of an apartment lease agreement with Owner/Agent, if one is present. Owner/Agent's providing parking to Resident(s) is not a housing service

Resident(s) agree to pay a security deposit of \$ \_\_\_\_\_ for each garage door transmitter or key, which shall be in addition to any other security deposit required by the Rental Agreement, Addendums or Amendments thereto. Each garage door transmitter or key used in connection with parking on the Premises, shall be returned to Owner/Agent on or before this Agreement or Rental Agreement is terminated.

Resident(s) shall not sublet or assign all or any part of the parking space(s), carport(s) or garage space(s) or assign this Agreement or any interest in it.

Storage of personal property in the space  is or  is not permitted and shall not interfere with parking use and not be in plain view of the public. Storage of personal property shall not include any hazardous materials, unlawful substance or materials.

Resident(s) agree to use the parking space(s), carport(s) or garage space(s) only for the following vehicle(s):

Vehicle #1 \_\_\_\_\_  
Vehicle Make, Model, Color, and Year Vehicle License (State and Number)

Vehicle #2 \_\_\_\_\_  
Vehicle Make, Model, Color, and Year Vehicle License (State and Number)

Vehicle #3 \_\_\_\_\_  
Vehicle Make, Model, Color, and Year Vehicle License (State and Number)



## Parking Agreement

Each vehicle must be currently registered and licensed.

Resident(s) agree to maintain the parking space(s), carport(s) or garage(s) in clean and sanitary condition at all times.

Resident(s) agree to immediately remove any vehicle that is unregistered, unlicensed, unsightly or in non-working condition from the Property. A vehicle that lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, is subject to tow under California Vehicle Code 22658. Vehicles parked in violation of local laws/ordinance are subject to tow.

Resident(s) agree that they will not repair or maintain any vehicle on the Property.

No vehicle may drip oil or gas.

No combustible materials are to be stored on the site. No mechanical or repair work is to be allowed on the premises. Resident(s) agrees not to create a nuisance or interfere with the quiet enjoyment of the other resident or any other persons authorized to be on the property.

Only one (1) vehicle may be parked in each space.

Resident(s) rents parking at own risk. Owner shall not be responsible for any damage to or theft of the automobile or contents thereof. Resident(s) personal property is not insured by Owner.

Resident(s) is responsible for any and all damage to the parking area caused by Resident(s) negligence.

If any legal action or proceeding is brought by either party to enforce any part of this Agreement, the prevailing party shall recover in addition to all other relief, reasonable attorney fees and costs.

Parking boats, trailers, motor homes, and or recreational vehicle is strictly prohibited. Only the vehicles identified above may be parked on the property.

Owner/Agent may provide notice of Resident(s) of an unsightly or non-working vehicle condition or any other violation of this Addendum or Agreement and Resident(s) shall remove vehicle(s) from Property within three (3) days of issuance of notice.

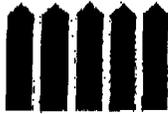
In the event of violation of the terms and conditions of this Agreement, Owner/Agent shall have the right to make demand for immediate possession of any space that is assigned or not assigned to Resident(s). In the event of loss of any space assigned or not assigned to Resident(s), Resident(s) agree there shall be no reduction or abatement of Rent. If Resident(s) return the space, whether assigned or unassigned upon demand by Owner/Agents, the Rental Agreement shall continue in effect, and Resident(s) shall immediately relinquish any parking privilege and use that was established and this Addendum shall be null and void upon termination of the rental agreement.

The undersigned Resident(s) acknowledge(s) having read, understood, and accepted the foregoing:

Date	Resident	Date	Resident
Date	Resident	Date	Resident
Date	Resident	Date	Resident
Date	Resident	Date	Resident
Date	Owner/Agent		



# EXHIBIT C



EAST BAY  
COMMUNITY  
LAW CENTER

2921 Adeline Street, Berkeley, CA  
94703

February 5, 2008

Ms. Holda Novelo  
Landmark Real Estate Management  
4379 Piedmont Avenue  
Oakland, California 94611

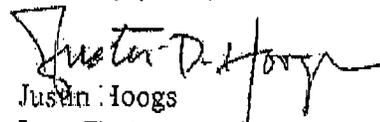
Dear Ms. Novelo:

This letter is to inform you that after consulting with our client, Mr. Ronald Thornton, we have advised and Mr. Thornton has decided to withdraw his Rent Adjustment Petition challenging the most recent rent increases taken on his apartment and parking space. Enclosed please find a check for \$90.00, the amount withheld pending resolution of the petition.

For purposes of clarity and in the spirit of preventing future petitions from being filed, per the Rent Adjustment Program Regulations, "rent" for purposes of adjustments is understood as the total consideration received by an owner in exchange for the use or occupancy of a covered unit *including all housing services provided* to the tenant. The Regulations include "parking" in its list of what is considered "housing services." See Rent Adjustment Program Regulations 8.22.020A. Regardless of the existence of separate leases for the apartment and the parking space, future increases for parking combined with future increases for the apartment must fall within the permissible CPI index and be based on the current combined amount of \$810.00/month. See Oak and Municipal Code 8.22.210.

Enclosed please find a copy of Mr. Thornton's Request to Dismiss Petition. Please note that California Civil Code Section 1942.5 and Oakland Municipal Code Section 8.22.130 prohibit retaliation against tenants for using the Rent Adjustment process. Thank you for your time.

Sincerely yours,

  
Justin Hoogs  
Law Clerk

(Enclosure)

cc: Mr. Ronald Thornton

000565

# EXHIBIT D

 LANDMARK REAL ESTATE MANAGEMENT

Telephone : 510-531-7784 • Fax: 510-531-7785  
E-mail: [landmarkrentmt@sbcglobal.net](mailto:landmarkrentmt@sbcglobal.net)

December 30, 2008

Ron Thornton  
2809- 8<sup>th</sup> Avenue #4  
Oakland, CA

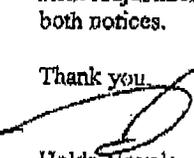
Dear Mr. Thornton:

While your apartment is governed by the Oakland Rent Adjustment Program, the owner is entitled to take yearly increases as set forth by the rent board. Any increases not taken may be "banked" or deferred by the owner to subsequent years up to a maximum of ten years. The maximum allowable increase in any one year is limited to 3 times the current index. This year's index is 3.2%. Attached is a schedule of allowable increases for your unit.

This letter, therefore, serves as notice that your rent will be increased effective February 1<sup>st</sup> by \$29.00 to ~~\$832.00~~. This is your total rent and includes any money paid on your behalf by others. It also includes your parking.

Printed on the back of this notice you will find the notice entitled, Notice to Tenants of Residential Rent Adjustment Program. Receipt of this increase serves as constructive notice and receipt of both notices.

Thank you.

