

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING
June 10, 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 ATT Channel 99 and locating City of Oakland KTOP – Channel 10

- To observe the meeting by video conference, please click on the link below:
You are invited to a Zoom webinar.

When: June 10, 2021 05:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING June 10, 2021

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89932804453>

Or One tap mobile :

US: +16699009128,,89932804453# or +13462487799,,89932804453#

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 +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 899 3280 4453

International numbers available: <https://us02web.zoom.us/j/kuZ9ZAMdZ>

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.

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, 5/27/2021
5. APPEALS*
 - a. T20-0143 Wheaton v. Ngo
 - b. T20-0054 McQuillion v. JJCM Investments
 - c. T19-0363/T19-0508 Gonzalez v. Huang et al
6. INFORMATION AND ANNOUNCEMENTS
7. SCHEDULING AND REPORTS
 - a. Calendar Item - Board Recess
8. ADJOURNMENT

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

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

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

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

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

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

May 27, 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 J. Ma Powers.

2. ROLL CALL

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

Staff Present

Braz Shabrell	Deputy City Attorney
Barbara Kong-Brown	Senior Hearing Officer (RAP)
Barbara Cohen	Acting Senior Hearing Officer (RAP)
Harman Grewal	Business Analyst III (HCD)
Briana Lawrence-McGowan	Administrative Analyst I (RAP)

3. CONSENT ITEMS

- a) Approval of Board Minutes from May 13, 2021, Full Board Special Meeting

K. Friedman moved to approve the Rent Board

minutes. R. Nickens seconded.

The Board voted as follows:

Aye: J. Ma Powers, K. Friedman, R. Nickens, T. Williams

Nay: None

Abstain: A. Graham, S. Devuono-Powell, R. Auguste

The motion carried.

4. OPEN FORUM

- James Vann, Oakland Tenants Union-Welcomed the new board members.
- Ted Dang-Commonwealth Companies, Inc.-Asked when he raises rent by the allowable increase whether tenants are required to pay this amount until the hearing? He was referred to the Housing Counselors at the RAP.

5. RECOGNITION OF OUTGOING BOARD MEMBERS ROBERT STONE, TANAIIA HALL & EDWARD LAI

The Board thanked Robert Stone, Tanaiia Hall and Edward Lai for their service on the Rent Board. They will be given plaques for their service.

6. WELCOME TO NEW BOARD MEMBER RODNEY NICKENS, JR. & APPOINTMENT OF JULIA MA POWERS AS REGULAR BOARD MEMBER

The Board welcomed Rodney Nickens, Jr. as the regular tenant member and the appointment of Julia Ma Powers as the regular non-designated member.

7. ELECTION OF BOARD OFFICERS

R. Nickens, Jr. nominated Julia Ma Powers for the position of Board Chair. A Graham seconded her nomination. After Board discussion the Board members approved her nomination by consensus.

8. APPEALS

a) T19-0007, Cortez v. Qmacin

Appearances: Joshua Baker Owner Appellant Representative

Jill Broadhurst Owner Appellant Representative

Xavier Johnson Tenant Representative

The issue was whether the hearing officer abused her discretion in finding that the owner's response was untimely and that the RAP notice was not served before March 2019. The owner contended that they counted the response time from the date of the postmark on the envelope, and there is Board precedent noting the postmark on the envelope and allowing submission of evidence. The owner stated they had a witness ready to testify that the RAP notice was served in 2016.

The owner further contended that the tenant brief is inaccurate, and there was no lease negotiation in Spanish pursuant to Civil Code §1632 as the owner does not speak Spanish. There is also a discrepancy in the parking and utility charges on bate stamp 110, page 10 of the hearing decision.

The tenant representative contended that the deadline is based on the proof of service, which is 30 days after mailing, and the hearing officer did not abuse her discretion. The tenant speaks Spanish, and sometimes children speak some English and Spanish, but one cannot rely on this. The language is deemed to be Spanish.

The owner representative on rebuttal stated that the filing was only 3 days late, there was no impact on the tenant, and exclusion of the owner is significant, leading to a finding in conflict with the evidence. The tenant has no children, so the issue of a child interpreter is irrelevant. The original discussions were in English, not Spanish.

The tenant representative on rebuttal stated that the proof of service date is dispositive, and the hearing officer has discretion in determining that the lease was not provided in Spanish.

After arguments and rebuttal made by both parties, Board questions to the parties, and Board discussion, A. Graham moved to affirm the hearing decision based on substantial evidence. R. Nickens Jr. seconded.

The Board voted as follows:

Aye: R. Auguste, R. Nickens, Jr., A. Graham, S. Devuono-
Powell, J. Ma Powers,
Nay: K. Friedman, T. Williams
Abstain: None

The motion carried.

a) T19-0403, T19-0238, Didrickson v. Commonwealth Co. Inc.

Appearances: Glenda & Carlos Didrickson Tenant Appellants

T19-0403

The tenants failed to attend the hearing. The tenants contended that they did not receive notice of the hearing, and that the notice was sent to the wrong address, a copy was attached to the appeal and was not in the Board packet. They only received a notice of the dismissal. Also, bate stamp page 235 contains extraneous material, and there is a gap of 2 or 3 pages on bate stamp page179.

The owner contended that the tenants are serial litigants, the contested rent increase is an allowed CPI 3.5% increase and there is no reason to re-hear this case.

After arguments and rebuttal made by both parties, Board questions to the parties and Board discussion, A. Graham moved that the Board find good cause for the tenants' non-appearance and remand the case to the hearing officer for a full hearing on the merits. R. Nickens, Jr. seconded.

The Board voted as follows:

Aye:	R. Nickens, Jr., R. Auguste, A. Graham, S Devuono-Powell, J. Ma Powers, K. Friedman, T. Williams
Nay:	None
Abstain:	None

The motion was approved by consensus.

T18-0238

The tenants contended that a 1% reduction for a tarp covering their window is insufficient, stating that their neighbor was awarded a 5% reduction.

The owner contended that neighbor's window was a large picture window, which constituted the main view in the living room.

After arguments and rebuttal made by both parties, Board questions to the parties and Board discussion K. Friedman moved to affirm the hearing decision granting the 1% reduction. T. Williams seconded.

The Board voted as follows:

Aye:	R. Nickens, Jr., R. Auguste, A. Graham, S. Devuono-Powell, J. Ma Powers., K. Friedman, T. Williams
Nay:	None
Abstain:	None

The motion was approved by consensus.

b) L17-0061, Feiner v. Tenants

Appearances: Michael Feiner Owner Appellant
No appearance by tenants

The issue is whether a single-family residence which is part of a three-unit building is exempt from the Rent Ordinance on the grounds of new construction or substantial rehabilitation. The two other units were found to be exempt on the grounds of new construction.

The owner contended that there is no landlord-tenant dispute and no tenant has opposed the exemption. There is no harm or hardship on the tenants, only on the landlord, which is the result of checking the wrong box on the form based on information provided by the RAP staff. This is a unique circumstance and the Board can remedy this by ruling in his favor. The original home was exempt. The Board can say this is a single-family residence with a duplex or this building is a new triplex.

Additionally, the hearing officer found that the owner's receipts met the threshold for an exemption based on substantial rehabilitation, and the case cited in the appeal summary, Bergen v. Tenants, is not relevant as this property was not rented.

After arguments and rebuttal made by both parties, Board questions to the parties and Board discussion, T. Williams moved to affirm the hearing decision based on substantial evidence and R. Auguste seconded the motion.

The Board voted as follows:

Aye: R. Nickens, Jr., R. Auguste, A. Graham, S Devuono-
Powell, J. Ma Powers., K. Friedman, T. Williams
Nay: None
Abstain: None

The motion was approved by consensus.

9. INFORMATION AND ANNOUNCEMENT

a) Report by City Attorney's Office on Court Decision
in Arnold v. Farley-Levine Properties, LLC- Cynthia Stein

The court granted a writ of administrative mandate, vacating the Rent

Board rulings denying capital improvements on the ground of deferred maintenance, and the seismic improvements were not included in the permits. The Court found that a majority of the items constituted capital improvements. The Judge determined that although the laundry room machines were coin operated, portions of the improvements were capital improvements, constituting infrastructure as the room housed other equipment.

The judge found that invoices and credit card statements were sufficient to show proof of work and payment, and regarding deferred maintenance, a report by a professional is insufficient. The issue is what a reasonable person would observe upon an inspection of the property. A reasonable inspection is less than a professional inspection. Foundation and structural issues do not put the owner on notice unless the condition is visible to the naked eye.

10. ADJOURNMENT

The meeting was adjourned at 8:15 p.m. by consensus.

CHRONOLOGICAL CASE REPORT

Case No.: T20-0143
Case Name: Wheaton v. Ngo
Property Address: 4428 MacArthur Blvd, Unit A, Oakland CA
Parties: Valerie Wheaton (Tenant)
Lein Ngo (Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	April 17, 2020
Owner Response filed	June 18, 2020
Hearing Decision mailed	February 1 st , 2021
Tenant Appeal filed	February 18, 2021

000009

Rec'd by [signature]
on 5/14/20

10/13

T20-0143 RC/LM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM	For [] Stamp RECEIVED []
	250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	RENT ADJUSTMENT PROGRAM OAKLAND 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 Valarie Wheaton	Rental Address (with zip code) 4428 MacArthur Bl #A Oakland Ca.	Telephone: [REDACTED]
Your Representative's Name	Mailing Address (with zip code)	Email: [REDACTED]
Property Owner(s) name(s) LIEN Ngo	Mailing Address (with zip code) 2948 Euclid Ave Concord Ca. 94519	Telephone: [REDACTED] Email: [REDACTED]
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: [REDACTED] Email: [REDACTED]

Number of units on the property: 2

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

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

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

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

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

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

Date you moved into the Unit: 6/5/2017 Initial Rent: \$ 1600.00 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: _____. 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		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<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.

Valerie Wheat
Tenant's Signature

3/18/2020
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).

Valerie Wheafre
Tenant's Signature

3/18/2020
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, 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; 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): Called 211 and 311

(No Subject)

Valerie Wheaton <[redacted]>
To: vitanesha jackson [redacted]

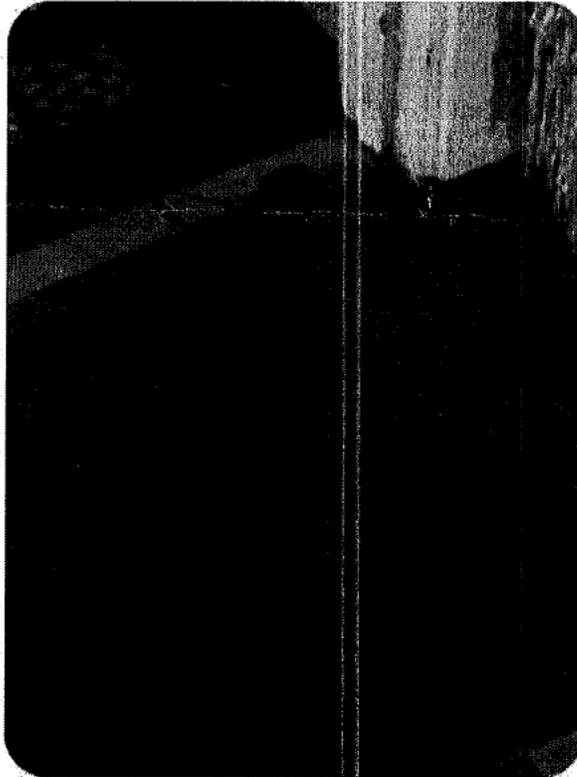
Mar 17 at 11:47 AM

Ringtone



Friday, December 1, 2017

So I caught a mice dis morning also the top lock still not locking



MMS
7:34 AM



We didn't have the tools to fix it last night

7:35 AM



I can help my dad go over later to fix it but someone need to open the security

000014

need to open the security

Enter message



SEND

Ringtone



Sunday, November 26, 2017



Val, if can find yourself other place to live with that next two months. I gave your full deposit and cleaning fee back. You. E more happy elsewhere

10:20 AM

No I'm not moving don't like packing they don't pay no rent and u ok wht that d uhh and they disrecpfull

10:25 AM



U how the system works

If you want to move that fine

But please stop complaining

10:42 AM



It's really stress me out

I have to come up \$8500 by Wednesday to pay concrete man

000015

Concrete man 10:43 AM

Enter message



SEND



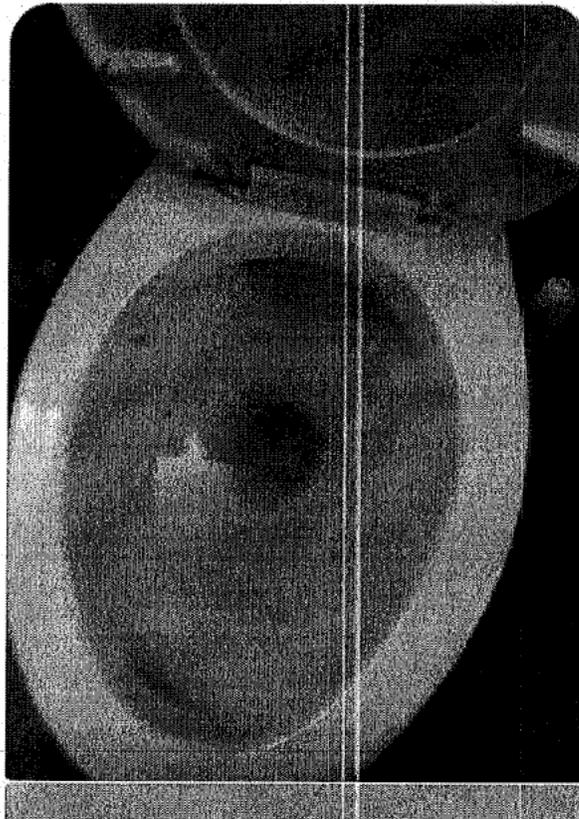
Bluetooth, Wi-Fi, Cellular, 39%, 11:37 AM

< Lien Ngo Apt Owner



Oh wow I hope u ok da tub and toilet is stopped up it started dis moring when I took my bath I plugged da bathtub and I thought I pulled out all da hair but I guess not it just started bubbling and now look

7:22 PM



000016

Around 7pm

I'm sorry 7:55 PM

Enter message



SEND



38% 11:38 AM

Lien Ngo Apt Owner
5109182007



Industries
FastLoans4Business.com, PO Box 9211, Laguna Beach, CA 92652
This is an advertisement. We'd like to help you. Your privacy is important to us. You are receiving this email because you opted-in to receive it. To stop receiving emails from FastLoans4Business.com, please click here. If your email program is not properly displaying the unsubscribe link, copy and paste the following URL into a browser <http://www.317bi-opt-out.com/o-fssl-c01-83a333051dc1ce682b690b89f2925f74&cr=2304> to add your email address to our unsubscribe list. You can also mail a request to: FastLoans4Business.com, PO Box 9211, Laguna Beach, CA 92652

MMS
12:41 PM

1:27 PM Ok thxs

5:02 PM
So I have been in da house all day can't take da air had to go to emergercey yesterday I have like a thousand flies I'm here confessing I been killing heck of flies for two days don't know how they getting I'm all doors and windows are close

Tuesday, October 17, 2017

Around 7pm

I'm sorry

7:55 PM



Enter message



SEND



39% 11:36 AM



Lien Ngo Apt Owner



5109182007

4:36 PM

Good afternoon I have your 1600 deposit I'm working late tonight but not tomorrow if you wanna come get it



Tuesday, June 27, 2017

6:37 PM

Please can you come get your money today



Ok

6:57 PM

7:53 PM

R u coming



7:54 PM

I go to bed early



Please go to bed. I'm in a lot of pain plus I'm deal with Bs

7:54 PM



Can we do it tomorrow

Hey lien I'm getting tired of dis job whts up wht da business u a procranator

12:24 PM



Business sucks!