  
Holda Novelo

1437 Leimert Blvd. #D - Oakland, CA 94602

000567

7

# EXHIBIT E

Sonora Group, LL  
P.O. Box 3627, Oakland, CA 94609

April 29, 2015

Sent via regular mail

**\*\*Notice of Changes In Terms of Tenancy\*\***

Ron Thornton  
2809 8<sup>th</sup> Avenue #4  
Oakland, CA 94610

Dear Ron,

As you may or may not know, we review rental files at least annually and it's unfortunately time to inform you of a rent increase. Effective 06/01/15, your new monthly rent will be \$1,033.10 which is an increase of \$47.82. This translates into a 5.7% increase which is a CPI increase for prior/current years, to the extent not previously implemented, as permitted by the Oakland Rent Board regulations. Attached, please find a worksheet calculator from the Oakland Rent Adjustment Program that calculates this CPI increase.

As I think you know, your rent is temporarily increased by \$48.76 through 9/30/15 pursuant to the Rent Adjustment Board Hearing Decision dated 9/16/14 to catch up on the 2014 capital pass through increase prior to the Hearing Decision. Accordingly your new adjusted rent from 6/1/15 - 9/30/15 will be \$1,001.06 (\$1,033.10 - \$40.76). Starting 10/1/15 your rent will go down to the new level of \$1,033.10.

There are no other changes to your rental agreement. As a reminder there is rent control in the City of Oakland and while it's been provided previously, we have attached another copy of the Rent Adjustment Program notice for your reference on the back side of this notice. As always, please let me know if you have any questions.

Regards,

  
Stephanie Wiley  
On behalf of Sonora Group, LLC  
415-408-5731 phone/fax, swiley@blkoak.com

Enclosures

**Proof of Service**

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served the foregoing Notice, of which this is a true copy, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in Oakland, California on the above-named Resident(s) in possession on the manner indicated below:

       By delivering the notice personally to the Resident or to someone of suitable age and discretion at the address of \_\_\_\_\_ on the date of \_\_\_\_\_ at \_\_\_\_\_ o'clock

X The change in the terms being solely for an increase in rent, I served a copy to tenant (in accordance with Civil Code Section 827(b)(1)(B)) by depositing the same in the United States mail, postage prepaid, addressed to tenant at his or her place of residence, on (date) \_\_\_\_\_.

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

\_\_\_\_\_  
Signature of Notice Server

\_\_\_\_\_  
Print Name of Server

Date: \_\_\_\_\_

000569

CITY OF OAKLAND



Department of Housing and Community Development  
Rent Adjustment Program

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

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

**CALCULATION OF DEFERRED CPI INCREASES (BANKING)**

Initial move-in date	8-Jun-1993	MUST FILL IN D9, D10, D11 and D14	Case No.:		CHANGE YELLOW CELLS ONLY
Effective date of increase	1-Jun-2015		Unit:	4	
Current rent (before increase and without prior cap. improve pass-through)	839				
Prior cap. imp. pass-through	\$ 146.28				
Date calculation begins	1-Jun-2004				
Base rent when calc. begins	\$710				

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

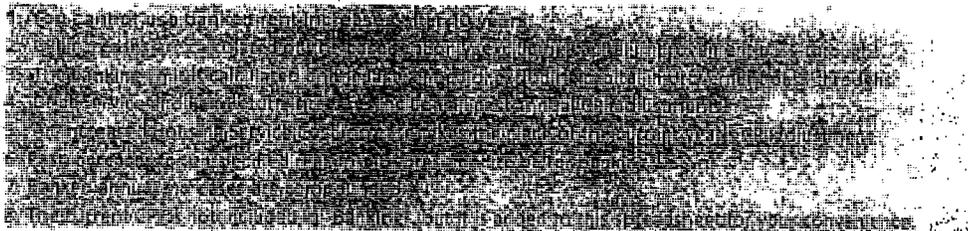
**ANNUAL INCREASES TABLE**

Year Ending	Debt Serv. or Fair Return Increase	Housing Serv. Costs increase	Base Rent Reduction	Annual %	CPI Increase	Rent Ceiling
6/1/2015				1.9%	\$ 17.35	\$ 930.36
6/1/2014				2.1%	\$ 18.78	\$ 913.01
6/1/2013				3.0%	\$ 26.05	\$ 894.23
6/1/2012				2.0%	\$ 17.02	\$ 868.19
6/1/2011				2.7%	\$ 22.38	\$ 851.16
6/1/2010				0.7%	\$ 5.76	\$ 828.79
6/1/2009				3.2%	\$ 25.52	\$ 823.03
6/1/2008				3.3%	\$ 25.48	\$ 797.51
6/1/2007				3.3%	\$ 24.66	\$ 772.03
6/1/2006				3.3%	\$ 23.88	\$ 747.37
6/1/2005				1.9%	\$ 13.49	\$ 723.49
6/1/2004						\$710

**Calculation of Limit on Increase**

Prior base rent	\$839.00
Banking limit this year (3 x current CPI and not more than 10%)	5.7%
Banking available this year	\$ 47.82
Banking this year + base rent	\$ 886.82
Prior capital improvements recovery	\$ 146.28
Rent ceiling w/o other new increases	\$ 1,033.10

Notes:



Revised April 23, 2015

# Statement

Prepared By: BlackOak Management  
 P. O. Box 3627  
 Oakland, CA 94609

Statement Period	Statement Date
6/18/1993 - 10/3/2015	10/28/2015

Page 1

Ron Thornton  
 2809 8th Avenue - 4  
 Oakland, CA 94610

Previous Balance	Balance Due
\$0.00	(\$226.00)

Account number 00160688  
 2809 - 4

Date	Memo	Increase	Decrease	Balance
6/18/1993	Security deposit	\$1,050.00		\$1,050.00
7/3/2013	Payment		\$1,050.00	\$0.00
8/1/2013	Charge	\$839.00		\$839.00
8/5/2013	August Rent (Check #3301)		\$614.00	\$225.00
8/5/2013	August Rent from Yvette A Flunder Foundation (Check #0099479048)		\$225.00	\$0.00
9/1/2013	Rent	\$839.00		\$839.00
9/4/2013	Payment (Check #3312)		\$614.00	\$225.00
9/7/2013	Late Fee	\$35.00		\$260.00
9/9/2013	September Rent from Yvette A Flunder Foundation (Check #0011063847)		\$225.00	\$35.00
9/9/2013	Credit to waive 1 late fees per mail delivery issue		\$35.00	\$0.00
10/1/2013	Rent	\$839.00		\$839.00
10/1/2013	Payment (Check #3320)		\$614.00	\$225.00
10/4/2013	Payment (Check #3323)		\$225.00	\$0.00
10/9/2013	October Rent Yvette A FLunder Foundation Inc, Dated 10/7/13 (Check #5604)		\$225.00	(\$225.00)
10/24/2013	Payment (Check #3330)		\$614.00	(\$839.00)
11/1/2013	Rent	\$839.00		\$0.00
11/4/2013	Payment (Check #0044661157)		\$225.00	(\$225.00)
12/1/2013	Rent	\$839.00		\$614.00
12/2/2013	Payment (Check #3338)		\$614.00	\$0.00
12/12/2013	December Rent from Yvette A Flunder Foundation Inc. (Check #0058930268)		\$225.00	(\$225.00)
1/1/2014	Rent	\$730.00		\$505.00
1/1/2014		\$109.00		\$614.00
1/3/2014	January 2014 Rent (Check #3346)		\$614.00	\$0.00
2/1/2014	Rent	\$730.00		\$730.00