Enter message



SEND



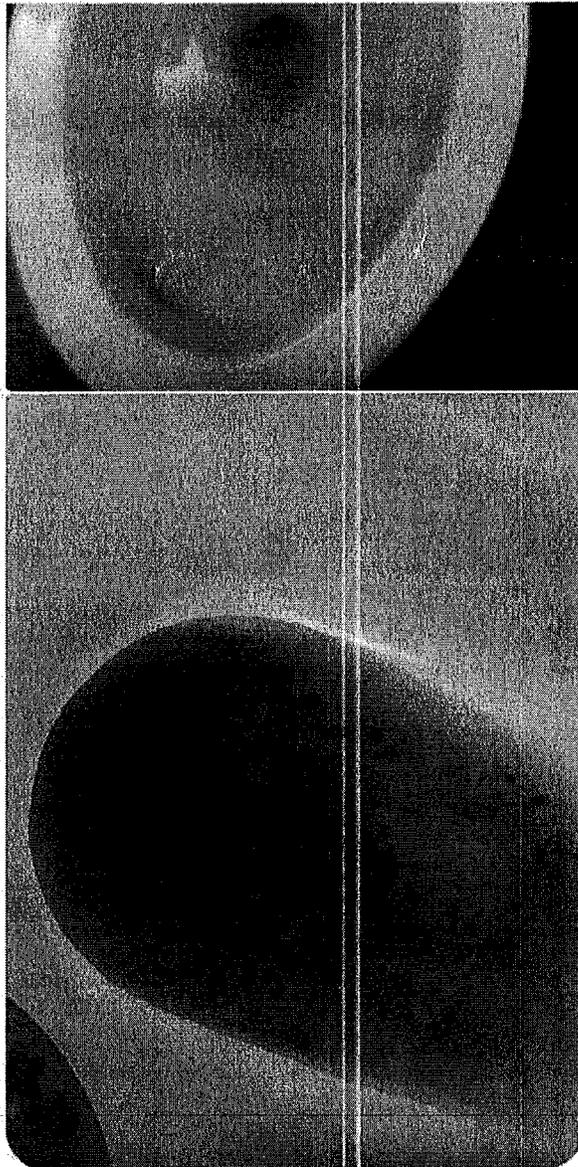
Bluetooth, Wi-Fi, Cellular, 39% battery, 11:37 AM



Lien Ngo Apt Owner



5109182007



MMS

7:23 PM

Lien you always sick and you went to Concord on your on you didn't ask if I mailed rent so it's in da mail maybe you should have called before you went to Concord you could gave put out da traps its outside you didnt need to come in

4:53 PM

L

Are we talking about you tell me not come

Read your text

It's has nothing to do with the trap

4:55 PM

No I said you dont need to come in the house to put out traps

4:55 PM

L

Rent should be mail by the 5th

000020

RECEIVED

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp: JUN 18 2020
		RENT ADJUSTMENT PROGRAM OAKLAND <u>PROPERTY OWNER</u> <u>RESPONSE</u>

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 - 720-0143

Your Name Lien Ngo	Complete Address (with zip code) 6425 Arthur St. Oakland, CA 94605	Telephone: [REDACTED]
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone: [REDACTED]
Tenant(s) Name(s) Valerie Wheaton	Complete Address (with zip code) 4428 MacArthur Blvd. Oakland, CA 94619	Email: [REDACTED]
Property Address (If the property has more than one address, list all addresses) 4430 MacArthur Blvd. Oakland, CA 94619		Total number of units on property 4 units

Have you paid for your Oakland Business License? Yes No Lic. Number: 00172161
 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.**

RAP # 00172162

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: 30-1982-112
 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: 1/3/2014

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>
<u>No rent increase since <u>move in</u></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 6/1/2017.

The tenant's initial rent including all services provided was: \$ 1600 / month. including all utilities

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? 6/6/2017

Is the tenant current on the rent? Yes No She owes back rent dating in 2019 current rent April 2020 not pay.

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
<u>6/5/2017 to current</u>	<u>No rent</u>	<u>\$ increase</u>	<u>\$ since tenant move in</u>	<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

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.

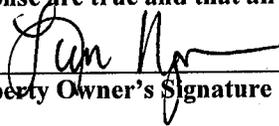
The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

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

4/15/2020

Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

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

File Review

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

Mediation Program

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

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

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

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



Property Owner's Signature

6/05/2020

Date

Dear Roberta Costa,

I'm writing regards to case No. T20-0143
Wheaton v. Ngo, I have never raise any
rent on Valarie Wheaton since the day she
move in 6/5/2017. Proof has been provide
she is trouble maker, She lie and lied
even on the filing. She stated she pay rent
all her rent, She been behind on rent
since 2018 - 2020, April 2020 she never
pay. From 2018 - 2020 only part rent
I provided proof. She is lying. she
also cause other property problems at
my unit intently clogged up sewer
pipes, I have photos to provide. She
just waste my time and your. She
even intention sent the petition to be
mail to other address. My home address
is 6425 Arthur St. Oakland, CA 94605.
You can reach me at 510-913-0228

Sincerely,

Jun Ngo

6/15/2020

000025

Post date: 06/11/2018

Amount: \$ 1450.00

Account: [REDACTED]

Check Number: [REDACTED]

68811127 NEW 0108 86000006

CHASE CASHIER'S CHECK

Remitter: VALARIE ANN WHEATON

Date: 06/02/2018

Pay To The Order Of: LIEN NGO

Pay: ONE THOUSAND FOUR HUNDRED FIFTY DOLLARS AND 00 CENTS \$** 1,450.00 **

By: Ryan A. Crowley, Managing Director
JPMorgan Chase Bank, N.A.
Phoenix, AZ

Memo: June Rent

Note: For information only. Comment has no effect on bank's payment.

DO NOT WRITE IN THESE SPACES

WARNING - DO NOT SIGN CHECK WITHOUT NOTIFYING YOUR BANK. HOLD TO END OF SERIAL STRIP.

Signature: [REDACTED]

Serial Strip: [REDACTED]

Post date: 03/04/2020

Amount: \$ 1600.00

Account: [REDACTED]

Check Number: [REDACTED]

30211157 NEW 0108 811000000

CHASE CASHIER'S CHECK

Remitter: VALARIE ANN WHEATON Date: 02/11/2020

Pay To The Order Of: LIEN NGO

Pay: ONE THOUSAND SIX HUNDRED DOLLARS AND 00 CENTS \$** 1,600.00 **

Signature: [Signature] R. Chambers

Raymond Chambers, Chief Administrative Officer
JPMorgan Chase Bank, N.A.
Phoenix, AZ

MEMO: [REDACTED]

Do not write outside this box

Name: [Signature] [REDACTED]

Note: For information only. Comment has no effect on bank's payment.

Vertical MICR lines on the right side of the check, including a signature and the number 88.

Post date: 05/19/2020

Amount: \$ 600.00

MoneyGram INTERNATIONAL MONEY ORDER

05/19/2020

2025-2027
BONEY GREEN UN

Pay to the order of: **INTERNATIONAL MONEY ORDER**

Pay exactly: **600.00**

Address: **Cher & Max Aubrey**

City: **San Antonio**

State: **TX**

Country: **USA**

Postage: **00.00**

Serial: **209538866768**

Check Number: **90**

⑆1031018664⑆2095 38866768⑈ 90

Account: [REDACTED]

Check Number: 90

LOAD THIS DIRECTION →

LOAD THIS DIRECTION →

Post date: 05/19/2020

Amount: \$ 1000.00

MoneyGram INTERNATIONAL MONEY ORDER

05/19/2020

2025-2027
BONEY GREEN UN

Pay to the order of: **INTERNATIONAL MONEY ORDER**

Pay exactly: **1000.00**

Address: **Cher & Max Aubrey**

City: **San Antonio**

State: **TX**

Country: **USA**

Postage: **00.00**

Serial: **R2095388667571**

Check Number: **90**

⑆1031018664⑆2095 38866757⑈ 90

Account: [REDACTED]

Check Number: 90

LOAD THIS DIRECTION →

LOAD THIS DIRECTION →

**RESIDENTIAL RENTAL AGREEMENT
(Single-Family)**

1. **INTRODUCTION.** This Residential Rental Agreement (hereinafter "Agreement") is made and entered into this 1 day of June 2017, at 154 Dabner St. San Leandro, California, between Lien Ngo (hereinafter "Owner") whose address and telephone number are: Cell Phone 510- 918-2007 or 925-788-3998 And (hereinafter "Tenant") Valarie Wheaton evidences the terms under which Tenants agrees to rent from Owner the property known and described as: Residential rental, 4428A Macarthur Blvd. Oakland, CA 94619. (hereinafter "premises").

Note: The submission and negotiation of this Rental Agreement shall not be deemed an offer to enter into a rental agreement by Owner but the solicitation of such an offer by Tenant and Owner's acceptance of this Rental Agreement shall be evidenced only by Owner having signed and delivered to Tenant an Ink original signed Rental Agreement.

<u>RECEIPT OF DEPOSIT:</u>	Charges	Received	Balance Due
Pro-rated Rent From	\$0.00	\$0.00	\$0.00
Full Month Rent Month of 6/1/17 to 6/30/17	\$1600.00	\$1600.00	\$0.00
Security Deposit	\$1600.00	\$1000.00	\$600.00
Credit Check Fee	\$0.00		
Other (if applicable) Non refundable cleaning fee	\$350.00		will deduct from deposit
TOTAL RECEIVED:	\$ 3600.00	\$1000.00	\$

2. **TERM.** The term of the tenancy shall commence on June 1, 2017 and shall continue:

- (a) For a period of months ending at noon on June 1, 2018, and continuing thereafter on a month to month basis until either party shall terminate the tenancy by giving to the other party written notice thirty (30) days in advance or otherwise as permitted or required by law.
- (b) For a period of _____ months ending at noon on _____, 20__.
- (c) On a month-to-month basis until either party shall terminate the tenancy by giving to the other party written notice thirty (30) days in advance or otherwise as permitted or required by law.

3. **OCCUPANTS.** The premises shall be occupied only by the persons identified above as "Tenant" and the following named minor persons all of whom shall be deemed residents and subject to the terms and provisions of this Agreement:

Valarie Wheaton _____	_____	Self _____
Name	DOB (Month/Day/Year)	Relationship

No other persons, regardless of age, shall occupy the premises except as guests. Guests may not occupy the premises in excess of fourteen (14) days during any twelve calendar month period, nor may more than two (2) guests occupy the premises at any one time, without the prior written authorization of Owner. Tenant shall not permit any person to stay overnight or otherwise occupy any portion of the premises occupied by Tenant if such person has previously resided at the premises and whose residency rights were terminated by Owner, whether with or without court action.

4. **USE.** The premises shall be used exclusively as a residence and Tenant agrees not to use the premises for any commercial or other enterprise at any time during Tenant's occupancy of the premises, including but not limited to child care.

5. **RENT.**

(a) Tenant shall pay to Owner rental of \$1600.00 per month due and payable in advance on the first day of each month.

(b) Rent shall be paid to:

(Name) Lien Ngo
 (Address) 154 Dabner St. San Leandro, CA 94577
 (Telephone) 510-918-2007

OR: At such other location as Owner shall from time to time designate in writing.

If payment is to be made personally, it should be made at the above address or at _____

_____ (address)
 between the hours of _____ (AM/PM) and _____ (AM/PM)

which are the usual days and hours that an authorized person will be available to receive the payment.

- (c) Method of payment may be made in any method checked below:

Personal Check Cashier's Check Money Order Cash

Electronic Funds Transfer pursuant to separate written instructions from owner.

By Deposit into Account No. _____ at _____

_____ (name of financial institution) located at _____

_____ (address within 5 miles of the rental property).

- (d) Rent shall be prorated in the event occupancy shall commence on other than the first day of the month or in the event the tenancy shall terminate on other than the last day of the month.
- (e) In the event rent is not paid by 5:00 p.m. on the 3rd day of the month, Tenant shall pay, as additional rent, a late charge of \$60.00. The late charge does not establish a grace period. Owner may make written demand for any rent unpaid on the second day of the month. Rent paid by mail shall be postmarked by the first day of the month or the late charge above-referred to shall apply. The late charge shall be reimbursement to Owner for administrative expense incurred by Owner in processing the late payment of rent and for loss of interest and other prospective economic advantage. The late charge shall be in addition to all other remedies available to Owner. Owner and Tenant agree that the charge is presumed to be for the expense incurred and interest lost by Owner because of Tenant's late payment of rent and that it is otherwise impractical or extremely difficult to fix the actual figure.
- (f) In the event rent is tendered by check which is, for any reason, dishonored by the maker's financial institution, Tenant shall pay to Owner \$45.00 as reimbursement to Owner for administrative expense in processing such dishonored check. This charge shall be deemed additional rent and shall be in addition to all other remedies available to Owner including, but not limited to, the late charge referred to above. Owner and Tenant agree that the charge is presumed to be the expense incurred by Owner because of Tenant's returned check and that it is otherwise impractical or extremely difficult to fix the actual figure. If Tenant's rent check is returned dishonored by maker's financial institution on more than one occasion, on Owner's written request to Tenant, Tenant shall pay all future rent in cashier's check or money order notwithstanding any other permitted mode set forth above.
- (g) Late charges and/or bad check charges as described in the foregoing paragraphs may be deducted from any payment made by Tenant to Owner, designated as rent or otherwise, in Owner's discretion, at any time up to twelve (12) months after such charge is incurred.
- (h) Owner may determine, in Owner's sole and absolute discretion, how and in what order any payments made by Tenant, irregardless of designation on the payment document, shall be applied to monetary obligations owing by Tenant.

6. **SECURITY DEPOSIT.** Tenant shall pay to Owner upon execution of this Agreement a Security Deposit in the amount of \$1600.00 to secure Tenant's obligations hereunder.

- (a) Owner may, but shall not be obligated to, apply all or part of Security Deposit on account of Tenant's obligations hereunder.
- (b) Tenant shall not have the right to apply the Security Deposit in payment of the last month's rent.
- (c) Tenant shall not be entitled to any interest or other economic advantage on the Security Deposit while in possession of Owner.
- (d) If Tenant shall be in default in payment of rent or any portion thereof, or of any sums expressly constituting additional rent, Owner may appropriate and apply any portion of the Security Deposit as may be necessary to the payment of overdue rent or other sums expressly constituting additional rent.
- (e) If Tenant fails to repair any damage to the premises, including furniture and appliances leased to Tenant caused by Tenant or Tenant's invitees through lack of ordinary care, for a period of greater than thirty (30) days after written demand to make such repairs is served on Tenant by Owner, then Owner may appropriate and apply such portion of the Security Deposit as may reasonably be necessary to fund such repair.
- (f) If, on termination of this Agreement or the tenancy for any reason, Tenant does not vacate the premises in as good a condition as when received by Tenant from Owner, reasonable wear and tear excepted, then Owner may appropriate and apply, as permitted by law, any portion of the Security Deposit as may be reasonably necessary to put the premises in such condition.
- (g) If on termination of this Agreement or incident to any action or proceeding to enforce this Agreement, its terms and conditions, it becomes necessary for Owner to obtain the services of attorneys, sheriffs, marshals, moving and storage firms, etc., to secure full possession of the premises, Owner may appropriate and apply any portion of the security deposit as may be reasonably necessary to fund such services.
- (h) None of the above shall prevent or limit Owner from bringing suit to recover from Tenant any and all funds for such costs and expenses incurred by Owner which may exceed the amount of the Security Deposit.

- (i) Owner may apply the security deposit, as permitted by law, to remedy future defaults by the Tenant in any obligation under this Agreement to restore, replace or return personal property appurtenances, exclusive of ordinary wear and tear.
- (j) Tenant agrees to restore the Security Deposit to its original amount should resort to such funds be required by Owner during the period of this Agreement.
7. **UTILITIES.** Tenant shall be responsible for the payment of all utilities and other services except water and garbage will be pay by the owner. Prior to commencing occupancy, Tenant shall make arrangements with the appropriate utility and service provider to place the utility and service account in Tenant's name. Tenant shall not allow any utility service to be cut off and shall notify Owner if any applicable utility authority disconnects or threatens to disconnect any utility.
8. **POSTPONED DELIVERY OF POSSESSION.** If Owner is unable to deliver possession of the premises on the above commencement date for any reason (whether due to construction, repair, make ready or hold over by a prior resident), Owner shall not be subject to any liability nor shall the validity of this Agreement be affected nor the term of this Agreement be extended, but under such circumstances, the rent hereunder shall not commence until the possession of the premises is delivered; provided, however, that in the event possession of the premises is not delivered by Owner to Tenant within thirty (30) days following the above commencement date, then at any time after the thirty (30) day period and prior to tender by the Owner of possession, Tenant may terminate this Agreement by written notice to Owner, and thereupon all rights and obligations hereunder of both parties shall cease.
9. **RENTAL APPLICATION.** Tenant's application to rent is specifically incorporated herein and made a part hereof. If the application shall contain any misrepresentation, Owner may, in addition to all other remedies, treat such representation as a default hereunder and terminate all rights of Tenant hereunder.
10. **JOINT AND SEVERAL OBLIGATION.** It is expressly understood that this Agreement is between Owner and each signatory individually, jointly and severally. In the event of default by any one signatory, each and every remaining signatory shall be responsible for timely payment of rent and other charges and for complying with all of the terms and provisions of this Agreement, regardless of whether a signatory has vacated possession of the premises.
11. **RESPONSIBILITY FOR GUESTS AND INVITEES.** Tenant hereby accepts responsibility for Tenant's guests and invitees in and about the premises to respect the privacy and comfort of neighbors.
12. **TERMINATION PROCEDURE.** Upon termination, Tenant shall:
- (a) Completely vacate the premises, including any storage or other areas which the Tenant may be occupying and leave same in the same level of cleanliness as it was at the inception of the tenancy except as otherwise may be provided for herein;
 - (b) Deliver all keys and all personal property furnished to Tenant during the term of the Agreement to Owner in good, clean and sanitary condition, reasonable wear and tear excepted;
 - (c) Leave Tenant's forwarding address with Owner to make such security deposit notification, accounting and/or refund as may be required by law.
13. **PROHIBITION AGAINST ASSIGNMENT OR SUBLETTING.** Tenant shall not assign, transfer, mortgage or hypothecate this Rental Agreement in whole or in part or any interest therein, nor shall Tenant sublease or sublet the premises or any part or portion thereof, either voluntarily or by operation of law. In the event Tenant shall attempt to assign, transfer or event Tenant shall sublet the whole or any part of the premises, then at the option of Owner, Owner's successors and/or assigns, this Agreement shall immediately terminate. If Owner should consent to one assignment or subletting, such consent shall not be deemed a consent to any subsequent assignment or subletting. The acceptance of rent by Owner from Tenant or from any other person or entity after a purported assignment or subletting shall not be deemed a waiver by Owner of any provision herein.
14. **PROHIBITED PURPOSES AND OTHER RESTRICTIONS.** Tenant shall not use the premises for any purpose prohibited by the laws of the United States or by the law or ordinances of the State of California and the County and/or City or other municipality in which the premises are situated, whether now in force or hereafter enacted, including but not limited to all police, fire and sanitary regulations. Tenant shall not maintain, keep, or allow to be kept or maintained upon the premises any item or permit any acts to be done which will cause an increase in the rate of insurance upon or which shall endanger the premises.
15. **COVENANTS, CONDITIONS AND RESTRICTIONS.** In the event that the premises are a portion of a building containing more than one unit, or in the event the premises are governed by covenants, conditions and restrictions, and bylaws or other governing documents which run with the premises, Tenant agrees to abide by such covenants, conditions and restrictions, bylaws or other such documents, whether promulgated before or after the execution hereof.
16. **NOTICE OF DISREPAIR.** Tenant shall, upon discovery, immediately advise Owner, in writing, of any condition on the premises which adversely affects the habitability thereof. Failure to so notify Owner shall be deemed an admission that such condition does not adversely affect the habitability of the premises.
17. **ANIMALS.** No animals (including, but not limited to, mammals, reptiles, birds, fish and rodents) shall be brought on the premises without the prior written consent of Owner. In the event such consent is obtained, Tenant agrees to keep such animal under control and if a dog or cat, restrained or leashed at all times, to keep such dog or cat quiet so as not to disturb any neighbors, and to keep the premises clean and odorless at all times.

18. CONDITION OF PREMISES.

- (a) Tenant has thoroughly examined the premises and all personal property situated therein which may be part of the rental, including, but not limited to, the furniture, furnishings, fixtures, appliances, equipment, windows, doors, plumbing facilities, electrical facilities, hot water and cold water supply, building grounds and appurtenances, and accepts the same "as is", and acknowledges that the same are in good, clean and sanitary order, condition and repair, unless noted to the contrary in this Agreement.
- (b) Tenant acknowledges by taking possession of the premises that no statement or representation herein expressed as to past, present or future condition or repair thereof have been made by or on behalf of Owner unless noted to the contrary in this Agreement. By taking possession and failing to notify Owner specifically in writing within 24 hours thereafter of any condition unsatisfactory to Tenant, Tenant acknowledges that the premises are ready for occupancy and in good and sanitary order, condition and repair.
- (c) Tenant shall at all times, at Tenant's own expense, maintain the premises, its equipment and contents, in as clean, sanitary and neat condition and repair as the premises were in at the inception of the tenancy except as otherwise may be provided for herein. All refuse and garbage shall be deposited by Tenant in the appropriate receptacles as may be provided by Owner or as provided by Tenant. Tenant shall be responsible for disposing of articles of a size or nature not acceptable by the rubbish hauler for the premises. Tenant shall be responsible for damages caused by conduct of Tenant and Tenant's family and invitees, including the cost of repair of said damages.

Tenant shall use Tenant's best efforts to prevent the growth of mold or mildew on the premises which otherwise will occur in the event there is inadequate ventilation or unusual amounts of moisture. Prevention shall include:

- (1) Promptly cleaning up material that can harbor mold;
 - (2) Immediately reporting to Owner any water intrusion (roof leaks, window leaks, plumbing leaks, pipe leaks, etc.);
 - (3) Now allowing sinks and tubs to overflow with water;
 - (4) Immediately reporting to Owner any indication of mold or mildew found in the premises;
 - (5) Appropriately ventilating the kitchen and bathrooms when moisture is present such as by opening available windows or using available fans; alternatively, immediately reporting any condition that would prevent the use of such ventilation equipment to the Owner;
 - (6) Closing all windows and doors in order to prevent rain water from entering the premises;
 - (7) Drying any damp areas on the premises as soon as such dampness is noticed.
- (d) Upon termination of the Tenancy, Tenant shall, except as otherwise may be provided for herein, return the premises to Owner in as good order, condition, repair and cleanliness as when received, reasonable wear and tear excepted, and free of all of Tenant's personal property, trash and debris. Burns, stains, holes or tears of any size or kind in the carpeting, drapery or walls, among other conditions, do not constitute reasonable wear and tear.
19. ALTERATIONS. Tenant shall not paint, paper, change locks, install lighting fixtures, alter telephone, internet or cable inside wiring, display signs or exhibits publicly from or otherwise redecorate or make alterations to the premises without the prior written consent of Owner. Any additions to or alterations of the premises shall become at once a part of the premises and belong to the Owner unless the Owner gives Tenant written notice to remove some or all of such additions or alterations in which event Tenant shall cause the item so designated to be removed and the premises to be restored to their original condition, at the expense of Tenant.
20. WASTE AND NUISANCE. Neither Tenant nor Tenant's family and invitees shall commit any waste upon the premises or cause any nuisance or act which shall disturb the quiet enjoyment of any neighbors of surrounding properties.
21. WATERBEDS. Tenant shall not have a waterbed on the premises without the prior written consent of Owner.
22. INSURANCE. Owner will not insure Tenant for any personal injury or property damage, including that caused by the act or omission of any other tenant or third party or by any criminal act or activity, war, riot, insurrection, fire or act of God. Tenant shall obtain and pay for such insurance coverage as Tenant deems necessary to protect Tenant from any such loss or expense.
23. NON-WAIVER. Failure or delay by Owner in enforcing any term hereof or in exercising any right or remedy available to Owner should Tenant breach this Agreement or the building rules, covenants, conditions and restrictions or any such other documents as may be applicable, shall not be deemed a waiver by Owner of Owner's rights to enforce such terms nor shall failure by Owner to notify Tenant of any breach constitute a waiver by Owner of Owner's rights to enforce such terms. The acceptance of rent by Owner with knowledge of a breach by Tenant shall not be a waiver of Owner's right to enforce any term hereof. No waiver by Owner of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Owner's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Owner's consent to or approval of any subsequent act by Tenant.
24. ENTRY. Owner or Owner's agents and employees or contractors, may enter the premises, as permitted by law, as follows:
- (a) In the case of emergency or upon Court order;

- (b) When the Tenant has abandoned or surrendered the premises;
- (c) To make necessary or agreed upon repairs, decorations, alterations or improvements;
- (d) To supply necessary or agreed upon services;
- (e) To exhibit the premises to prospective or actual purchasers, lenders, tenants, workers or contractors;
- (f) As otherwise permitted by law.

Except in the case of an emergency or upon Court order or as otherwise permitted by law, Tenant shall be given reasonable notice, as required by law, of Owner's intent to enter with entrance during normal business hours from 8:00 a.m. until 6:00 p.m., Monday through Saturday, holidays excepted. Twenty-four hours shall be presumed to be reasonable notice.

- 25. **INDEMNIFICATION.** Owner shall not be liable for any damage or injury to Tenant, or any other person or to any property which may occur on the premises or any part thereof, from fire, smoke, rain, flood, water leaks, hail, ice, lightning, wind, explosions, earthquakes, interruption of utility service, theft or vandalism unless such damage or injury is the proximate result of the negligence or unlawful act of Owner or Owner's agents and employees. Tenant agrees to indemnify Owner against claims resulting from any injury or damage to any person other than Tenant or to the property of such other persons resulting from the failure of Tenant to maintain and repair the premises under this Agreement.
- 26. **ESTOPPEL CERTIFICATE.** Within ten (10) days after written notice, Tenant agrees to execute and deliver a certificate as submitted by Owner acknowledging that this Agreement is unmodified and in full force and effect, or in full force and effect as modified, and stating the modifications. Failure to comply shall be deemed Tenant's acknowledgment that the certificate as submitted by Owner is true and correct and may be relied upon by any lender or purchaser.
- 27. **DAMAGE TO PREMISES.** If the premises are so damaged by fire or other casualty as to render the premises untenable, then either party shall have the right to terminate this Agreement as of the date on which such damage occurs, through written notice to the other party, to be given within fifteen (15) days after the occurrence of such fire or casualty event; except that should damage or destruction occur as the result of the abuse or negligence of Tenant or Tenant's family or invitees, then Owner only shall have the right to terminate this Agreement. Should this right be exercised by either Owner or Tenant, then rent for the current month shall be prorated between the parties as of the date the damage occurred and any prepaid rent shall be refunded to Tenant accordingly.
- 28. **CONSENT OF OWNER.** Wherever in this agreement Owner is expressly required to give consent or approval, such consent or approval may be given or withheld in the sole and absolute discretion of Owner unless otherwise expressly stated. In no event, shall Owner be responsible in monetary damages for such failure to give consent unless said consent is withheld maliciously or in bad faith.
- 29. **DEATH OF TENANT.** In the event of the death of Tenant before the expiration of the term of this Agreement, this Agreement shall terminate at the end of the month next following the date of receipt by Owner of written notice thereof, or the surrender of the premises to Owner, whichever is earlier.
- 30. **HOLDING OVER.** Any holding over after expiration hereof, with the consent of Owner, shall be construed as a month to month tenancy in accordance with the terms hereof, as applicable, until either party shall terminate the same by giving the other party written notice as required by law.
- 31. **MAINTENANCE OF GROUNDS.** Tenant shall irrigate and maintain any surrounding grounds, including lawns and shrubbery and keep same clear of rubbish or weeds provided such grounds are exclusively for use of Tenant. Maintenance shall include periodic fertilization. No debris, automobiles, garbage or other materials shall be placed in the surrounding grounds area, outside of the residence structure in the absence of prior written approval by Owner.
- 32. **TENANT UNDERTAKING TO REPAIR, MAINTAIN AND/OR IMPROVE.** Tenant agrees, in lieu of paying additional rent, and as part of Tenant's consideration for the rental of the premises, to promptly repair, improve and maintain the following portions of the premises: N/A

The foregoing work to be performed by Tenant is based upon the mutual agreement of Owner and Tenant that the monthly rent charged for the premises is below market value and that the work to be performed by Tenant as set forth above reflects Owner's and Tenant's mutual determination that such work of improvement, maintenance and repair is equivalent to the difference between market value as so repaired, maintained and improved and current rental value. Tenant acknowledges that but for Tenant's undertaking as hereinabove set forth, Owner would not rent the premises to Tenant.

- 33. **APPLIANCES AND FURNISHINGS.** Tenant acknowledges that the premises are unfurnished and that Owner does not provide any appliances and/or furnishings such as stove, refrigerator, screens, draperies and screen doors. If any of the foregoing items are on the premises at the commencement of this Agreement, Tenant accepts said items in "as-is" condition and shall assume all responsibility for maintenance and repair of said items and shall hold Owner harmless from any claim or claims arising out of the use or condition of such items and further agrees that the existence of such items on the premises is not reflected in the rent paid by Tenant to Owner but are merely a gratuity to Tenant from Owner.
- 34. **VEHICLE PARKING AND REPAIR.** Any vehicle belonging to Tenant or Tenant's guests or invitees shall be parked only in areas assigned for such purpose. Tenant shall keep such location clean of oil drippings and shall not repair any motor vehicle of Tenant or Tenant's guests or invitees on the premises unless it is in an enclosed garage. No disabled or

Inoperative vehicles shall be parked on the premises or on the street adjacent to the premises for any longer than ten (10) days in any thirty (30) day period.

35. **GUARANTOR.** In the event Tenant's obligations under this Agreement are guaranteed, under a separate guarantee agreement, the filing of a petition in bankruptcy by the guarantor shall constitute a breach of this Agreement and a default hereunder in the event Tenant does not supply to Owner within ten (10) days after written demand from Owner to Tenant a substitute guarantor satisfactory to Owner.
36. **SEWER DRAIN STOPPAGE.** In the event that any sewer drain stoppage occurs and such stoppage is a result of misuse of said sewer drains by Tenant, all plumbing expense associated with the repair of said sewer drain shall be the responsibility of Tenant which such expense shall be either paid by Tenant directly or, at the option of Owner if Owner makes such payment, Tenant shall reimburse Owner for Owner's payment of such expense within fifteen (15) days after written notice sent by first class mail from Owner to Tenant setting forth the amount of such expense and a copy of the repair invoice.
37. **SMOKE DETECTORS.**
- (a) The premises are equipped with 3 smoke detection device(s).
 - (b) Said device(s) was/were tested and was/were in proper working order on _____ and the operation of the device(s) was/were explained to Tenant by the Owner or the Owner's agent.
 - (c) Tenant shall test the device(s) no less than one time per week to insure the proper operating function of the device(s) in accordance with the manufacturer's recommended instructions which have been explained to Tenant.
 - (d) By initialing this space _____, Tenant acknowledges that the device(s) is/are battery operated and that Tenant shall be solely responsible to insure that the battery is in operating condition at all times; to replace the battery as needed and/or to inform the Owner or the Owner's authorized agent immediately in writing if the unit for any reason is not operating or has not operated under any condition.
38. **RATIONING OF UTILITIES.** To the extent that Owner provides to Tenant any utility without charge, including, but not limited to water, Owner only agrees to provide a reasonable quantity of said utility and Tenant agrees to pay for any excessive or unreasonable use of said utility. If any utility is rationed, in any respect by any state, regional or local agency regulating that utility, excessive or unreasonable use shall be deemed that usage level which results in a penalty or excess use fee. In the event the utility is shared by more than one unit in a building or buildings of which the premises are a part and there is a common metering or distribution system, Tenant shall pay a share of the charge for such excessive or unreasonable use in proportion to the number of units using the utility.
39. **BINDING EFFECT.** This Agreement shall be binding upon and inure to the benefit of Tenant's and Owner's heirs, successors and permitted assigns.
40. **CODE OF CIVIL PROCEDURE §2079.10a. DISCLOSURE.**
Notice: The California Department of Justice, sheriff's departments, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The data base is updated on a quarterly basis and a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.
41. **NO SECURITY, WARRANTY OR GUARANTY.** Notwithstanding that Owner may, from time to time, provide security services, Tenant acknowledges that Owner makes no warranty or guaranty as to the safety and/or security of Tenant against illegal acts by third parties and that Owner has no duty to provide security services to Tenant or Tenant's guests and/or invitees and that Tenant shall look solely to public law enforcement for such security protection and further acknowledges that Owner has no authority or power to protect Tenant against illegal activity. Any provision by Owner of security services at the premises shall not constitute a waiver of, or in any manner modify, the foregoing provisions in this paragraph.
42. **TIME.** Time is of the essence in this Agreement.
43. **MANAGEMENT.** In the event this Agreement is signed by, or in the event a Tenant pays the rent to, a property manager, property management company or other agent of Owner, such person, persons or entity shall be considered as Owner of the premises and shall be authorized to prosecute actions in said agent's, property manager's or said property management company's name without joining the title Owner as plaintiff.
44. **INVALIDITY.** If any term or provision of this Agreement or the application thereof to any party or circumstance shall to any extent be held invalid and unenforceable, the remainder of this Agreement or the application of such term or provision to said party or circumstance other than those as to which it is invalid or enforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.
45. **BREACH.** The violation of any of the provisions of this Agreement or of the house rules as may be applicable, including the nonpayment of any rent when due, shall be a breach of this Agreement and sufficient cause for eviction from the premises upon proper written notice.
46. **ATTORNEY'S FEES AND COSTS.** In the event of any action or proceeding between the parties concerning the interpretation or enforcement of any provision of this Agreement, Owner shall be entitled to recover all costs and expenses including, without limitation, attorney's fees and costs of suit. Any attorney's fees and other expenses incurred by Owner in

enforcing a judgment in Owner's favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorney's fees obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment.