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# Statement

Prepared By: BlackOak Management  
 P. O. Box 3627  
 Oakland, CA 94609

Statement Period	Statement Date
6/18/1993 - 10/3/2015	10/28/2015

Page 2

Date	Memo	Increase	Decrease	Balance
2/1/2014		\$109.00		\$839.00
2/4/2014	February Rent (Check #3354)		\$614.00	\$225.00
2/4/2014	February 2014 Rent from Yvette A. Flunder Foundation Inc (Check #0073950227)		\$259.00	(\$34.00)
2/21/2014	Oakland RAP Fee	\$15.00		(\$19.00)
3/1/2014	Rent	\$730.00		\$711.00
3/1/2014		\$109.00		\$820.00
3/4/2014	March 2014 Rent (Check #7339)		\$614.00	\$206.00
3/4/2014	RAP Fee (Check #3363)		\$15.00	\$191.00
3/11/2014	March 2014 Yvette A Flunder Foundation Inc Payment (Check #0087236983)		\$236.00	(\$45.00)
3/11/2014	March 2014 Yvette A Flunder Foundation Inc Payment (Check #0088190122)		\$236.00	(\$281.00)
4/1/2014	Rent	\$730.00		\$449.00
4/1/2014		\$109.00		\$558.00
4/1/2014	April 2014 Rent (Check #3369)		\$614.00	(\$56.00)
4/7/2014	April 2014 Yvette A Flunder Foundation Inc Payment (Check #0096639205)		\$236.00	(\$292.00)
5/1/2014	Rent	\$730.00		\$438.00
5/1/2014	Parking Income	\$109.00		\$547.00
5/5/2014	May 2014 Yvette A Flunder Foundation Inc Payment (Check #0005299709)		\$236.00	\$311.00
5/23/2014	May 2014 Rent (Check #3387)		\$558.00	(\$247.00)
6/1/2014	Rent	\$730.00		\$483.00
6/1/2014	Parking Income	\$109.00		\$592.00
6/1/2014	June 2014 Rent (Check #3389)		\$614.00	(\$22.00)
6/5/2014	Yvette A Flunder Foundation Inc June 2014 Payment (Check #0015471140)		\$236.00	(\$258.00)
7/1/2014	Rent	\$730.00		\$472.00
7/1/2014	Parking Income	\$109.00		\$581.00
7/3/2014	July 2014 Rent (Check #3395)		\$614.00	(\$33.00)
7/7/2014	Yvette A Flunder Foundation Inc July Payment (Check #0023510049)		\$236.00	(\$269.00)
8/1/2014	Rent	\$730.00		\$461.00
8/1/2014	Parking Income	\$109.00		\$570.00
8/4/2014	August Rent (Check #3404)		\$493.00	\$77.00

**000572**

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# Statement

Prepared By: BlackOak Management  
 P. O. Box 3627  
 Oakland, CA 94609

Statement Period	Statement Date
6/18/1993 - 10/3/2015	10/28/2015

Page 3

Date	Memo	Increase	Decrease	Balance
8/4/2014	August 2014 Yvette A Flunder Foundation Inc Payment (Check #5907)		\$313.00	(\$236.00)
9/1/2014	Rent	\$730.00		\$494.00
9/1/2014	Parking Income	\$109.00		\$603.00
9/1/2014	September 2014 Rent (Check #3414)		\$603.00	\$0.00
9/9/2014	September 2014 Rent (Check #0053094378)		\$236.00	(\$236.00)
10/1/2014	Parking Income	\$109.00		(\$127.00)
10/1/2014	Rent	\$876.28		\$749.28
10/1/2014	Past Rent Owed. (Check #3423)		\$585.12	\$164.16
10/1/2014	October 2014 Rent + Parking (Check #3424)		\$749.28	(\$585.12)
10/1/2014	Charge for 48.76 6/14-09/14 rent difference	\$585.12		\$0.00
10/6/2014	Yvette A Flunder Foundation Inc October 2014 Payment (Check #0062123344)		\$236.00	(\$236.00)
11/1/2014	Rent	\$876.28		\$640.28
11/1/2014	Parking Income	\$109.00		\$749.28
11/1/2014	November 2014 Rent (Check #3428)		\$749.28	\$0.00
11/1/2014	November 2014 Rent (Check #0070909776)		\$236.00	(\$236.00)
12/1/2014	Rent	\$876.28		\$640.28
12/1/2014	Parking Income	\$109.00		\$749.28
12/1/2014	December 2014 Rent (Check #3431)		\$749.28	\$0.00
12/1/2014	Yvette A Flunder Foundation Inc Payment (Check #0080479604)		\$236.00	(\$236.00)
1/1/2015	Rent	\$876.28		\$640.28
1/1/2015	Parking Income	\$109.00		\$749.28
1/1/2015	January 2015 Rent (Check #3436)		\$749.28	\$0.00
1/5/2015	Yvette A Flunder Foundation Inc January 2015 Payment (Check #0089755281)		\$236.00	(\$236.00)
2/1/2015	Rent	\$876.28		\$640.28
2/1/2015	Parking Income	\$109.00		\$749.28
2/2/2015	February 2015 Rent (Check #3443)		\$749.28	\$0.00
2/6/2015	Yvette A Flunder Foundation Inc February 2015 Payment (Check #0000284816)		\$236.00	(\$236.00)
3/1/2015	Rent	\$876.28		\$640.28
3/1/2015	Parking Income	\$109.00		\$749.28
3/1/2015	March 2015 Rent (Check #3447)		\$749.28	\$0.00
3/1/2015	2015 RAP Fee	\$15.00		\$15.00