- 47. **WAIVER OF RIGHT TO TRIAL BY JURY.** OWNER AND TENANT HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY OF ANY CAUSE OF ACTION, CLAIM, COUNTERCLAIM OR CROSS-COMPLAINT IN ANY ACTION, PROCEEDING AND/OR HEARING BROUGHT BY EITHER OWNER AGAINST TENANT OR TENANT AGAINST OWNER ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF OWNER AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, OR ANY CLAIM OF INJURY OR DAMAGE, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE OR REGULATION, EMERGENCY OR OTHERWISE, NOW OR HEREAFTER IN EFFECT.
- 48. **NOTICES.** Any notice which either party may give or is required to give, may be given, as permitted by law, by mailing same, postage prepaid, to Tenant at the premises or to Owner at the address below, or at such other place as may be designated in writing by the parties from time to time.
- 49. **ADDENDA.** This Agreement is supplemented by the following Addenda which are incorporated herein: All lost keys, replacement of locks on house, garage, postbox, storage closet and garage door opener, due to negligence of the tenant will be the tenants responsibility entirely.

 Signature _____ Signature _____

- 50. **ENTIRE AGREEMENT.** The foregoing constitutes the entire Agreement between the parties and supersedes any oral or written representations or agreements that may have been made by either party. This Agreement may be modified only by a written modification signed by both parties. Further, Tenant represents that he has relied on Tenant's own judgment, experience and expertise in entering into this Agreement with Owner or on the advice and counsel of others on his behalf but has not relied upon any expertise, judgment or recommendations by Owner.
- 51. A \$350.00 non-refundable fee will be taken out of deposit after lease is terminate/move out.

The undersigned Tenant acknowledges having read and understood the foregoing and having received a duplicate original of this Agreement.

OWNER/AGENT
 By: [Signature]
 Lien Ngo

TENANT
 By: [Signature]

By: _____

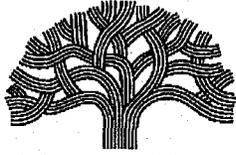
By: _____

Date: 6/1/17

By: _____

Address of Agent:
 194 Francisco Lane, Suite 202
 Fremont, CA 94539

By: _____
 Date: 6-1-17



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
CA Relay 711

AMENDED NOTICE OF REMOTE SETTLEMENT CONFERENCE AND HEARING

File Name: Wheaton v. Ngo
Property Address: 4428 MacArthur Boulevard, Unit A Oakland, CA 94619
Case Number: T20-0143

Due to the continued Covid 19 pandemic in our city, and in an effort to protect the health and safety of the parties and City of Oakland employees, the Settlement Conference and Hearing in your case will not be an in-person hearing and will be held remotely.

Remote Hearings

In the next few days the program analyst assigned to your case will contact you by telephone or email to determine whether you have access to a computer or a phone with video technology and either cellular service or hi-speed internet, so that the Hearing could be conducted using videoconferencing through Zoom, a free videoconferencing application. If you do not have access to these services or if any party does not have access, the Hearing will be conducted by Zoom but on "audio only" which allows parties to use a toll-free call in number on a telephone to participate. There is no charge to use Zoom.

Submission of Documents Electronically

In order to allow the Hearing to run as smoothly as possible, please send all documents to the RAP by email directly to the analyst in your case. The assigned Program Analyst for your case is **Robert F. Costa** and his contact information is RCosta@OaklandCA.gov (510) 238-2079

Deadline and Time Limit Extension

The City has issued an Executive Order which suspended all time-limits and deadlines for all Rent Adjustment Program Hearings, so it is possible that you have not submitted the documents necessary to proceed with the case. In order to minimize delays, we ask that you submit all required responses and exhibits that you wish to produce for your Hearing prior to the date of the Hearing and **at least seven days prior to the Hearing**. Please submit these documents by email to the analyst in your case (noted above) and, **if you have access to the opposing party's email address, send a copy of everything you send to the analyst to the opposing party as well.**

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Please note that most smart phones have scanning capability. If you do not have access to scan and email your documents you may submit them by mail. (If you are mailing, always send copies and keep the originals for yourself.) Please notify the analyst if you have submitted your documents by mail.

Note that any documents not submitted at least seven days prior to the Hearing may cause delays in the completion of your case.

Please note that if you do not have access to any of the necessary technology to be a participant in a remote Hearing, please call the analyst on your case (noted above.)

The Remote Hearing in your case will be held:

Date: October 13, 2020

Time: 10am

Place: Remotely (You will be notified of phone / videoconference appointment before the confirmed hearing date)

All other orders set forth in the original Notice of Settlement Conference and Hearing remain in effect.

Please note that if you wish to have an interpreter present at the Hearing you should contact your analyst as soon as possible.

If you have any questions, please contact the analyst.

PROOF OF SERVICE
Case Number T20-0143

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

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

Owner

Lien Ngo
625 Arthur Street
Oakland, CA 94605

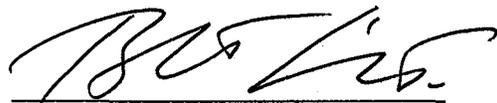
Tenant

Valerie Wheaton
4428 MacArthur Boulevard, Unit #A
Oakland, CA 94619

Documents Included: Remote Hearing Notice

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 September 23, 2020 in Oakland, CA.



Robert F. Costa
Oakland Rent Adjustment Program

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CITY OF OAKLAND



250 FRANK OGAWA PLAZA, STE. 5313, OAKLAND, CA 94612-2043

Housing and Community Development Department
Rent Adjustment Program

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

July 14, 2020

Lien Ngo
6425 Arthur Street
Oakland, CA 94605

Re: Case # T20-0143, Wheaton v. Ngo

Dear Property Owner:

The Rent Adjustment Program received your Property Owner Response for case # T20-0143 on June 18, 2020. The following deficiency has been identified:

You need to submit proof of payment for Oakland Business Tax License and the Rent Program Service Fee. Please provide necessary proof of payment for both items along with your written response to this deficiency letter.

The requested information must be submitted to this office within ten (10) calendar days from the date of this letter to consider your response valid at the scheduled hearing. If you have any further questions, contact me at (510) 238-2079 or RCosta@OaklandCA.gov Please refer to the Case Number above when you call us.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert F. Costa".

Robert F. Costa
Rent Adjustment Program
Program Analyst II

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PROOF OF SERVICE

Case Number T20-0143

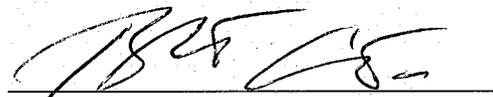
I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached **Landlord Deficiency 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, 5th Floor, Oakland, California, addressed to:

Lien Ngo
6425 Arthur Street
Oakland, CA 94605

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 14, 2020** in Oakland, California.


Robert F. Costa
Program Analyst
Oakland Rent Adjustment Program

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PROOF OF SERVICE
Case Number T20-0143

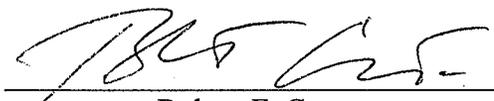
I am a resident of the State of California at least eighteen years of age. I am not a party to the Residential Rent Adjustment Program case listed above. I am employed in Alameda County, California. My business address is 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California 94612.

Today, I served the attached **PROPERTY OWNER 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, 5th Floor, Oakland, California, addressed to:

Valerie Wheaton
4428 MacArthur Boulevard
Oakland, CA 94619

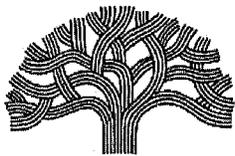
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first 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 14, 2020 in Oakland, California.



Robert F. Costa
Oakland Rent Adjustment Program

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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: Wheaton v. Ngo
Property Address: 4428 MacArthur Blvd. Oakland, CA
Case Number: T20-0143

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

Date: October 13, 2020
Time: 10:00 AM
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.

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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 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 T20-0143

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

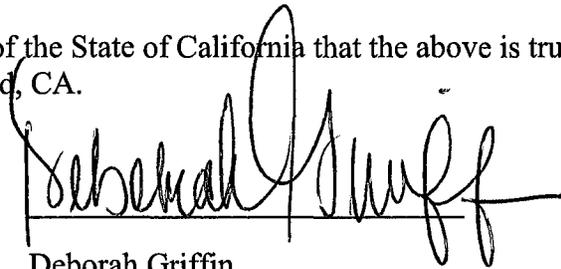
Lien Ngo
2948 Euclid Avenue
Concord, CA 94519

Tenant

Valarie Wheaton
4428 MacArthur Blvd. Unit A
Oakland, CA 94619

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.

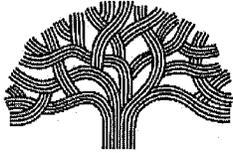
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **May 21, 2020** in Oakland, CA.



Deborah Griffin

Oakland Rent Adjustment Program

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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

May 21, 2020

Owner

Lien Ngo
2948 Euclid Avenue
Concord, CA 94519

Your case has been assigned Case No. **T20-0143**
The case title and file name is **Wheaton v. Ngo**
The Analyst assigned to your case is **Robert Costa at (510) 238-2079**

The Rent Adjustment Program received the petition(s) attached to this letter on April 17, 2020. One or more of your tenant(s) are protesting one or more rent increases alleging that they exceed the maximum rent permitted by Oakland Municipal Code Chapter 8.22. For details please see the attached copy of the petition.

YOU MUST FILE A WRITTEN RESPONSE TO THE ATTACHED TENANT PETITION(S) 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. The proposed rent increase is not effective until the decision in this case is final. If the amount of the current CPI increase is stated separately in the notice of increase, the tenant must pay the current CPI increase.

Oakland Municipal Code Chapter 8.22 (Rent Adjustment Ordinance) limits the annual permissible rent increases that can be imposed on a rental unit covered by the Ordinance. If a unit is voluntarily vacated, or the tenant is evicted for cause, the rent may be raised without restriction upon re-renting. The new tenancy is again subject to the rent increase limitations in the Ordinance.

The Ordinance requires that you provide a written notice of the existence of the Residential Rent Adjustment Program to tenants in covered units at the start of the tenancy. You must use the Rent Adjustment Program form titled "Notice to Tenants of the Residential Rent Adjustment Program". This document is also called the "RAP Notice". The Ordinance also requires that you serve the same notice together with all notices of rent increase and all notices of change in terms of tenancy.

Rent increases less than, or equal to, the annual CPI increase need not be justified. Rent increases in excess of the annual CPI increase may be justified on one or more of the following grounds:

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The following are summaries ONLY. For complete information, please see Oakland Rent Adjustment Ordinance and the Rent Adjustment Regulations. You may call the Rent Program Office to have your questions answered or to obtain a written copy of the Ordinance and Regulations.

1. EXEMPTION: (OMC Section 7.22.030)

The landlord may prove exemption from application of the Oakland Rent Adjustment Ordinance. The exemptions are found in the Rent Adjustment Ordinance. The most common exemption is that the unit is government subsidized housing. Other common exemptions are for units constructed after January 1, 1983 (new construction) and single family houses exempt under the Costa Hawkins Rental Housing Act. See the Ordinance for a complete list and details.

2. CAPITAL IMPROVEMENT/UNINSURED REPAIR COSTS: (Regulations Section 10.)

Capital improvements increases may only be granted for improvements that have been completed and paid for within the 24-months immediately before the effective date of the proposed rent increase. To justify a rent increase for capital improvements expenditures or uninsured repair expense you must provide, at least 7 days prior to the Hearing, copies of receipts, invoices, bid contracts or other documentation showing the costs were incurred to improve the property and benefit the tenants, and evidence to show that the incurred costs were paid. The owner can only pass through 70% of costs incurred and may not increase the rent more than 10%.

2. INCREASED HOUSING SERVICE COSTS: (Regulations Section 10.)

Housing Service Costs are expenses for services provided by the landlord related to the use or occupancy of a rental unit. In determining whether an increase in housing service costs justifies a rent increase in excess of the annual CPI increase, the annual operating expenses related to the property for the most recent two years are compared. Year two costs must exceed year one costs by more than the current annual increase. The expenses considered include property taxes, business license/taxes, and insurance, P.G. & E., water, garbage, maintenance and repairs, managerial costs and other legitimate annually recurring expenses to operate the rental property, except debt service. Evidence is required to prove each of the claimed housing costs.

3. BANKING/RENTAL HISTORY:

"Banking" refers to deferred annual general rent increases (CPI increases) that were not imposed, or were not imposed in full, and carried forward to future years. Subject to certain limitations, imposition of annual general increases may be deferred up to 10 years. After 10 years, general increases that were not imposed, expire. Evidence of the rental history of the subject unit is required.

4. NECESSARY TO MEET CONSTITUTIONAL FAIR RETURN REQUIREMENTS:

In order to prove that the owner is entitled to a rent increase based on constitutional fair return an owner must establish that the return on the investment is less than the return that would have been received for an investment of similar risk. At a minimum, proof of the amount of investment, evidence of the return from other investments of similar risk and an analysis of the rate of return from the rental property, including an appreciation in the value of the property, are required.

5. DEBT SERVICE:

Debt service has been eliminated as a reason for a rent increase effective April 1, 2014. However, if an owner made a bona fide offer to purchase property before April 1, 2014, a debt service rent increase may be approved. An increase in rent based on debt service costs will only be approved in those cases where the total property income is insufficient to cover the housing service costs and 95% of the debt service costs for purchase money for mortgages secured by the subject property. Eligible debt service

costs are the actual principal and interest applicable to the property.

Additional Requirements

- 1. have a current Oakland Business License**
- 2. be current on payment of the Rent Adjustment Program's Service Fee**
- 3. file a timely response on the Landlord Response form and submit the required**

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 T20-0143

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

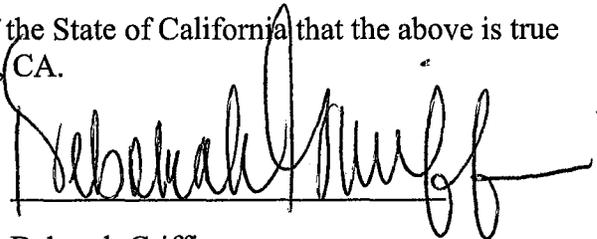
Landlord Notification of Tenant Petition
Landlord Response Form
Copy of Tenant Petition

Owner

Lien Ngo
2948 Euclid Avenue
Concord, CA 94519

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.

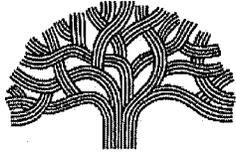
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **May 21, 2020** in Oakland, CA.



Deborah Griffin

Oakland Rent Adjustment Program

000050



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

May 21, 2020

Tenant

Valarie Wheaton
4428 MacArthur Blvd. Unit A
Oakland, CA 94619

Dear Petitioner:

The Rent Adjustment Program has received a petition filed by you.

Your case has been assigned Case No. T20-0143.

The case title and file name is Wheaton v. Ngo.

The analyst assigned to your case is Robert Costa at (510) 238-2079.

After a petition is filed and until a final decision in this case, the contested rent increase is suspended, except for the portion of the rent increase equal to the current CPI Rent Adjustment if that amount is stated separately on the notice of increase.

IF THE NOTICE OF INCREASE DOES NOT STATE THE PORTION OF THE INCREASE THAT EQUALS THE ANNUAL CPI INCREASE, THE TENANT NEED NOT PAY ANY OF THE RENT INCREASE WHILE THE PETITION IS PENDING.

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.