**000573**

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# Statement

Prepared By: BlackOak Management  
 P. O. Box 3627  
 Oakland, CA 94609

Statement Period	Statement Date
6/18/1993 - 10/3/2015	10/28/2015

Page 4

Date	Memo	Increase	Decrease	Balance
3/9/2015	Yvette A Flunder Foundation March Payment (Check #0009596612)		\$236.00	(\$221.00)
3/9/2015	RAP Fee Payment (Check #3450)		\$15.00	(\$236.00)
3/15/2015	2015 RAP Fee	\$15.00		(\$221.00)
4/1/2015	Rent	\$876.28		\$655.28
4/1/2015	Parking Income	\$109.00		\$764.28
4/1/2015	April 2015 Rent (Check #3455)		\$749.28	\$15.00
4/1/2015	Yvette A Flunder Foundation Inc April 2015 Payment (Check #0000006124)		\$236.00	(\$221.00)
5/1/2015	Rent	\$876.28		\$655.28
5/1/2015	Parking Income	\$109.00		\$764.28
5/1/2015	May 2015 Rent (Check #3459)		\$749.28	\$15.00
5/5/2015	Yvette A Flunder Foundation Inc May 2015 Payment (Check #0043368180)		\$236.00	(\$221.00)
6/1/2015	Rent	\$924.10		\$703.10
6/1/2015	Parking Income	\$109.00		\$812.10
6/4/2015	Payment (Check #3467)		\$798.10	\$14.00
6/4/2015	Payment-Yvette Flunder Foundation		\$236.00	(\$222.00)
7/1/2015	Rent	\$924.10		\$702.10
7/1/2015	Parking Income	\$109.00		\$811.10
7/2/2015	07/15 (Check #3473)		\$798.10	\$13.00
7/15/2015	rent 07/15 (Check #0062246001)		\$236.00	(\$223.00)
8/1/2015	Rent	\$924.10		\$701.10
8/1/2015	Parking Income	\$109.00		\$810.10
8/4/2015	rent 08/2015 (Check #3479)		\$798.10	\$12.00
8/6/2015	yvette A Flunder Foundation (Check #0070881477)		\$236.00	(\$224.00)
9/1/2015	Rent	\$924.10		\$700.10
9/1/2015	Parking Income	\$109.00		\$809.10
9/3/2015	09/15 (Check #3485)		\$798.10	\$11.00
9/8/2015	Yvette Flunder Foundation (Check #80753289)		\$236.00	(\$225.00)
10/1/2015	Rent	\$924.10		\$699.10
10/1/2015	Parking Income	\$109.00		\$808.10
10/3/2015	Payment for 10/2015 (Check #3490)		\$798.10	\$10.00
10/3/2015	Yvette A Flunder Foundation Payment 10/2015 (Check #0089019497)		\$236.00	(\$226.00)

000574

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Enclosed is a statement of terms of the Rental Agreement / Lease for the premises you are renting located  
at 2809 8TH AVE, unit # (if applicable) SPOT #1  
OAKLAND, CA 94610  
(City) (Zip)

Owner & Tenant(s) state the following:

1. a) You are in possession of the above described premises on (check correct response):
  - Month-to-Month Rental Agreement
  - Lease - beginning on 1/1/99 and ending on NOV 13 2009
- b) The rental due date is:
  - 1<sup>st</sup> of each month
  - 15<sup>th</sup> of each month
  - Other \_\_\_\_\_
- c) Rent has been paid to (date): THROUGH OUTSIDE 2009
- d) The current monthly rent is \$ Spot A - \$25 For Motorcycle. Spot B - \$50 For Automobile
- e) Date of last rent increase: RENT INCREASE FOR PARKING WAS GIVEN SEPTEMBER 2009
- \* f) The amount of security deposit is \$ 50.00 for garage door opener
- g) If a separate "last month's rent deposit" was given, that amount is \$ NO
2. The names and ages of all residents are: POWER THENTON
3. Tenant has not been given any free rent, partial rent, rebates, rent abatements, or rent concessions of any kind, except as follows: NO
4. Tenant and Owner / Agent represent 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.
5. The enclosed is a true copy of the Rental Agreement / Lease and modifications, if any, as stated under exceptions below: \_\_\_\_\_
6. Rental unit does not need maintenance work at this time and is in good repair except as follows: NO - #100

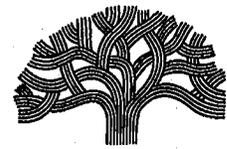
Owner / Agent Signature:  
The above information is correct as of 10/11/2009 \_\_\_\_\_  
(Date) Owner / Agent Signature

Tenant Signature:  
The person signing below represents that he/she is duly authorized by Tenant to execute this Statement in Tenant's behalf.  
This above information is correct as of 10-08-09 \_\_\_\_\_  
(Date) Owner / Agent Signature

PLEASE RETURN THIS COMPLETED FORM WITHIN TEN (10) DAYS AFTER RECEIPT.

\* THIS ESTOPPEL IS A SEPARATE AGREEMENT  
BETWEEN LANDLORD AND TENANT. THIS AGREEMENT  
HAS ALWAYS BEEN PAID SEPARATELY AND IS  
NOT IN ANY WAY RELATED TO THE HABITATION  
OF UNIT # A.

\* As per conversation with Harvey Rudman deposit  
of \$50.00 for garage door opener. Dated 10-27-09



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

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION**

**CASE NUMBER:** T19-0424 Thornton v. Joyce  
**PROPERTY ADDRESS:** 2809 8<sup>th</sup> Avenue, Unit 4, Oakland, CA  
**DATE OF HEARING:** February 5, 2020  
**DATE OF DECISION:** July 14, 2020  
**APPEARANCES:** Michael Joyce, Owner  
Eddie Hugley, Bookkeeper for Owner  
Liam Galbreth, Tenant Representative  
Penn Scoble, Tenant Representative  
Ronald Thornton, Tenant

### **SUMMARY OF DECISION**

The tenant petition is granted.

### **CONTENTIONS OF THE PARTIES**

On September 11, 2019, the tenant, Ronald Thornton, filed a tenant petition contesting a rent increase. The basis for the tenant's petition includes the following:

- The CPI and/or banked rent increase notice I was given was calculated incorrectly;
- 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; and
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner.

The owner did not file a response but appeared for the hearing.

### **THE ISSUES**

(1) Was there good cause for the owner's failure to file an Owner Response?

000576

- (2) When, if ever, did the tenant receive the RAP Notice?
- (3) Is the contested rent increase valid?

## EVIDENCE

### Good Cause for Failure to File Owner Response

A review of the file shows that an Owner Response was never received by the Rent Adjustment Program. However, at the hearing, it was discovered that the Notice of Hearing and Owner Response Form were sent to an incorrect address. The only reason the owner was aware of the hearing date was because another case was scheduled for the same date. The owner's explanation satisfied the good cause requirement for failure to file a response. At the hearing, the owner was provided an opportunity to review the file and given the option to postpone the hearing if he was not prepared to proceed. Upon review of the file, the owner testified that he was prepared to proceed with the case as scheduled.

### Background and Rent Increases

The tenant moved into the subject unit in June of 1993, at an initial rent of \$500.00. In September of 2003, the tenant began using a garage parking space on the premises for an additional fee. Since then, he has paid a single monthly payment that includes his rent and parking fee. To memorialize and clarify this arrangement, on February 8, 2008, a representative of the tenant sent a letter to the property manager at the time, Landmark Real Estate Management, stating that according to the Rent Adjustment Program Regulations and regardless of whether there were separate leases for the apartment and the parking space, any consideration given in exchange for parking was to be considered part of the base rent for any CPI and banking calculations.<sup>1</sup> In response, Landmark Real Estate Management issued a letter, describing a rent increase that would take effect February 1, 2009. The letter stated that "your rent will be increased... by \$29.00 to 839.00" and noted that this was the tenant's "total rent" and "[included his] parking."<sup>2</sup> The tenant argued that at this point, his base rent included parking. He further testified that this 2009 rent increase and a subsequent 2015 rent increase both included parking in the base rent.<sup>3</sup>

In August of 2019, the tenant received a rent increase notice and parking agreement from the current owner, proposing to increase his total monthly payment from \$886.82 to \$1,005.60, effective October 1, 2019.<sup>4</sup> This monthly increase was separated into a core rental payment of \$855.60 and a parking fee of \$150.00. The

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<sup>1</sup> Exhibit 3

<sup>2</sup> Exhibit 4. The owner objected to this document, stating that he had never seen it before, and had no way to verify the authenticity of this document. The objection was overruled, and the document was admitted into evidence.

<sup>3</sup> Exhibit 5

<sup>4</sup> Exhibit 2

tenant testified that he is contesting this monthly increase but has been paying the increased amount of \$1,005.60 since October 1, 2019.<sup>5</sup>

The tenant argued that his right to park on the premises is a housing service he receives, and the money he pays in exchange for that right should be considered a part of his rent and be subject to Rent Adjustment Program Regulations. By separating the parking fee out from the core rental payment and increasing that parking fee by more than 10%, the owner is circumventing rent control protections.

The owner disagreed, arguing that the tenant's rent and parking fee are separate. He testified that he acquired the subject property in 2016, and since then the tenant has been billed separately for parking and rent. Although the tenant may pay for rent and parking with one check, the charges are separate. The owner testified that he has no record of the parking fee being combined with the tenant's rent. In support of this claim, the owner submitted a statement from the prior property manager, showing that parking was billed separately from rent as of 2014.<sup>6</sup> He also submitted an Estoppel Certificate from 2003, which lists the parking fee as separate from the rent.<sup>7</sup> He testified that the rent increase effective October 1, 2019, was a banking increase from \$777.82 to \$855.60 monthly. It was calculated based on the tenant's rent only and did not include the parking fee. He issued a separate parking agreement notifying the tenant that his parking fee would increase from \$109.00 to \$150.00. The tenant did not sign the parking agreement.

### RAP Notices

At the hearing, the tenant testified that he received the RAP Notice with prior rent increase notices in 2009 and 2015. He did not recall whether he received the RAP Notice with the contested rent increase notice, but he did not wish to contest service of the RAP Notice.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### RAP Notice

It is undisputed that the tenant received the RAP Notice with the contested rent increase and with prior rent increase notices.

### Invalid Rent Increase

The Oakland Municipal Code defines "Rent" as 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.<sup>8</sup> Housing services include parking.

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<sup>5</sup> Exhibit 1

<sup>6</sup> Exhibit 6

<sup>7</sup> Exhibit 7

<sup>8</sup> O.M.C. §822.020

The Board has also held that an increase in a separate parking fee is an increase in rent.<sup>9</sup> In *Millar v. Black Oak Properties* (2002) T01-0376, the owner served the tenant with separate rent increases for parking and for the apartment unit. The Board determined that the owner was not entitled to the rent increase because he had previously increased the tenant's rent, and the Rent Ordinance defines a rental unit to include all the housing services provided with the unit. The Board opined: "Where the landlord rents a rental unit and a parking space to the tenant, the parking is part of the housing services, even where the parking is separately charged. Under such circumstances, an increase in the separate parking fee is an increase in rent." (*Pivorak v. Ma*, T08-0294.)

Based on the Board's decisions and the Oakland Municipal Code, the parking space rented by the tenant is part of his housing services even though he may be billed separately for parking. Therefore, any rent increase must be based on a base rent that includes both the core rent payment and the parking fee. Further, the Rent Adjustment Ordinance states that an owner seeking a rent increase in excess of the CPI Rent Adjustment or available banking must first petition the Rent Adjustment Program and receive approval for the rent increase before the rent increase can be imposed.<sup>10</sup> The owner did not receive approval from the Rent Adjustment Program before raising the rent for the subject property from \$886.82 to \$1,005.60 monthly, effective October 1, 2019. Therefore, the rent increase is invalid and the tenant's base rent remains \$886.82. Since the tenant has been paying the increased amount of \$1,005.60 monthly, he is entitled to restitution for rent overpayments as outlined below.

**OVERPAID RENT**

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Oct-19	1-Jul-20	\$1,005.60	\$886.82	\$ 118.78	10	\$ 1,187.80
<b>TOTAL OVERPAID RENT</b>						<b>\$ 1,187.80</b>

**RESTITUTION**

MONTHLY RENT	\$886.82
TOTAL TO BE REPAYED TO TENANT	\$ 1,187.80
TOTAL AS PERCENT OF MONTHLY RENT	134%
AMORTIZED OVER 12 MO. BY REG. IS	\$ 98.98
OR OVER MONTHS BY HRG. OFFICER IS	

**ORDER**

1. Tenant Petition T19-0424 is granted.

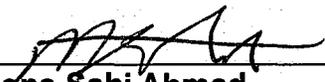
<sup>9</sup> T01-0376 (*Millar v. Black Oak Properties*)

<sup>10</sup> O.M.C. §8.22.065(A)

2. The rent increase is invalid. The monthly base rent remains \$886.82.
3. Due to rent overpayments, the tenant is owed restitution in the amount of \$1,187.80. This overpayment is adjusted by a rent decrease for 12 months in the amount of \$98.98 a month. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to all parties.
4. If the owner wishes to, he can repay the restitution owed to the tenant at any time. If he does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

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

Dated: July 14, 2020

  
\_\_\_\_\_  
**Maimoona Sahi Ahmad**  
Hearing Officer, Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number T19-0424**

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

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

**Documents Included**  
Hearing Decision

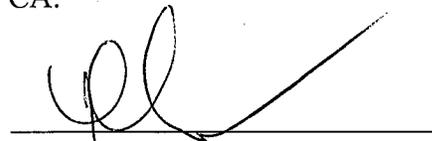
**Owner**  
Mike Joyce  
3480 38th Avenue  
Oakland, CA 94619

**Tenant**  
Ronald Thornton  
2809 8th Avenue Unit 4  
Oakland, CA 94610

**Tenant Representative**  
Penn Scoble, East Bay Community Law Center  
1950 University Avenue Suite 200  
Berkeley, CA 94704

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

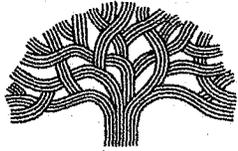
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **July 17, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

**000581**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp

**RECEIVED**

JUL 31 2020

RENT ADJUSTMENT PROGRAM  
**OAKLAND APPEAL**

Appellant's Name <b>BENEZIA LAKE</b>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <b>2809 8<sup>TH</sup> AVE., APT 4 OAKLAND, CA 94610</b>			
Appellant's Mailing Address (For receipt of notices) <b>3049 FLORIDA ST. OAKLAND, CA 94602</b>		Case Number <b>T19-0424</b>	
		Date of Decision appealed <b>7-14-20</b>	
Name of Representative (if any) <b>MICHAEL JOYCE EDDIE HUGLEY</b>		Representative's Mailing Address (For notices) <b>3049 FLORIDA ST. OAKLAND, CA 94602</b>	

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

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

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

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

For more information phone (510) 238-3721.