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Analyst Check List

(LM)

Case Number: T20-0143

Tenant Petition

Complete contact information for tenant/landlord ✓

Petition timely filed ✓

Current on the rent (or documentation/explanation supporting withholding rent) ✓

Contested rent increases are clearly stated NA Rent increase percentage NA

Receipt of Notice to Tenants indicated ✓

List of Decreased Housing Services ✓

Documentation for Code violations attached NA

Initial move-in date provided ✓ Initial rent provided ✓

Deficiency Notice mailed NO Deadline for curing deficiency _____

Deficiency cured: Yes _____ No _____

Landlord Response

Response timely filed 6/18/2020

~~Program Services Fees Current DN Business License paid DN~~

Justifications/exemptions/rent history provided ✓

Supporting documentation provided ✓

Serving RAP Notice indicated ✓ Serving Enhanced Notice to tenant indicated N/A

Enhanced Notice Received by RAP N/A

Deficiency Notice sent _____ Deadline for curing deficiency _____

Deficiency cured _____ Yes _____ No _____

Issue Administrative Decision _____

Set for hearing ✓ Set for Mediation _____

10/13/2020

Notes to Hearing Officer: HOUSING SERVICES

~~RAP FEE + BUSINESS TAX LICENSE PROOF (DN)~~

Case No: T20-0143
File Name: Wheaton V. Ngo

RECEIVED

SEP 24 2020

WAGE ADJUSTMENT PROGRAM
OAKLAND

Dear Roberta Costa,

Attached is copy of proof business tax & RAP paid
Sorry for the delay due to covid it is possible to get a
copy through the phone. I had to take time of to get
copies at 250 Frank Ogawa Plaza, Suite.

Thank you,




000054



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: March 02, 2020

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 #: 00172161
Account Name: SEVERINO JOHN & NGO LIEN
Account Address: 6425 ARTHUR ST OAKLAND, CA 94605-1922
Account Paid: M - RESIDENTIAL RENTAL PROPERTY
Business Address: 4430 MACARTHUR BLVD OAKLAND, CA 94619-2700

Please keep this acknowledgement for your records. Thank you.

Payment received by: SB

2020

Business Tax	
<i>Credit Card</i>	\$1,154.92
BT Recordation and Tech	
<i>Credit Card</i>	\$3.00
BT SB1186 (AB1379)	
<i>Credit Card</i>	\$4.00
Total	\$1,161.92





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: March 02, 2020

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 #: 00172162
Account Name: SEVERINO JOHN & NGO LIEN
Account Address: 6425 ARTHUR ST OAKLAND, CA 94605-1922
Account Paid: RAP - RENT ADJUSTMENT PROGRAM
Business Address: 4430 MACARTHUR BLVD OAKLAND, CA 94619-2700

Please keep this acknowledgement for your records. Thank you.

Payment received by: SB

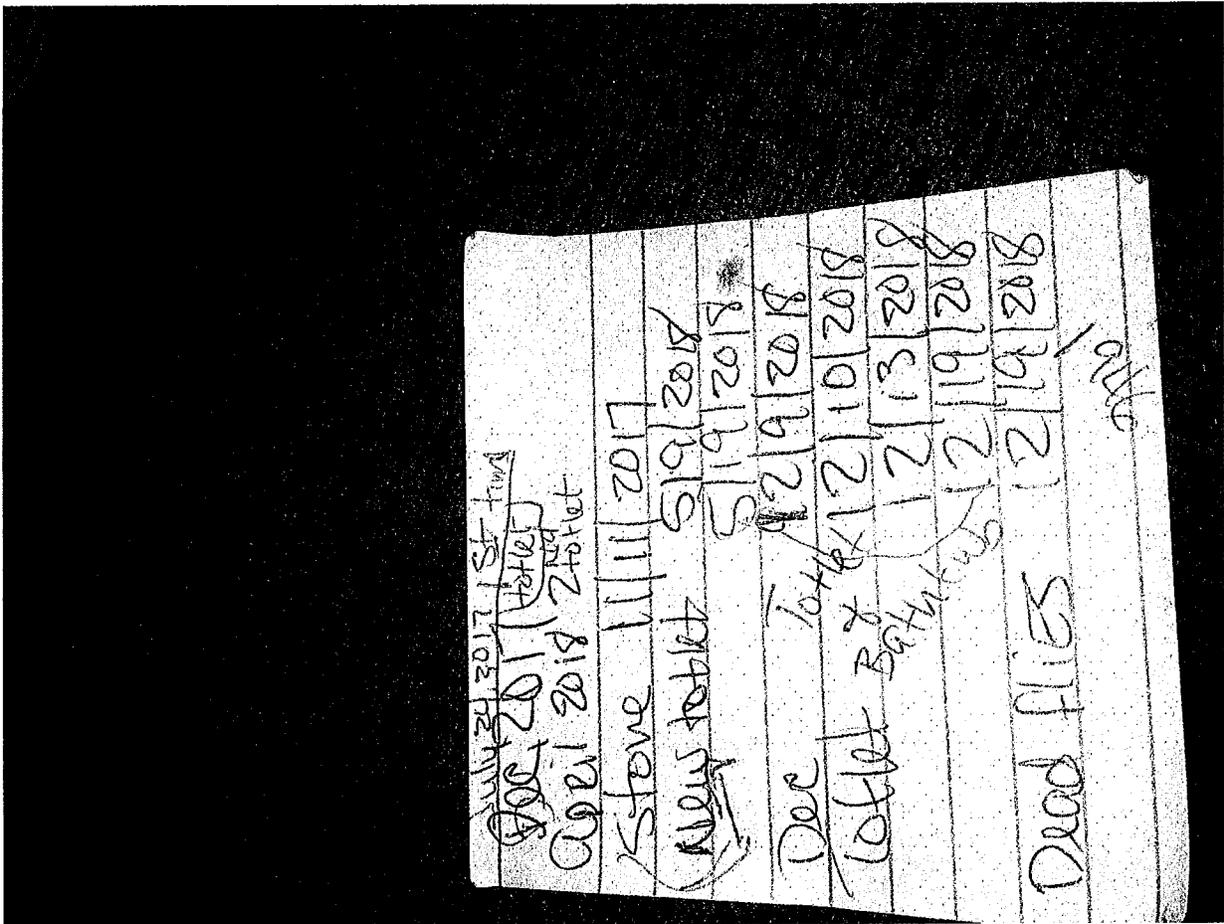
2020	
RAP Rent Adjustment Program	
<i>Credit Card</i>	\$404.00
Total	\$404.00



Sent: Thursday, September 24, 2020 2:34 PM
To: Costa, Robert <RCosta@oaklandca.gov>
Subject: Dates of totlet and other things

2020 SEP 25 AM 10: 32

[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.



The totlet issues continued onto 2019 until she finally fixed it in April of 2020

Sent from Yahoo Mail on Android

000057



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA - SUITE 2340 - OAKLAND, CALIFORNIA 94612-2031

Planning and Building Department

Bureau of Building

Building Permits, Inspections and Code Enforcement Services

inspectioncounter@oaklandca.gov

2020 SEP 25 AM 11:48

(510) 238-3381

TDD:(510) 238-3254

NOTICE OF VIOLATION

April 29, 2020

Certified and Regular mail

To: SEVERINO JOHN & NGO LIEN
139 MIRAMONTE DR.
MORAGA CA 94556-1003

Code Enforcement Case No.: 2001035

Property: 4430 MACARTHUR BLVD #4428A

Parcel Number: 030-1982-112-00

Re-inspection Date/Correction Due Date: June 4, 2020

Code Enforcement Services inspected your property on March 17, 2020 and confirmed:

- that the violations of the Oakland Municipal Code (OMC) identified below (p. 2) are present and need to be addressed as specified under "Required Actions". Photographs of the violations are enclosed where applicable.
- that work was performed without permit or beyond the scope of the issued permit and you are receiving this Notice of Violation because you did not get the required permit within three (3) days of receiving the Stop Work Order. You must contact the inspector indicated below before the Re-inspection Date to stop further code enforcement action.

Other charges may have been assessed, for these violations. To stop further code enforcement action, you are advised to correct the above violations and contact Inspector Hai Pham, who is assigned to your case, before the re-inspection date shown above to schedule an inspection. Your inspector is available by phone at 510-238-3889 and by email at Hpham@oaklandca.gov.

If the Property Owner Certification is included in this notice you may also complete the form and include photographs of the corrected violations.

Note: If a complaint is filed regarding the same or similar violation(s) and it is confirmed within 24 months from the date of this notice an immediate assessment of \$1,176.00 will be charged as a Repeat Violation. In addition, if violation(s) remain uncorrected after you receive a Re-Inspection notice, further enforcement action(s) will include additional fees.

Additional Code Enforcement Actions:

- If the re-inspection verifies that all violations have not been corrected, you will be charged for inspection and administrative costs that can total \$2,665.00.
- Property Blight may be abated using City contractors and you will be charged for the contracting and administrative costs.
- The Notice of Violation may be recorded on your property title with associated fees for processing and recording.
- If it is necessary for tenants to vacate so that repairs can be made, you are required to comply with the Code Enforcement Relocation Program (OMC 15.60.010).
- Violations determined to be Investor-Owned (OMC 8.58) or Foreclosed and Defaulted (OMC 8.54) properties will be assessed fees to include re-inspection costs if violations are not corrected and Administrative/Civil penalties.

000058

Violations

Property Address: 4430 MACARTHUR BLVD #4428A

Complaint #: 2001035

Property Maintenance (Blight)

Description of Violation	Required Action	OMC Section

Building Maintenance (Housing)

Description of Violation	Required Action	OMC Section
Undocumented dwelling unit #4428A at the right side of rear building.	Provide approved documents or obtain required zoning approvals, permits and inspections to remove or legalize.	15.08.120 15.08.140 15.08.230,L
Unapproved construction/alteration of the front exterior stairs.	Provide required construction plans, obtain required zoning approvals, permits and inspections.	15.08.120 15.08.140
Unapproved installation of wall furnace, plumbing and electrical system.	Obtain required permits and inspections.	15.08.050 15.08.140

Zoning (Minor)

Description of Violation	Required Action	OPC Section

Zoning (Major)

Description of Violation	Required Action	OPC Section

Zoning Violations: Major Zoning violations require a Zoning Determination before an appeal to the Planning Commission. If you wish to appeal a Major Zoning violation, please see the process or filing for a Zoning Determination in the Appeal Section of this notice.

Appeal Information

You have a right to appeal this Notice of Violation. The following describes the process for appealing each type of violation described in the Notice of Violation. In some cases, separate appeal processes may be required.

In order to appeal any violations described in this Notice of Violation, you must complete the enclosed Violation Appeal form and submit it as described below with supporting documentation along with the applicable appeal fee(s) by the Appeal deadline. If you wish to appeal a Major Zoning violation(s), you must submit the enclosed Appeal form requesting a Zoning Determination by the Zoning Manager. Your supporting documentation to the Zoning Manager should explain a) why the use of your property conforms to the zoning designation for the property or b) why the activity should be approved as set forth in Planning Code, Title 17.

The Appeal Deadline is: May 21, 2020 Note: The appeal period may be reduced based on prior noticing i.e., Courtesy notice, and the Property Owner Certification on record.

Applicable to all appeals: The Bureau of Building must receive your written appeal by the Appeal Deadline or you will waive your right to administrative review of all violations described in this Notice of Violation. Incomplete appeals including, but not limited to an oral notification of your intention to appeal, a written appeal postmarked but not received by us within the prescribed deadline or a written appeal received by us without a filing fee are not acceptable and will be rejected.

If you choose to file an appeal for Property Maintenance (Blight), Building Maintenance (Housing) and/or Minor Zoning violations, no further action can be taken by Code Enforcement Services with respect to these violations until you have had the opportunity to be heard by an independent Administrative Hearing Examiner pursuant to the Oakland Municipal Code Section 150.08.100 and a Final Decision is determined. An appeal will be scheduled within 60 from the end of the appeal period.

If you choose to file an appeal for Major Zoning violations, the Zoning Manager will issue written decision within 45 days from the end of the appeal period. If you disagree with the decision you may appeal to the Planning Commission within 10 days from the written decision. Unless special circumstances require otherwise, you will be expected to work with the Bureau of Building to resolve the Building Code violations (s) and any Minor Zoning Violation(s) during the Major Zoning appeal process.

Appeal Fees

For Property Maintenance (Blight), Building Maintenance (Housing) and Minor Zoning Appeals: A filing fee in the amount of \$110.00 is due at the time of submittal. Payments may be made in person at the Bureau of Building, 250 Frank Ogawa Plaza, 2nd Floor, or by phone by calling 510-238-4774 (Please include the receipt number and date on your appeal). MasterCard and Visa are accepted.

For Zoning Determinations/Appeals of Major Zoning violations: A filing fee in the amount of \$413.00 is due at the time of submittal in the manner described above. Additionally, a \$413.00 per hour fee will be assessed as needed to complete the review of the determination. The determination fee is not refundable once the letter has been issued, regardless of outcome.

Sincerely,



Hai Pham
Specialty Combination Inspector
Planning and Building Department

Attached as applicable:

- | | | |
|--|--|---|
| <input type="checkbox"/> Blight brochure | <input type="checkbox"/> Residential Code Enforcement brochure | <input type="checkbox"/> Vehicular Food Vending brochure |
| <input type="checkbox"/> Property Owner Certification | <input type="checkbox"/> Mold and Moisture brochure | <input type="checkbox"/> Pushcart Food Vending brochure |
| <input type="checkbox"/> Lead Paint brochure | <input type="checkbox"/> Undocumented Dwelling Units brochure | <input type="checkbox"/> Smoke Alarms brochure |
| <input checked="" type="checkbox"/> Photographs | <input type="checkbox"/> Stop Work brochure | <input type="checkbox"/> Condominium Conversion brochure |
| <input type="checkbox"/> Housing - Relocation Assistance Program | <input type="checkbox"/> Investor Owned Property brochure | <input type="checkbox"/> Foreclosed and Defaulted Property brochure |
| <input type="checkbox"/> Description of Property Maintenance Code Sections | <input type="checkbox"/> Major and Minor Zoning Violation Descriptions | |

cc:

Valerie Wheat have
paid me \$400 \$536.67 to
Lien Ngo. \$150.00 deducted
because unit was not changed
I changed v.w Valerie Wheat
I also have pic. I also
changed the lock on the
code. It ~~has~~ will change
back to ~~original~~ ORIGINAL
lock when I move. Valerie Wheat
11/16/17

Lien Ngo _____ date

paid \$536.67 in cash v.w

X Valerie Wheat _____
X Lien Ngo _____ 10/16/17
Lien Ngo _____

This is a attach. to Rental
agreement. paid in full

~~scribbled out text~~

April 7, 2020

6:12 PM

Valerie Wheaton
will not be paying rent
for the month of
April due to toilet
issues and all of
the income I have
to be relocated to hotel
until ~~with further~~ notice
~~and~~ further
Valerie Wheaton
APRIL 2, 2020

LIEN NGO.

referred to sign

[Handwritten signature]

~~LIEN~~

5/2/18
I have been taking
my rent of \$1450⁰⁰
on 5/2/18 to Lien Ngo
that was her bday
gift to me so from now
on my rent is \$1450⁰⁰
in cash & money
& no money order or check

Valerie Wheel

Valerie Wheel

Lien Ngo

CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T20-0143, Wheaton v. Ngo
PROPERTY ADDRESS: 4428 MacArthur Blvd., Unit #A, Oakland, CA
DATE OF HEARING: October 13, 2020
DATE OF DECISION: December 11, 2020
APPEARANCES: Valarie Wheaton, Tenant
Lien Ngo, Owner

SUMMARY OF DECISION

The tenant petition is denied.

CONTENTIONS OF THE PARTIES

On April 17, 2020, tenant Valarie Wheaton filed a tenant petition alleging code violations and serious problems with the condition of the rental unit.

On June 18, 2020, the owner Lien Ngo filed a timely response, alleging that the tenant was not current on her rent as of April 2020 and that the tenant caused the problems in the rental unit alleged by the tenant in her petition.

THE ISSUE

- (1) Have the tenant's housing services been decreased, and if so, by what amount?

EVIDENCE

Background

The tenant testified that she moved into the subject unit on June 1, 2017, at the initial rent of \$1,600.00 per month. There was no pending rent increase.

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The owner acquired the building on January 3, 2014. The subject unit is located in a residential building consisting of four (4) residential unit. The owner submitted a signed copy of the Residential Lease Agreement dated June 1, 2017.¹

The owner testified at the hearing that he never gave a rent increase and that the tenant did not pay any rent in April of 2020 when she filed her petition. The owner submitted copies of checks, showing monthly rent payments of \$1,600.00 for several months and one partial rent payment of \$1,450.00 in June of 2018.²

Serious Problems with the Conditions of the Rental Unit

The tenant testified that her toilet would always get clogged up. She testified that the owner would respond each time and would always come and fix it the next day but then it would happen again and again. The owner testified that every time the plumber came to snake it, he pulled out wipes and tissues, even though they told the tenant not to flush wipes and tissues down the toilet.

The owner testified she replaced the entire plumbing system, including new sewer line for \$9,000.00 in 2018 and eventually replaced the tenant's toilet in 2020.