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

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

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

I declare under penalty of perjury under the laws of the State of California that on 7-30, 2020 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>	RONALD THORNTON
<b>Address</b>	2809 8 <sup>TH</sup> AVE, APT 4
<b>City, State Zip</b>	OAKLAND, CA 94610
<b>Name</b>	PENN SCOBLE
<b>Address</b>	1950 UNIVERSITY AVE, SUITE 200
<b>City, State Zip</b>	BERKELEY, CA 94704

	<u>7-30-20</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

July 30, 2020

I fell combining the rental agreement and the parking/storage agreement will set a dangerous precedent. Large number of property owners in the city of Oakland have separate agreements for parking. Finally, parking agreement is not under the jurisdiction of the Oakland rent board.

  
Eddie Hugley

Bookkeeper

Benecia Lake LLC



## Kong-Brown, Barbara

---

**From:** Grewal, Harman  
**Sent:** Tuesday, December 22, 2020 9:19 AM  
**To:** Kong-Brown, Barbara  
**Subject:** FW: Case # T19-0424

**From:** Nora Wilson <nwilson@ebclc.org>  
**Sent:** Monday, December 21, 2020 12:53 PM  
**To:** Grewal, Harman <HGrewal@oaklandca.gov>  
**Subject:** Case # T19-0424

---

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

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Dear Harman Grewal,

I hope this message finds you doing well. My name is Nora Wilson, and I am an attorney at the East Bay Community Law Center. I write on behalf of my client, Mr. Ron Thornton, and myself to provide you with our contact information in response to the notice we received scheduling a hearing in Mr. Thornton's case (# T19-0424) for January 21, 2021. The notice requests that we provide you with our email address and phone number. Please find that information below:

Ron Thornton: ronyx58@yahoo.com, (510) 388-8275,  
Nora Wilson, Mr. Thornton's representative: nwilson@ebclc.org, (706) 825-2121 (mobile),  
(510)269-6629 (office)

Please be aware that although the hearing notice lists Penn Scoble as Mr. Thornton's representative, Penn Scoble no longer works with the East Bay Community Law Center. I am now Mr. Thornton's representative, and I look forward to appearing before you on January 21.

Thank you very much for your time and assistance. I wish you and your loved ones happy and safe holidays.

Sincerely,  
Nora

Nora Wilson | Staff Attorney & Clinical Supervisor, Health & Welfare Practice

Pronouns: She/Her

East Bay Community Law Center | A Clinic of Berkeley Law School

Justice Through Education and Advocacy

1950 University Avenue, Suite 200, Berkeley, CA 94704



O: 510-548-4040 ext. 329 | D: 510-269-6629 | F: 510-849-1536

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## Kong-Brown, Barbara

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**From:** Nora Wilson <nwilson@ebclc.org>  
**Sent:** Thursday, January 14, 2021 4:20 PM  
**To:** Hearings Unit  
**Cc:** Benecia Llc; joyceconstructioninc@yahoo.com; Mike Joyce; ron thornton  
**Subject:** Request for postponement in case # T19-0424  
**Attachments:** 2021.1.14.Thornton,RAP postponement request.pdf

[EXTERNAL] This email originated outside of the City of Oakland. Please do not click links or open attachments unless you recognize the sender and expect the message.

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To Whom It May Concern,

My name is Nora Wilson, and I am an attorney who was previously representing Mr. Ronald Thornton in the appeal related to his case # T19-0424. All parties to the case are cc'ed on this email.

As of today, Mr. Thornton has obtained alternate legal counsel to represent him at his upcoming remote appeal hearing, currently scheduled for January 21, 2021. Therefore, I am no longer Mr. Thornton's attorney on this case. To ensure Mr. Thornton has adequate time prior to his hearing to prepare with his new legal counsel, I write on his behalf to request a postponement of his hearing. Please find Mr. Thornton's formal request for postponement attached to this email.

This afternoon, I spoke on the phone with the other party in this case, Mr. Michael Joyce of Benecia Lake, LLC. During our call, Mr. Joyce agreed that the hearing may be postponed for the week of February 8, 2021.

Thank you very much for your time and consideration of this request, and we look forward to receiving your response.

Sincerely,  
Nora



**Nora Wilson | Staff Attorney & Clinical Supervisor, Health & Welfare Practice**

Pronouns: She/Her

*East Bay Community Law Center* | A Clinic of Berkeley Law School

Justice Through Education and Advocacy

1950 University Avenue, Suite 200, Berkeley, CA 94704

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2/1/2021

Sent VIA: USPS and email

To: City of Oakland  
PO Box 70243  
Oakland, CA 94612-2043  
Rent Adjustment Program  
[Rap@oaklandca.gov](mailto:Rap@oaklandca.gov)  
[BKong-Brown@oaklandca.gov](mailto:BKong-Brown@oaklandca.gov)

RE: Case T19-0424, Thornton v. Joyce – Change of Authorized Representative

This letter is to inform you that I authorize Hadley Rood, [hrood@ebclc.org](mailto:hrood@ebclc.org), a certified law student, CLS 00617526, supervised by Sabyl Landrum, [slandrum@ebclc.org](mailto:slandrum@ebclc.org), attorney, SBA 303852, both of East Bay Community Law Center, to represent me in the landlord's appeal related to the above referenced rent board petition case. Please note that Liam Galbreth and Penn Scoble are no longer at East Bay Community Law Center and will no longer be representing me. Please direct all communications related to the appeal in this matter to the attention of both Hadley Rood and Sabyl Landrum at East Bay Community Law Center, 2921 Adeline St., Berkeley, CA 94703. They can also be reached by email. Ms. Landrum can be reached by telephone at 510-463-1565 as well.

Regards,



Ronald Thornton

000588



## MEMORANDUM

**Date:** July 20, 2021

**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)

**From:** Oliver Luby, Deputy City Attorney

**Re:** Appeal Summary in T18-0414, T18-0472, & L19-0040  
Martin et al v. Zalabak & Zalabak v. Tenants

**Appeal Hearing Date:** July 22, 2021

---

Property Address: 5553 Kales Ave., Oakland, CA

Appellant/Tenant: Chase Martin & Kristen Ponger

Respondent/Owner: Sherry Zalabak

### BACKGROUND

On August 3, 2018, tenants Kristen Ponger and Chester Martin filed a petition, contesting a monthly rent increase from \$2,652.00 to \$4,500.00, effective August 1, 2018, on multiple grounds, including that the premises were rented as more than one unit. The owner filed a timely response to the tenant petition, claiming the subject property was exempt from the Rent Adjustment Program as a single-family residence, based on the Costa-Hawkins Act. Following the owner's superseding notice issued in October 2018 of a monthly rent increase from \$2,652.00 to \$4,500, effective December 18, 2018, the tenant filed a second petition on November 9, 2018, contesting the increase on the same grounds with the exception of the claim of no concurrent RAP notice with notice of the rent increase. The owner filed a response to the tenant petition on February 15, 2019, again claiming an exemption from the Rent Adjustment Program, as a single-family residence based on the Costa-Hawkins Act.

The petitions were consolidated and the Hearing Officer conducted hearings for the case on March 5, 2019, and April 22, 2019. The Hearing Officer issued a Hearing Decision on April 30, 2019, served on the parties on June 7, 2019, finding that the subject unit was exempt as a single family residence and therefore no other issues in

the tenant petitions could be addressed. The Decision noted that other tenants in the back unit had moved out in 2018, the back unit could not be legally re-rented, and the premises were restored to a single family residence.

The tenants appealed and an Appeal Hearing before the Housing, Residential Rent, and Relocation Board was conducted on September 10, 2020. The Appeal Decision of the Board remanded the case with direction to re-issue the hearing decision considering two Court of Appeals decisions, Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal. App.4<sup>th</sup> 24 and Owens v. City of Oakland (2020) 49 Cal.App.5th 739, and the testimony of the property as a multi-unit dwelling.

Following the Appeal Decision, the remanded case regarding petitions T18-0414 and T18-0472 was consolidated with a new petition requesting a Certificate of Exemption, L19-0040, due to the same issues raised, and assigned to a new Hearing Officer.

### **RULING ON THE CASE AFTER REMAND**

The Hearing Officer issued a “Hearing Decision After Remand” on March 4, 2021, denying the tenant petitions and granting the owner petition. The Decision was issued without conducting a new hearing. The Decision distinguished this case from the Da Vinci Court of Appeals decision on the basis that subject premises were never made legal and were instead not re-rented. The Decision distinguished this case from the Owens Court of Appeals decision on the basis that the rental of the back unit was discontinued and the premises were a single family residence at the time of the rent increase went into effect.

The Decision was served on the parties on March 9, 2021.

### **GROUND FOR APPEAL**

On March 26, 2021, the tenant filed a timely appeal on the following grounds:

- The decision is inconsistent with O.M.C. Chapter 8.22, Rent Board Regulations, or prior decisions of the Board;
- The decision raises a new policy issue that has not been decided by the Board;
- The decision violates federal, state or local law;
- The decision is not supported by substantial evidence;
- Other.

The tenants’ memorandum filed in support of the appeal contends that the Decision After Remand fails to consider the legal principles in Da Vinci or Owens, instead simply distinguishing their facts, the rear cottages are dwelling unit that are not separately alienable from the title of any other dwelling unit on the premises, and

temporary vacancy of an illegal unit does not carve out an exemption. The tenants' also proffered additional evidence indicating the rear unit is still a dwelling unit. The owner's response memorandum contends that RAP lacks jurisdiction because the tenant petitions are moot based on proffering that the tenants vacated the subject premises and that cessation of renting a single family home as multiple units reverts it to a single family home.

### **ISSUES**

1. Was the property restored to use as a "dwelling unit separately alienable from any other dwelling or unit" as of the date of the notice of rent increase such that it is exempt from the Rent Adjustment Ordinance pursuant to Costa Hawkins?
2. May a petition requesting a Certificate of Exemption be decided without a hearing or for dwelling unit(s) that are not permanently exempt from the Rent Ordinance?

### **APPLICABLE LAW AND PAST BOARD DECISIONS**

#### **1. Applicable Law**

- a. Rent Adjustment Program Regulation Section 8.22.030.C.1.a ("Certificates of Exemption"):

"1. Whenever an Owner seeks a Certificate of Exemption the following procedures apply:

- a. The petition cannot be decided on a summary basis and may only be decided after a hearing on the merits."

- b. O.M.C. Section 8.22.111.F.1 ("Administrative Decisions"):

"Notwithstanding the acceptance of a petition or response by the Rent Adjustment Program, if any of the following conditions exist, a hearing may not be scheduled and a Hearing Officer may issue a decision without a hearing:

- a. The petition or response forms have not been properly completed or submitted;
- b. The petition or response forms have not been filed in a timely manner;
- c. The required prerequisites to filing a petition or response have not been met;
- d. A certificate of exemption was previously issued and is not challenged by the tenant; or

e. The petition and response forms raise no genuine dispute as to any material fact, and the petition may be decided as a matter of law.”

c. O.M.C. Section 8.22.030.A (“Exemptions”) (in relevant part):

“Types of Dwelling Units Exempt. The following dwelling units are not covered units for purposes of this Chapter, Article I only (the Just Cause for Eviction Ordinance (Chapter 8.22, Article II) and the Ellis Act Ordinance (Chapter 8.22, Article II)) have different exemptions): ...

7. Dwelling units exempt pursuant to Costa-Hawkins (California Civil Code § 1954.52).”

d. O.M.C. Section 8.22.030.B.1.a:

“A certificate of exemption is a determination by the Rent Adjustment Program that a dwelling unit or units qualify for an exemption and, therefore, are not covered units. For units exempt as new construction, or by state law, an owner may obtain a certificate of exemption by claiming and proving an exemption in response to a tenant petition or by petitioning the Rent Adjustment Program for such exemption. For units exempt based on substantial rehabilitation, an owner must obtain a certificate of exemption by petitioning the Rent Adjustment Program for such an exemption. A certificate of exemption may be granted only for dwelling units that are permanently exempt from the Rent Adjustment Ordinance as new construction, substantial rehabilitation, or by state law (Costa Hawkins).”

e. California Civil Code Section 1954.52(a) (1), (2) & (3)(A) (of the “Costa-Hawkins Rental Housing Act”):

“(a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true:

(1) It has a certificate of occupancy issued after February 1, 1995.

(2) It has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units.

(3) (A) It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code.”

f. Owens v. City of Oakland (2020) 49 Cal.App.5th 739:

The California Court of Appeals upheld the Board’s determination that an individually rented and occupied bedroom in a single-family home constituted a separate dwelling unit for the purpose of Costa-Hawkins, despite lack of separate cooking facilities. Therefore, a room in a single-family home may be covered under the Rent Adjustment Ordinance.

- g. Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (1992) 5 Cal. App.4<sup>th</sup> 24:

Making an existing residential use legal by bringing the building up to code and obtaining a certificate of occupancy did not bring premises within the new construction exemption.

## **2. Past Board Decisions**

### Definition of a dwelling unit

#### T-16-0259 Barghout v. Owens

The Board determined that an individually rented and occupied bedroom in a single family home constituted a separate dwelling unit, despite lack of separate cooking facilities. The Board's decision was upheld by the Superior Court and Court of Appeals (Owens v. City of Oakland (2020) 49 Cal.App.5th 739).

#3086902v1



**MEMORANDUM**

**Date:** July 19, 2021  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Deputy City Attorney Kent Qian  
**Re:** Appeal Summary in L19-0163, Lake 1925 LP v. Tenants  
**Appeal Hearing Date:** July 22, 2021

---

Property Address: 1924 9th Avenue, Oakland, CA

**BACKGROUND AND RULING ON THE CASE**

On June 18, 2019, the owner filed a petition seeking approval to increase the rent on units in the property on the basis of capital improvement. The hearing officer approved most of the owner's submitted expenses but excluded some expenses, including three payments on the ground that the payments were made more than 24 months before the owner filed the petition.