Notice of Violation

The City of Oakland issued a Notice of Violation on April 29, 2020, which states that the subject unit is an undocumented/unapproved unit that was constructed without appropriate permits and that the owner needs to provide approved documents, obtain required zoning approvals, permits and inspections to legalize the unit or remove it.³ The tenant testified that the unit was built without permits and continues to occupy it while the owner testified that she is being taken advantage of as the owner is in violation with the City of Oakland but the tenant would not cooperate to let the owner make the necessary work to either legalize the unit or dismantle it.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Notice of Violation/Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁴ and may be corrected by a rent adjustment.⁵ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability⁶ of a unit or one that was

¹ Exhibit A

² Exhibit B

³ Exhibit C

⁴ O.M.C. §8.22.070(F)

⁵ O.M.C. §8.22.110(E)

⁶ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

provided at the beginning of the tenancy and is no longer being provided, or one that was contracted between the parties.

In a decreased services case, the tenant has the burden of proving decreased housing services by a preponderance of the evidence and must establish she has given the owner notice of the problems and the opportunity to fix the problems before she is entitled to a relief.⁷

Toilet: It is undisputed that the owner responded each time the tenant called the owner about the clogged toilet. The owner initially used snake to drain the toilet but eventually replaced the plumbing system and the sewer line. The owner acted reasonably to address the problem. Therefore, this claim is denied.

Undocumented Unit: Per Notice of Violation, the owner was instructed to either remove the unit or legalize it by obtaining necessary approvals, inspections and permits. In order to do that, the owner needs to access the unit and the tenant does not cooperate and denies access. The tenant cannot get a decrease in rent while she is preventing the owner to access the unit to do the necessary work ordered to correct the notice of violation. Therefore, this claim is denied. If the tenant continues to deny access, the owner may pursue other course of action in the Court of Law.

ORDER

1. The Tenant Petition T20-0143 is denied.
2. The claims for decreased housing services are denied.

Right to Appeal: **This decision is the final decision of the Rent Adjustment Program.** Either party may appeal this decision by filing an appeal using the proper RAP form, which must be received within 20 days after service of the decision, shown on the attached Proof of Service.

Dated: December 11, 2020



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

⁷ Hearing Decision T11-0191, *Howard v. Smith* (2012)

PROOF OF SERVICE
Case Number T20-0143

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

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

Owner

Lien Ngo
625 Arthur Street
Oakland, CA 94605

Tenant

Valerie Wheaton
4428 MacArthur Boulevard, Unit #A
Oakland, CA 94619

Documents Included: Hearing Decision

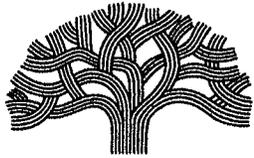
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first 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 1, 2021 in Oakland, CA.



Robert F. Costa
Oakland Rent Adjustment Program

000067



CITY OF OAKLAND

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

RECEIVED
For date stamp
FEB 18 2021
RENT ADJUSTMENT PROGRAM
OAKLAND

APPEAL

Appellant's Name Valarie Wheaton

Owner Tenant

Property Address (Include Unit Number)
4428 MacArthur Bl #A
Oakland Ca, 94619

Appellant's Mailing Address (For receipt of notices)
4428 MacArthur Bl #A
Oakland Ca, 94619

Case Number T20-0143

Date of Decision appealed Dec. 11 2020

Name of Representative (if any)

Representative's Mailing Address (For notices)

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

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

For more information phone (510) 238-3721.

- f) It 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: 7.

o You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. o
 I declare under penalty of perjury under the laws of the State of California that on Feb 11, 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:

Name Lien Ngo
 Address 2948 Euclid Ave
 City, State Zip Concord Ca. 94619

Name

Address

City, State Zip

Valarie Wheat

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE Feb 11, 2021

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.

The hearing Officer Linda M. MOROZ IS Racist and Bias !! She deliberately lied to rule in the owner favor. 1st off the rental Agreement Lien Ngo turned in was forged that is not my signature. The reason rent wasn't paid in April is because I had to take off work for 2 weeks so Lien Ngo and her dad could fix the ~~toilet~~ toilet. I was unable to cook for 3~~0~~ days because Lien unhooked the stove and moved it so that her dad could dig out the broken pipe. The reason Lien received 1450.00 in junk is because Lien said I could take off 150.00 in rent when she changed her mind. She told the hearing officer Linda Moroz she said that. The hearing officer Linda Moroz lied and said I said Lien would come fix the toilet the next day no I said it would sometimes be 2 days later one time it was a week before she came to fix it. The hearing officer Linda Moroz lied and said Lien said it was always wipes in the toilet I told hearing

Officer That's a lie I don't even buy wipes. The dad is the one who came and snaked toilet with Lien there was never a plumber. The hearing officer lied and said Owner replaced sewer line NO she didn't The hearing officer asked Lien did she fix the sewer line and Lien said No I only took out enough pipe to snake. I sent in a picture of the pipe Lien took out. No Lien did not replace the toilet in 2020 The hearing officer also lied and said that I wouldn't let Lien in to do work after the city inspected the unit That's a lie Lien never contacted me after she received the letter from city inspector plus the hearing officer never asked her about the inspection. I sent the hearing officer more than enough evidence and she completely ignored it all. I'm appalled and livid how the hearing officer LINDA MOROZ lied to rule in Lien Ngo favor I'm requesting a copy of the recorded hearing that took place

Oct. 13, 2020 at 10⁰⁰ am. The hearing
Officer was bias and racist
because she made up the part
about I would'nt let Lien in to
do work from City Inspection she
Lied about all her answers. She
forgot I was there too. ?? Please
Send me a copy of The hearing
please. I have lived here for
3 years with the toilet backing
up sewage in the livingroom all over
my rugs. Lien did'nt pay anybody
9000.00 to fix sewer she kept telling
me she did'nt have the money to
fix it that's why Lien said don't
put toilet paper in toilet for 1 year
If Lien paid 9000.00 to fix sewer
line in 2018 when ~~to~~ how come it
is still backing up consistantly up
until 2020 ??? Hearing officer
just lied lied lied. As a tenant
I have the right to be in unit when
work is being done. I don't have to
leave strangers in here. Valerie Wheat

4428 MacArthur Bl
#A Oakland Ca.
94619 50 325-1216
000073 #3

The hearing officer was bias and racist because she didn't even acknowledge my proof. I send in the ~~copy~~ original copy of the rental agreement, I sent in a list with all the dates that the toilet backed up, I sent a picture of the pipe that Lien Ngo dad took out I told I hearing officer when Lien removed the stove & counter I use unable to cook for 2 days, I sent in the two letters that Lien refused to sign 1 for the 150.00 out of rent the other was for not paying April 2020 rent with witness signatures. There were 3 occasions when I came home from work pop was all over my rugs and bathtub full I sent in a picture. I'm appealing the ~~decision~~ decision of LINDA MOROZ because it was bias and racist. The hearing officer also over looked the fact I turned in the city inspectors, finding as it states this is a undocumented dwelling?

CHRONOLOGICAL CASE REPORT

Case No.: T20-0054
Case Name: McQuillion v. JJCM Investments
Property Address: 3114 Ashbrook Court, Oakland, CA
Parties: Fatima McQuillion (Tenant)
Broderick Brown (Tenant Representative)
JJCM Investments (Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 1, 2020
No Owner Response filed	-----
Administrative Decision mailed	February 18, 2021
Tenant Appeal filed	March 4, 2021

000075

T20-0054 AS/MF



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Ste. 53132020 JAN 30 AM 11:32
Oakland, CA 94612-0243
(510) 238-3721

For date stamp.

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>Fatima McQuillion</i>	Rental Address (with zip code) <i>3114 Ashbrook Ct Oakland CA 94601</i>	Telephone: [REDACTED]
Your Representative's Name	Mailing Address (with zip code)	Telephone: [REDACTED]
		Email: [REDACTED]
Property Owner(s) name(s) <i>JJCM Investment</i>	Mailing Address (with zip code) <i>8212 Laguna Brook way Elk Grove CA 95758</i>	Telephone: [REDACTED]
		Email: [REDACTED]
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code) <i>2624 Foothill Blv. Oakland CA 94601</i>	Telephone: [REDACTED]
		[REDACTED]

Number of units on the property: 8

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

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

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

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

Rev. 9/6/18

For more information phone (510) 238-3721.

T19-0910

PLEASE Consolidate with other cases

T18-0313
000076

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

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

Date you moved into the Unit: _____ Initial Rent: \$ _____ /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: _____. 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		
		\$ 1095.00	\$ 1192.55	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Tenant's Signature

Date

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

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

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

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

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

Tenant's Signature

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, 250 Frank H. Ogawa Plaza, Ste. 5313, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; or through the **RAP Online Petitioning System:** <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. For more information, 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): _____

To: Page 8 of 28

2019-02-21 23:18:49 (GMT)

18664179197 From: Broderick H. Brown

1 Broderick H. Brown CSB# 246805
 2 BRODERICK H. BROWN LAW FIRM
 2831 Telegraph Ave.
 3 Oakland, CA 94609
 Telephone: (510) 452-6300
 Fax: (866) 417-9197

FILED BY FAX
ALAMEDA COUNTY

February 21, 2019

CLERK OF
THE SUPERIOR COURT
By Lynn Wiley, Deputy

CASE NUMBER:
RG19008160

5 Attorneys for Plaintiff

6 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
 7 IN AND FOR THE COUNTY OF
 8 UNLIMITED JURISDICTION

9	FATIMA MCQUILLON)	CASE NO:
10	Plaintiff,)	COMPLAINT FOR DAMAGES AND DEMAND
11	vs.)	FOR JURY TRIAL
12	AMERICAN LIBERTY INVESTMENTS, LLC,)	
13	TRIPLE GOOD INVESTMENT & MANAGEMENT)	
14	LLC, FREDICK O. LEWIS III, DOES 1-30.)	
15	Defendant.)	

16 Plaintiff, Fatima McQuillon , allege as follows:

17 **GENERAL FACTUAL ALLEGATIONS**

18 1. At all times herein relevant, Plaintiff, Fatima McQuillon (hereinafter, "Plaintiff,")
19 was a competent adult residing in the City of Oakland, County of Alameda, California.

20 2. Plaintiff is informed and believe, and thereon allege, that American Liberty
21 Investments, LLC, Triple Good Investment & Management LLC, Frederick O. Lewis III and
22 DOES 1-30, (hereinafter "Defendant"), owncd, controlled, and/or managed the unit that Plaintiff
23 resided in during all relevant periods of time in this complaint.
24

25 3. Defendant DOES 1-30 are individuals and/or business entities doing business in
26 the County of Alameda and/or who are contracted to do work in the County of Alameda. Each
27
28

1 Broderick H. Brown CSB# 246805
2 BRODERICK H. BROWN LAW FIRM
2831 Telegraph Ave.
3 Oakland, CA 94609
Telephone: (510) 452-6300
4 Fax: (866) 417-9197

5 Attorneys for Plaintiff

6 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
7 IN AND FOR THE COUNTY OF
8 UNLIMITED JURISDICTION

9 FATIMA MCQUILLON) CASE NO:
10)
Plaintiff,) COMPLAINT FOR DAMAGES AND DEMAND
11 vs.) FOR JURY TRIAL
12)
AMERICAN LIBERTY INVESTMENTS, LLC,)
13 TRIPLE GOOD INVESTMENT & MANAGEMENT)
LLC, FREDICK O. LEWIS III, DOES 1-30.)
14)
Defendant.)
15)

16 Plaintiff, Fatima McQuillon , allege as follows:

17 GENERAL FACTUAL ALLEGATIONS

- 18
- 19 1. At all times herein relevant, Plaintiff, Fatima McQuillon (hereinafter, "**Plaintiff**,")
20 was a competent adult residing in the City of Oakland, County of Alameda, California.
- 21 2. Plaintiff is informed and believe, and thereon allege, that American Liberty
22 Investments, LLC, Triple Good Investment & Management LLC, Frederick O. Lewis III and
23 DOES 1-30, (hereinafter "**Defendant**"), owned, controlled, and/or managed the unit that Plaintiff
24 resided in during all relevant periods of time in this complaint.
- 25
- 26 3. Defendant DOES 1-30 are individuals and/or business entities doing business in
27 the County of Alameda and/or who are contracted to do work in the County of Alameda. Each
28

1 and every Defendant was at all relevant time the agents and/or employees of other Defendant and
2 acted within the scope of said agency and/or employment. Plaintiff do not know the true names
3 of Defendant identified as DOES 1-30, but will seek leave to amend this complaint if and when
4 Plaintiff discover the identity of any of the Defendant now sued under the fictitious names DOES
5 1-30.
6

7 4. In committing the acts complained of herein, each Defendant acted as the
8 authorized agent, employee, and/or representative of each other Defendant. Each act of each
9 Defendant complained of herein was committed within the scope of said agency, employment, or
10 other representation, and each act was ratified by each other Defendant. Each Defendant is
11 liable, in whole or in part, for the damages and injuries suffered by Plaintiff.
12

13 5. This court is the proper court because Defendants do business in its jurisdictional
14 area, the damage to Plaintiff occurred within its jurisdictional area.
15

16 6. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
17 Defendants were Plaintiff's landlords, and Plaintiff were the tenants of Defendant as those terms,
18 "landlord" and "tenant" are defined under California Common Law, under California Code of
19 Civil Procedure § 1161 et seq. and under California Civil Code § 1980.
20

21 7. On or about June 11, 1997, Plaintiff, as tenant, and previous owner, as owner
22 and/or agent and/or lessor, entered into a written agreement to rent the premises located at 3114
23 Ashbrook Ct, Oakland, Ca 94601 to Plaintiff. Such address is hereinafter referred to as the
24 "**Subject Premises**". Fatima McQuillon began living at the Subject Premises at this time. The
25 material terms of this rental agreement were that Plaintiff pay previous owner \$700.00 a month
26 for rent.
27
28

1 8. Defendant named herein were the owners and/or property managers or the agents
2 and/or employees of the owners and/or property managers of the Subject Premises during all
3 time periods relevant herein.
4

5 9. Throughout Plaintiff tenancy several substantial habitability defects existed in the
6 Subject Premises which rendered the Subject Premises unfit for human occupancy under
7 California common law and statutes. The defects were due to the Defendant failure to maintain
8 the Subject Premises during their relevant periods of ownership and/or management of said
9 Subject Premises. These substantial habitability defects existed in Plaintiff unit and together and
10 separately constituted violations of applicable housing laws, including but not limited to the
11 Oakland Housing and Building Codes, California Civil Code §§ 1941.1, 1942, and Health and
12 Safety Code §§ 17920, 19210, and 13133.7.
13

14 10. Said defective conditions included, but were not limited to, the following which
15 came into existence within a short period of time after the beginning of Plaintiff tenancy, and
16 which continued to exist unabated throughout Plaintiff tenancy: harassment, illegal rent increases
17 and mold/mildew.
18

19 11. Plaintiff moved into the unit in June 10, 1997 at an initial rent of \$700.00 a
20 month.
21

22 12. Plaintiff's original lease agreement was with previous owner Cryer Co. In 2012
23 Defendant Triple Good Investment & Management LLC bought the property. In 2017 Defendant
24 American Liberty Investments, LLC bought the property from Defendant Triple Good
25 Investment & Management.
26

27 13. Plaintiff has paid her rent faithfully for over 20 years despite the multiple rent
28 increases imposed on her by Defendants.

1 14. On July 11, 2012 Plaintiff and Defendant Triple Good Investment &
2 Management LLC entered into a lease agreement adding a garage space to her lease. To add the
3 parking space to her lease Plaintiff was to pay Defendant an additional \$100.00 in rent, making
4 her total in rent \$876.00. On September 2, 2014 Defendant Triple Good Investment &
5 Management LLC sent Plaintiff a letter notifying her rented premises were going to be increased
6 from \$876.00 to \$1076.00, Defendant's letter states that Plaintiff's total rent included her garage
7 and unit. However, once Defendant American Liberty Investments, LLC bought the property
8 they raised Plaintiff's rent by illegally separating her garage spaces from her unit. Defendant
9 American Liberty Investments, LLC has attempted to unlawfully increase Plaintiff's rent on four
10 separate occasions through her storage spaces. On March 01, 2018 Defendant American Liberty
11 Investments LLC raised Plaintiff's rent to \$948.70, then in November 01, 2017 Defendants
12 American Liberty Investments LLC raised Plaintiff's rent to \$971.42. On January 01, 2019
13 Defendants American Liberty Investments LLC raised the rent on both garages that were part of
14 Plaintiff's lease agreement; for garage #5 the rent was increase from \$100 to \$110, for garage #2
15 the rent was raised from \$100 to \$195.
16
17
18

19 15. Plaintiff has made several requests for repairs regarding mold and mildew.
20 Plaintiff first made a request for repairs in on April of 2012, but no repairs were made by
21 Defendant. Plaintiff submitted another Maintenance Request on August 08, 2017; Defendants
22 ignored Plaintiff's requests and continued to charge her full rent. Plaintiff contacted Indoor
23 Restore Environmental Services and they went out to inspect Subject Property on March 7, 2018.
24 The inspectors from Indoor Restore found mold growth and water damage under kitchen sick
25 shelf, on kitchen window, living room carpet, window in living room, exterior walls under
26 windows, carpet and pad inside bedroom, windows inside bedroom and inside bathroom. On
27
28

1 August 31, 2018 RAP Hearing officer Barbara Cohen also inspected Plaintiff's unit and found
2 evidence of mold and mildew throughout Subject Property. Officer Cohen reported seeing the
3 following; signs of mold and mildew in carpet by entry-way, in living room windows, bathroom
4 ceiling and kitchen cabinets. To this day Plaintiff continues to live with mold and mildew in her
5 home.
6

7 16. Due to her ignored requests for repairs and continued rent increases Plaintiff
8 submitted a petition to the Oakland Rent Adjustment Program on February 21, 2018. The RAP
9 Hearing Decision was made on September 20, 2018 which partly granted Plaintiff's petition
10 reducing her rent from \$1,199.00 to \$881.00 for reduced housing services. The RAP Hearing
11 Decision stated that Plaintiff overpaid \$1,199.00 which was to be repaid to her in the span of 12
12 months. To this day Plaintiff has not been repaid the \$1,199.00 by Defendant.
13

14 17. On January 30, 2019 Defendant American Liberty Investments LLC sent Plaintiff
15 a letter notifying her that starting March 01, 2019 her rent would be increased from \$881.08 to
16 \$1,295.08. To this day Defendants have not repaid Plaintiff the \$1,199.00 owed to her and have
17 continued to ignore her requests for repairs while at the same time collecting and increasing her
18 rent.
19

20 18. Plaintiff is informed and believe and thereon alleges that Defendants violated
21 health & safety code section 17920.3 and 17920.10 because Defendant allowed the subject
22 property to contain hazardous fluids and materials, lack adequate weatherproofing, and to be
23 substandard in every way identified herein and as defined by the applicable statutes.
24

25 19. All defendant had adequate opportunity and notice to repair said defects prior to
26 Plaintiff filing this complaint. Defendant failed and refused and continue to fail and refuse to
27 repair the defects in Plaintiff unit.
28

1 51. Plaintiff re-allege and incorporate into this cause of action the allegations of the
2 preceding paragraphs, as if the same were set out at length herein.

3
4 52. Plaintiff made requests for repairs and complained about habitability defects
5 existing at the Subject Premises to Defendant. Plaintiff had also exercised their right to inform
6 Defendant and the City of Oakland about the above-mentioned nuisance and breach of Plaintiff
7 quiet enjoyment of Subject Premises. Plaintiff Lawyaw were in their right to make the
8 aforementioned request and complaints and is, and was, protected under the laws of California
9 from being retaliated against for making said requests and complaints.
10

11 53. Defendant have continually denied repairs and maintenance to Plaintiff unit and
12 surrounding common areas in retaliation against Plaintiff for engaging in the protected activity of
13 demanding repairs.

14 54. Defendant have continually denied repairs and maintenance to Plaintiff and
15 denying repairs. Defendant' dominate motive in harassing and intimidating Plaintiff and denying
16 repairs was to retaliate against Plaintiff for engaging in protected activity.
17

18 55. Plaintiff suffered out of pocket expenses, emotional distress and other general and
19 special damages in an amount to be proven at trial as a direct and proximate result of Defendants'
20 retaliatory conduct.
21

22 56. Wherefore Plaintiff pray for damages stated below.

23 **SEVENTH CAUSE OF ACTION**
24 **PRIVATE NUISANCE**
25 **VIOLATIONS OF CALIFORNIA CIVIL CODE §3501 et seq.**
26 **(All Plaintiff v. All Defendant)**

27 57. Plaintiff re-allege and incorporate into this cause of action the allegations of the
28 preceding paragraphs, as if the same were set out at length herein.

1 58. All Defendant created a nuisance on the Subject Premises by interfering with
2 Plaintiff use and enjoyment of the Subject Premises by allowing the conditions named above,
3 and others, to exist after being informed of their existence and being given an ample opportunity
4 to correct these conditions.
5

6 59. The aforementioned conditions were harmful to Plaintiff health, and/or offensive
7 to their senses, and/or an obstruction to the free use of the property so as to interfere with the
8 comfortable enjoyment of Plaintiff life and/or property.
9

10 60. Plaintiff made several complaints to all Defendant regarding the uninhabitable
11 conditions of the dwelling unit. Defendant failed and refused to remedy the conditions of the
12 Subject Premises.
13

14 61. As a direct and proximate result of the aforementioned conditions on the Subject
15 Premises, Plaintiff were reasonably annoyed and/or disturbed by the condition of their living
16 unit. Furthermore, Plaintiff were harmed by these conditions. Plaintiff suffered physical injury,
17 incurred out of pocket expenses, suffered emotional distress, and did not receive the full benefit
18 of their home. As a result of encountering these conditions, Plaintiff suffered physical injury in
19 the form of respiratory distress, asthma, pneumonia, among other injuries, and incurred damages
20 including medical specials as well as damage to their personal property. The harm to Plaintiff
21 outweighs any potential benefit, if any exists, of Defendant' conduct.
22

23 62. As a direct and proximate result of Defendant' failures, Plaintiff suffered damages
24 as specified throughout this complaint.
25

26 63. Wherefore Plaintiff pray for the damages stated below.
27

28 **EIGHTH CAUSE OF ACTION**
PREMISES LIABILITY - VIOLATION OF CAL. CIVIL CODE SEC. 1714
(All Plaintiff v. All Defendant)

1 64. Plaintiff re-allege and incorporate into this cause of action the allegations of the
2 preceding paragraphs, as if the same were set out at length herein.

3 65. Defendant who owned and/or were otherwise responsible for the maintenance of
4 the Subject Premises had an obligation to maintain the Subject Premises and to perform repairs
5 in a reasonable and safe manner. As a tenant, Defendant owed Plaintiff a duty of care which
6 encompassed maintaining the Subject Premises and performing repairs in a reasonable and safe
7 manner. During the statutory period, Plaintiff suffered physical, mental and emotional injuries
8 due to the dangerous conditions of the Subject Premises.
9

10 66. Defendant had ownership, and/or control of the subject property at the time of
11 Plaintiff injury. Prior to Plaintiff injuries Defendant knew, or should have known, about the
12 dangerous conditions and that exposure to the conditions was, and is, a health hazard and/or in
13 fact injured or contributed to the injury of Plaintiff.
14

15 67. Defendant did not remedy the condition before Plaintiff suffered emotional
16 distress and physical injury. Defendant had the ability and opportunity to warn of the dangerous
17 conditions, but did not warn nor give Plaintiff notice of the dangerous conditions that caused or
18 contributed to their injuries.
19

20 68. The defendant who managed the property owed Plaintiff, as their tenants, the
21 duty to maintain the Subject Premises and to perform repairs in a reasonable and safe
22 manner. Defendant breached their duties by performing maintenance and/or repair work
23 negligently and by allowing Plaintiff to be exposed to the above named defective
24 conditions. Defendant also employed others negligently and/or had a non-delegable duty with
25 regard to dangerous conditions created on the Subject Premises by persons employed by
26
27
28

1 Defendant to perform work on the Subject Premises. Plaintiff suffered harm to their property in
2 an amount to be determined at trial.

3 69. As a result of Defendant' conduct, Plaintiff suffered damages, including medical
4 specials, emotional distress and pain and suffering, in an amount to be ascertained at trial.
5

6 70. Wherefore Plaintiff pray for the damages stated below.

7 **NINETH CAUSE OF ACTION**
8 **NEGLIGENCE**
9 **(All Plaintiff v. All Defendant)**

10 71. Plaintiff re-allege and incorporate into this cause of action the allegations of the
11 preceding paragraphs, as if the same were set out at length herein.

12 72. Defendant owed a duty of care to maintain the Subject Premises in a habitable
13 condition pursuant to state and local codes, and not to violate Plaintiff rights. All Defendant
14 violated said duty, throughout their respective terms of ownership, by failing to maintain the
15 Subject Premises. During the statutory period, Plaintiff suffered physical, mental and emotional
16 injuries due to the dangerous conditions of the Subject Premises which include, but are not
17 limited to, no locks on the doors, no hot water, no refrigerator, no heat, and other uninhabitable
18 conditions, all of which caused or contributed to Plaintiff physical injuries, and emotional
19 distress in the form of mental anguish, and pain and suffering.
20

21 73. Plaintiff further allege that Defendant violated California Code Sections 1941.1
22 and 1942.5 in that Defendant intentionally and/or negligently failed and refused to remedy the
23 defective, dilapidated and appalling conditions on the Subject Premises throughout Plaintiff
24 tenancy, and by retaliating against Plaintiff for demanding repairs.
25

26 74. As a direct and proximate result of each Defendant's breach of their duties
27 throughout each 75respective period of ownership, Plaintiff were harmed.
28

1 Plaintiff are in the class of persons sought to be protected by California Code
2 Sections 1941.1, 1942.4 and 1942.5 from the type of harm that was inflicted upon Plaintiff by
3 Defendant' breaches of said statutes. Thus Defendant' breach of the law constitutes negligence
4 per se.
5

6 75. As a direct and proximate cause of the acts and omissions of Defendant, Plaintiff
7 suffered damages in an amount according to proof.

8 76. Wherefore Plaintiff pray for the damages stated below.

9
10 **TENTH CAUSE OF ACTION**
11 **OAKLAND TENANT PROTECTION ORDINANCE**
12 **VIOLATIONS OF OAKLAND MUNICIPAL CODE SECTIONS 8.22.600 ET SEQ.**
13 **(All Plaintiff v. All Defendant)**

14 77. Plaintiff re-allege and incorporate into this cause of action the allegations of the
15 preceding paragraphs, as if the same were set out at length herein.

16 78. As a tenant of residential property located in Oakland, California, and subject to
17 Oakland City Ordinance 8.22.600 et seq ("Tenant Protection Ordinance"), Plaintiff are entitled to
18 bring an action against all Defendant who have violated the Tenant Protection Ordinance to
19 Plaintiff detriment.

20 79. The Tenant Protection Ordinance provides safeguards for Oakland tenants. When
21 a landlord wrongfully harasses tenants or fails to provide habitable rental units, Plaintiff are
22 entitled to damages, including damages for mental and emotional distress.

23 80. Defendant have violated the Tenant Protection Ordinance by failing to make
24 repair to the Subject Premises and by substantially interfering with the Plaintiff right to quiet use
25 and enjoyment of the Subject Premises.

26 81. Plaintiff were harmed by these violations in that they suffered emotional distress,
27 anxiety and worry. Plaintiff have also been forced to hire an attorney to enforce their rights.
28

1 90. Plaintiff re-allege and incorporate into this cause of action the allegations of
2 paragraphs 1 through 45, as if the same were set out at length herein.

3 91. By reason of the landlord/tenant relationship, Defendant owed Plaintiff a duty to
4 exercise reasonable care in the ownership, management, and control of their real property.
5 Defendant owed Plaintiff a duty not to unreasonably interfere with Plaintiff quiet use and
6 enjoyment of the Subject Premises and invading Plaintiff privacy.

7 92. The duties owed by the Defendant to exercise reasonable care, include, but are
8 not limited to: the duty to refrain from interfering with Plaintiff full use and quiet enjoyment of
9 the premises, and to comply with all state and municipal laws governing Plaintiff rights as
10 tenants.
11

12 93. Said Defendant, by the conduct heretofore alleged, negligently and carelessly
13 maintained, operated, and managed the Subject Premises, and interacted with Plaintiff so as to
14 breach the duties enumerated in the preceding paragraphs, thereby depriving Plaintiff of
15 exercising their right to peaceably and quietly live at the Subject Premises.
16

17 94. Plaintiff are informed and believe, and thereon allege that, at all relevant times
18 heretofore alleged, Defendant were aware or reasonably should have been aware that Plaintiff
19 could/would not peaceably and quietly enjoy the Subject Premises.
20

21 95. As a direct and proximate result of these breaches of duty by Defendant, Plaintiff
22 suffered actual, general, and special damages, including, but not limited to, physical discomfort
23 and emotional distress.
24

25 96. Wherefore Plaintiff pray for the damages stated below.
26

27 **THIRTEENTH CAUSE OF ACTION**
28 **UNFAIR BUSINESS PRACTICE - VIOLATION OF CALIFORNIA BUSINESS AND**
 PROFESSIONS CODE §§17200, et seq., 17500

1 **(All Plaintiff v. All Defendant)**

2 97. Plaintiff re-allege and incorporate into this cause of action the allegations of the
3 preceding paragraphs, as if the same were set out at length herein.

4 98. Plaintiff brings this cause of action on Plaintiff own behalf, on behalf of all
5 persons similarly situated, and on behalf of the People of the State of California.

6 99. By reason of Defendant' failure to comply with state and local law for the
7 management of real property, Defendant' conduct constitutes an unfair business practice under
8 California Business and Professions Code §17200, et seq., and Business and Professions Code
9 §17500.
10

11 100. Plaintiff are informed and believe and thereon allege that it is the regular practice
12 of Defendant to intentionally disregard the rights of tenants and violate applicable laws relating
13 to tenancies in their buildings in ways that include, but are not limited to, failing to provide quiet
14 enjoyment, failing to abate nuisances, allowing the defects identified herein to continue to exist
15 in the face of government notices to abate, and renting units without certificates of occupancy.
16

17 101. At all times herein relevant, Defendant were conducting business under the laws
18 of the State of California, the County of Alameda, and the City of Oakland. In conducting said
19 business, Defendant were obligated to comply with the laws of the State of California, the
20 County of Alameda, and the City of Oakland.
21

22 102. As a direct and proximate result of Defendant' conduct, Defendant have accrued
23 unjust enrichment.
24

25 103. Wherefore Plaintiff pray for the damages stated below.

26 **FOURTEENTH CAUSE OF ACTION**

27 **FRAUD**

28 **(All Plaintiff v. All Defendant)**

1 award of substantial punitive damages against all Defendant. Defendant knew or should have
2 known that their intentional failure to maintain and repair the Subject Premises posed a
3 substantial risk of harm to Plaintiff. Defendant' actions constitute despicable conduct carried out
4 by defendant with willful and conscious disregard of the consumer and tenant rights and safety
5 of others including Plaintiff.
6

7 **PRAYER**

8 WHEREFORE Plaintiff pray for judgment as follows as to all Defendant:
9

10 A. For general damages according to proof for each cause of action;

11 B. For special damages including property damage and loss according to proof for each
12 cause of action;

13 C. For punitive and exemplary damages according to statute and according to proof, to be
14 determined at trial;

15 D. For statutory damages of \$5,000.00 for each violation of Civil Code § 1942.4;

16 E. For compensatory damages for losses resulting from humiliation, mental anguish, and
17 emotional distress according to proof;

18 F. For restoration of all unlawfully collected rents;

19 G. For incidental expenses, past, present and future,

20 H. For interest on the amount of losses incurred at the prevailing legal rate;

21 I. For attorney's fees according to contract and statute, pursuant to Civil Code §1942.4
22 and 1947.11, and CCP §1021.5; and

23 J. For costs of suit incurred herein;

24 K. For pre-judgment interest;

25 L. For statutory penalties;
26
27
28

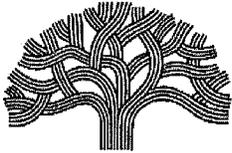
1 M. For such other and further relief which this Court deems just and proper.
2

3 Dated: February 11, 2019
4

LAW OFFICE BRODERICK H. BROWN



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7 Broderick H. Brown
Attorney for Plaintiff
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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: McQuillion v. JJCM Investments
Property Address: 3114 Ashbrook Court Oakland, CA 94601
Case Number: T20-0054

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 17, 2020
Time: 10:00 AM
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.

000102

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 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 T20-0054

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

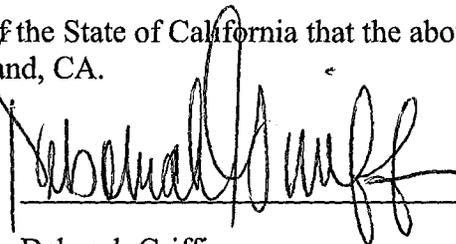
JJCM Investments
8212 Laguna Brook Way
Elk Grove, CA 95758

Tenant

Fatima McQuillion
3114 Ashbrook Court
Oakland, CA 94601

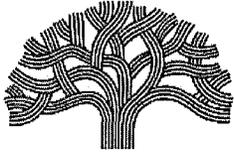
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **March 16, 2020** in Oakland, CA.