**GROUND FOR APPEAL**

The owner appealed the aspect of the decision excluding the following payments from allowable capital improvement expenses:

1. \$6,300 payment to Coffman Engineers dated May 11, 2017 (courtyard/foundations)
2. \$976.50 payment to Coffman Engineers dated May 11, 2017 (balconies)
3. \$13,850 payment to California Roof Technicians dated May 23, 2017 (roof)

First, the owner argues that the 24 months should run from when an improvement project was finished and should not be applied to individual progress payments. Second, the owner argues that the hearing decision is inconsistent with other hearing decisions that allowed passthroughs for progress payments, citing L18-0086 and L19-0012. Finally, the owner contends that applying the 24-month rule to progress payments violates principles of statute of limitations.

## ISSUES

1. Did the hearing officer correctly exclude the three payments made more than 24 months before the filing date of the petition?

### APPLICABLE LAW AND PAST BOARD DECISIONS

#### Applicable Law

**a. Rent Regulations Appendix A § 10.2.1**

Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period prior to the date the petition for a rent increase based on the improvements is filed.

#### Past Board Decisions

**a. Capital Improvements Payments 24 Months Before Rent Increase Notice or Petition**

**T15-0360     *Harrison v. Solares***

Board remanded Hearing Decision appealed by both parties and directed Hearing Officer to consider whether \$5,000 deducted from allowed capital improvement costs was the proper deduction for deferred maintenance, to review costs and exclude all costs incurred more than 24 months prior to date of noticed rent increase, and to consider a payment plan for the tenant. Board also directed Hearing Officer to determine how much of \$15,000 owner paid contractor's attorney was attributable to work done on unit.

**L18-0086     *Kingston Avenue Partners v. Tenants***

The hearing decision approved capital improvement increases that included an initial payment of \$7,000 for hallway remodel made more than 24 months before the petition. The remaining payment of \$22,700 was made within 24 of petition. Even though the hearing decision was affirmed by the Board, the appeal did not challenge the initial \$7,000 payment on the basis that it was incurred more than 24 months before the petition date.



**MEMORANDUM**

**Date:** July 16, 2021  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Deputy City Attorney Kent Qian  
**Re:** Appeal Summary in T19-0424, Thornton v. Joyce  
**Appeal Hearing Date:** July 22, 2021

---

Property Address: 2809 8<sup>th</sup> Avenue, Unit 4, Oakland, CA  
Appellants/Owner: Michael Joyce  
Respondent/Tenant: Ronald Thornton

**BACKGROUND**

On September 11, 2019, tenant Ronald Thornton filed a petition contesting a rent increase from \$886.82 to \$1,005.60, effective October 1, 2019. The \$886.82 included \$777.82 for base rent and a separate charge of \$109.00 for parking. The rent increase of \$1,005.60 included \$855.60 for base rent and a separate charge of \$150.00 for parking.

The tenant's claims included the following:

- The CPI and/or banked rent increase notice I was given was calculated incorrectly.
- I received a rent increase notice before the property owner received approval from the Rent Adjustment Program (RAP) for such an increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase; and
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner.

The owner did not file a response but appeared for the hearing. The Hearing Officer found good cause for the owner's failure to file a response as the petition was sent to an incorrect address.

## **RULING ON THE CASE**

The Hearing Officer found that 1) the owner did not receive approval from the RAP for the rent increase before increasing the rent, and 2) the parking space rented by the tenant is part of his housing services even if he is billed separately for the parking. Based on the Board's decision in T01-0376, Millar v. Black Oak Properties, stating that "where the landlord rents a rental unit and a parking space to the tenant, the parking is part of the housing services, even where the parking is separately charged. O.M.C. §8.22.020, which defines "Rent" as the total consideration charged or received by an owner in exchange for the use of occupancy of a covered unit including all housing services provided to the tenant."

The Hearing Decision issued on July 17, 2020, denied the rent increase and granted restitution for rent overpayments totaling \$1,187.80.

## **GROUND FOR APPEAL**

On July 31, 2020, the owner appealed the hearing decision on the grounds that the decision raises a new policy issue that has not been decided by the Board. She contends that combining the rental agreement and the parking/storage agreement will set a dangerous precedent, that a large number of property owners in the City of Oakland have separate agreements for parking, and the parking agreement is not under the jurisdiction of the Rent Board.

## **ISSUES**

1. May the owner increase the tenant's parking fee without limitation, or is the parking fee considered part of the tenant's rent?
2. Is the hearing decision denying the rent increase supported by substantial evidence?

## **APPLICABLE LAW AND PAST BOARD DECISIONS**

### Applicable Law

#### **a. Rent defined**

O.M.C. § 8.22.020- Definitions.

"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.

"Housing Services" means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance,

repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, and employee services.

**b. Rent Increases**

1. O.M.C. § 8.22.065- Rent Adjustments in General

Owners may increase rents only for increases based on the CPI Rent Adjustment or Banking, or by filing a petition to increase rent more than that amount. Any rent increase not based on the CPI Rent Adjustment or banking that is not first approved by the Rent Adjustment Program is void and unenforceable.

2. O.M.C. § 8.22.070(A)(1)(a):

“Except as provided in paragraph b below, an owner may increase the rent on a covered occupied continuously by the same tenant only once in a 12-month period. If an Owner filed an Owner Rent Increase petition, the earliest any increase allowed in the Hearing Officer’s decision may be effective is the date that a rent increase notice consistent with this chapter and state law is served on the tenant after the service date of the decision. Such rent increase cannot take effect earlier than the tenant’s anniversary date if the Owner has already increased that tenant’s rent within the preceding 12-month period.”

**Past Board Decisions**

**a. Parking Fees Considered Part of Rent**

T01-0376, Millar v. Black Oak Properties

The owner served the tenant with separate rent increases for parking and for the apartment unit. The Board held that the owner was not entitled to the rent increase because he had previously increased the tenant’s rent, and the Rent Ordinance defines a rental unit to include all the housing services provided with the unit. “Housing Services are defined to include parking. O.M.C. 8.22.030(sic)”. The Board opined: “Where the landlord rents a rental unit and a parking space to the tenant, the parking is part of the housing services, even where the parking is separately charged. Under such circumstances, an increase in the separate parking fee is an increase in rent”.

**b. Substantial evidence**

T07-0133 Huynh v. Ly

Board finds substantial evidence to support hearing officer's decision that tenant created a new tenancy, despite the absence of a written agreement, when tenant paid rent, and rent was accepted for 20 months.

T00-0340, -0367, & -0368, Knox v. Progeny Properties

Board will not overturn factual findings by hearing officer if there is substantial evidence to support the hearing decision.

T15-0368, Bivens v. Ali

Board affirmed hearing decision based on substantial evidence even though owner stated that he relied on staff information in failing to appear at the hearing below.