Deborah Griffin

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

March 16, 2020

Owner

JJCM Investments
8212 Laguna Brook Way
Elk Grove, CA 95758

The Rent Adjustment Program received the petition(s) attached to this letter on January 30, 2020. One or more of your tenant(s) are protesting one or more rent increases alleging that they exceed the maximum rent permitted by Oakland Municipal Code Chapter 8.22 and alleging a decrease in housing services. For details please see the attached copy of the petition.

Your case has been assigned Case No. T20-0054.

The case title and file name is McQuillion v. JJCM Investments.

The analyst assigned to your case is Ava Silveira at (510) 238-7093.

YOU MUST FILE A WRITTEN RESPONSE TO THE ATTACHED TENANT PETITION(S) 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.

Oakland Municipal Code Chapter 8.22 (Rent Adjustment Ordinance) limits the annual permissible rent increases that can be imposed on a rental unit covered by the Ordinance. If a unit is voluntarily vacated, or the tenant is evicted for cause, the rent may be raised without restriction upon re-renting. The new tenancy is again subject to the rent increase limitations in the Ordinance.

The Ordinance requires that you provide a written notice of the existence of the Residential Rent Adjustment Program to tenants in covered units at the start of the tenancy. You must use the Rent Adjustment Program form titled "Notice to Tenants of the Residential Rent Adjustment Program". This document is also called the "RAP Notice". The Ordinance also requires that you serve the same notice together with all notices of rent increase and all notices of change in terms of tenancy.

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Rent increases less than, or equal to, the annual CPI increase need not be justified. Rent increases in excess of the annual CPI increase may be justified on one or more of the following grounds:

The following are summaries ONLY. For complete information, please see Oakland Rent Adjustment Ordinance and the Rent Adjustment Regulations. You may call the Rent Program Office to have your questions answered or to obtain a written copy of the Ordinance and Regulations.

1. EXEMPTION:

(OMC Section 7.22.030)

You may prove an exemption from application of the Oakland Rent Adjustment Ordinance. The exemptions are found in the Rent Adjustment Ordinance. The most common exemption is that the unit is government subsidized housing. Other common exemptions are for units constructed after January 1, 1983 (new construction) and single family houses exempt under the Costa Hawkins Rental Housing Act. See the Ordinance for a complete list and details.

2. CAPITAL IMPROVEMENT/UNINSURED REPAIR COSTS:

(Regulations Section 10.)

Capital improvements increases may only be granted for improvements that have been completed and paid for within the 24-months immediately before the effective date of the proposed rent increase. To justify a rent increase for capital improvements expenditures or uninsured repair expense you must provide, at least 7 days prior to the Hearing, copies of receipts, invoices, bid contracts or other documentation showing the costs were incurred to improve the property and benefit the tenants, and evidence to show that the incurred costs were paid. The owner can only pass through 70% of costs incurred and may not increase the rent more than 10%.

3. INCREASED HOUSING SERVICE COSTS:

(Regulations Section 10.)

Housing Service Costs are expenses for services provided by the landlord related to the use or occupancy of a rental unit. In determining whether an increase in housing service costs justifies a rent increase in excess of the annual CPI increase, the annual operating expenses related to the property for the most recent two years are compared. Year two costs must exceed year one costs by more than the current annual increase. The expenses considered include property taxes, business license/taxes, and insurance, P.G. & E., water, garbage, maintenance and repairs, managerial costs and other legitimate annually recurring expenses to operate the rental property, except debt service. Evidence is required to prove each of the claimed housing costs.

4. BANKING/RENTAL HISTORY:

"Banking" refers to deferred annual general rent increases (CPI increases) that were not imposed, or were not imposed in full, and carried forward to future years. Subject to certain limitations, imposition of annual general increases may be deferred up to 10 years. After 10 years, general increases that were not imposed, expire. Evidence of the rental history of the subject unit is required.

5. NECESSARY TO MEET CONSTITUTIONAL FAIR RETURN REQUIREMENTS:

In order to prove that the owner is entitled to a rent increase based on constitutional fair return an owner must establish that the return on the investment is less than the return that would have been received for an investment of similar risk. At a minimum, proof of the amount of investment, evidence of the return from other investments of similar risk and an analysis of the rate of return from the rental property, including an appreciation in the value of the property, are required.

6. DEBT SERVICE:

Debt service has been eliminated as a reason for a rent increase effective April 1, 2014. However, if an owner made a bona fide offer to purchase property before April 1, 2014, a debt service rent increase may be approved. An increase in rent based on debt service costs will only be approved in those cases where the total property income is insufficient to cover the housing service costs and 95% of the debt service costs for purchase money for mortgages secured by the subject property. Eligible debt service costs are the actual principal and interest applicable to the property.

Additional Requirements

- 1. have a current Oakland Business License**
- 2. be current on payment of the Rent Adjustment Program's Service Fee**
- 3. file a timely response on the Landlord Response form and submit the required**

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 T20-0054

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

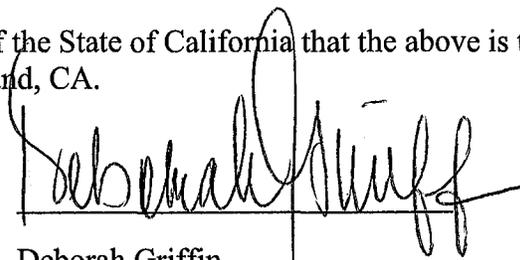
Landlord Notification of Tenant Petition
Landlord Response Form
Copy of Tenant Petition

Owner

JJCM Investments
8212 Laguna Brook Way
Elk Grove, CA 95758

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **March 16, 2020** in Oakland, CA.



Deborah Griffin

Oakland Rent Adjustment Program

000108



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

March 16, 2020

Tenant

Fatima McQuillion
3114 Ashbrook Court
Oakland, CA 94601

Dear Petitioner:

The Rent Adjustment Program has received a petition filed by you.

Your case has been assigned Case No. T20-0054.

The case title and file name is McQuillion v. JJCM Investments.

The analyst assigned to your case is Ava Silveira at (510) 238-7093.

After a petition is filed and until a final decision in this case, the contested rent increase is suspended, except for the portion of the rent increase equal to the current CPI Rent Adjustment if that amount is stated separately on the notice of increase.

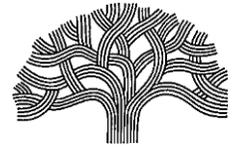
IF THE NOTICE OF INCREASE DOES NOT STATE THE PORTION OF THE INCREASE THAT EQUALS THE ANNUAL CPI INCREASE, THE TENANT NEED NOT PAY ANY OF THE RENT INCREASE WHILE THE PETITION IS PENDING.

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.

000109

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA
94612-0004

Housing and Community Development Department
Rent Adjustment Program

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

ADMINISTRATIVE DECISION

CASE NUMBERS: T19-0313 McQuillion v. American Liberty
T19-0510 McQuillion v. American Liberty
T20-0054 McQuillion v. JJCM Investments

PROPERTY ADDRESS: 3114 Ashbrook Court, Oakland, CA

SUMMARY OF DECISION

The tenant petitions are dismissed.

ISSUES PRESENTED

1. Does the Rent Adjustment Program have jurisdiction to hear these cases?

INTRODUCTION

The tenant filed petitions on June 9, 2019, November 6, 2019, and January 30, 2020, contesting rent increases and alleging decreased housing services. All three cases were consolidated and a hearing was set for September 23, 2020. Subsequently, the owner representative notified the Rent Adjustment Program that there is a lawsuit pending in Superior Court (Case Number RG19008160) that addresses the very same claims listed in the tenant petitions referenced above. The owner representative requested a postponement of the hearing in the above referenced cases pending the outcome of the civil lawsuit. The postponement was granted and a hearing was scheduled for March 23, 2021.

EVIDENCE

On February 16, 2021, the owner representative notified the Rent Adjustment Program that the parties signed a Mutual Settlement Agreement and Release dated February 8, 2021, and the tenant received monetary compensation to resolve the legal action in Case Number RG19008160. A copy of the Mutual Settlement Agreement and Release is attached as Exhibit 1. A review of the Mutual Settlement Agreement and Release shows that a release in the agreement precludes the tenant from raising all claims arising out of her tenancy at 3114 Ashbrook Court, in Oakland, California, that were brought or which could have been brought in the litigation entitled "*Fatima McQuillion v. American Liberty Investments, LLC, Triple Good Investments &*

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Management, LLC, Frederick O. Lewis, III., and Does 1 through 30,” Action No. RG19008160 in the Superior Court of California, County of Alameda, and from any and all other claims which could have been brought by her related to or stemming from her occupancy and possession of 3114 Ashbrook Court.

Since the Alameda County Superior Court assumed jurisdiction over all claims arising from the tenant’s tenancy at 3114 Ashbrook Court, and all claims were resolved in the Mutual Settlement Agreement and Release, the Rent Adjustment Program no longer has jurisdiction over claims raised in the above-referenced tenant petitions. Therefore, the tenant petitions are dismissed.

ORDER

1. Petitions T19-0313, T19-0510, and T20-0054 are dismissed.
2. The Hearing scheduled for March 23, 2021 is cancelled.

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: February 17, 2021

Maimona Ahmad

 Maimona Sahi Ahmad
 Hearing Officer
 Rent Adjustment Program

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

Appellant's Name Fatima McQuillon		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3114 Ashbrook Court, Oakland, CA 94601			
Appellant's Mailing Address (For receipt of notices) 3114 Ashbrook Court, Oakland, CA 94601		Case Number T20-0054	
		Date of Decision appealed	
Name of Representative (if any) Broderick Brown, Esq.		Representative's Mailing Address (For notices) 2831 Telegraph Ave. Oakland, CA 94609	

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.)*

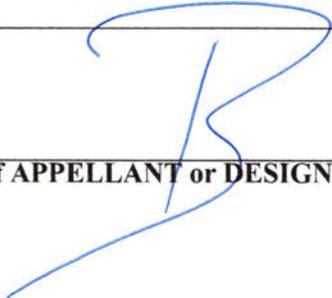
For more information phone (510) 238-3721.

- 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: 1.

• **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 Feb. 23, 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:

Name	FJCM Investments
Address	8212 Laguna Brook Way
City, State Zip	Elk Grove, CA 95758
Name	Liz Hart, Rent Board Matters
Address	1801 University Ave, Suite 308
City, State Zip	Berkeley, CA 94703

	2/23/2021
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.

On February 21, 2021 Fatima McQuillon filed a lawsuit against American Liberty Investments, LLC; Frederick A. Lewis, III; and Triple Good Investment & Management LLC. The case number for the subject lawsuit is RG19008160.

JJCM Investments Inc purchased the property on December 6, 2019 and JJCM Investments Inc was not a party to the lawsuit.

The civil settlement did not cover Ms. McQuillon's current living conditions, her current over payment in rent based on the hearing decision issued in T18-0152 on September 20, 2018. Her complaints against JJCM Investments Inc are ongoing and being incurred on a monthly basis.

Oakland Municipal Code [hereinafter OMC] 8.22.150 (A)(4) states "The remedies available in this Chapter are not exclusive and may be used cumulatively with any other remedies in this Chapter or at law."

Furthermore OMC 8.22.150 (C) states "An aggrieved party or the City Attorney, on behalf of such party, may bring a civil action for injunctive relief or damages, or both, for any violation of the provisions of this Chapter or an order or decision issued by a Hearing Officer or the Board."

The release that the RAP hearing officer based her dismissal on only covered claims brought in the said civil action. It is clear that Ms. McQuillon has not pursued any civil action against JJCM Investments nor has she received any civil remedies from JJCM Investments. Nor does the settlement agreement make any determination as to the proper amount of rent. Ms. McQuillon believes she is currently over paying every month based on the hearing decision in T180-0152.

Ms. McQuillon deserved to be heard on this matter and not have the matter be dismissed based on the representations of the current owners.

CONSOLIDATED CHRONOLOGICAL CASE REPORT

Case No.: T19-0363, T19-0508

Case Name: Gonzalez v. Huang et al

Property Address: 2315 High Street, Oakland CA

Parties: Gloria Gonzalez, (Tenant)
Noel Munger, (Tenant Representative)
Bai Zhong Huang, (Property Owner)
Yan Li, (Property Owner)
Julie Wang, (Owner's Representative)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	July 24, 2019
Tenant Petition filed	November 12, 2019
Owner Response filed	October 30, 2019
	November 26, 2019
Hearing Decision mailed	February 19, 2021
Owner Appeal filed	February 28, 2020

T19-0363 MS/LM

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
For date stamp.

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	JUL 24 AM 10:12
	<u>TENANT PETITION</u>	

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 Gloria Gonzalez	Rental Address (with zip code) 2315 High Street Oakland, CA 94601	Telephone: [REDACTED]
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) Bai Z. Huang and Yan X. Li	Mailing Address (with zip code) 34362 Perry Road Union City, CA 94587	Telephone:
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 3

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

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

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

Tenant Petition

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

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

Date you moved into the Unit: 3/1/2008 Initial Rent: \$ 1000 /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		
8/30/2018	10/1/2018	\$ 1260	\$ 1310	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12/1/2017	1/2/2018	\$ 1230	\$ 1260	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9/1/2016	10/1/2016	\$ 1200	\$ 1230	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5/28/2015	7/1/2015	\$ 1100	\$ 1200	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
12/1/2012	1/4/2013	\$ 1000	\$ 1100	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
 No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

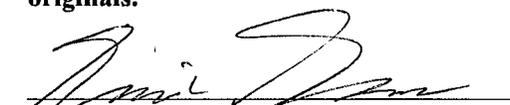
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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


Tenant's Signature

6/28/19
Date

Gloria Gonzalez
 2315 High Street
 Oakland, CA 94601

Addendum A-Decrease in Services/Bad Conditions

Description of Bad Conditions	Approximate Date Bad Conditions Began	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Changed conditions
Mold in bedroom number one	Approximately January 2010	January 2011 when we paid rent, we informed Yan. They painted over the mold once, but it grew back.	N/A	15%
Mold in bedroom number two	Approximately January 2010	January 2011 when we paid rent, we informed Yan. They painted over the mold once, but it grew back.	N/A	15%
Rotted and broken window in bathroom	Approximately January 2011	January 2011 when we paid rent, we informed Yan. They put tape and paste on the window.	N/A	5%
Rotten window in two bedrooms	Approximately January 2011	January 2011 when we paid rent, we informed Yan. They put paste on the window.	N/A	5%
Need another trash bin, there are only two for three units	Approximately March 2008	We notified him when we paid rent for April 2008 that there are only two bins for three separate families of tenants.	N/A	5%
up and in the two	Approximately January 2018	When we paid rent February 2018, we told Yan and they fixed some of the spots but not the two in the bedrooms.	N/A	10%

Decrease in Services

Gloria Gonzalez
 2315 High Street
 Oakland, CA 94601

Description of Bad Conditions	Approximate Date Bad Conditions Began	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Changed conditions
The heater emits smoke and ash into the home	Approximately October 2017	November 2017 when we paid rent we told Yan verbally	N/A	20%
The carpet in two bedrooms is moist and moldy, and causes mold on the dressers' legs. We paid for the installation of carpets in the bedrooms in 2015. Then by 2016, they were moist and moldy again.	Approximately January 2011	We notified the landlord when we paid rent February 2011 and then again occasionally, including in 2016 when the moisture and mold grew on the new carpets.	N/A	15%
The air vent in the bathroom does not work	Approximately February 2015	Approximately March 2015	N/A	5%
The kitchen door is broken in several places, including the doorknob. There is tape holding some pieces together	Approximately June 2014	July 2014 verbally in person	N/A	5%
When the neighbor in attached unit cooks our unit is filled with smoke	Approximately March 2017	April 2017 verbally when paying rent	N/A	10%
There is no insulation in the whole house, which PG&E states is why the temperature varies so drastically in home	We noticed the first summer after moving in 2008	We told the landlord when we paid rent after moving in	N/A	15%

000121

Gloria Gonzalez
2315 High Street
Oakland, CA 94601

Description of Bad Conditions	Approximate Date Bad Conditions Began	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Changed conditions
The stove was broken so we paid \$300 for the landlord to bring us a new one in July 2016	The stove started having problems around April 2008	Paid \$300 to receive a stove in July of 2016	N/A	15%
There is a rat infestation	We noticed a lot of rats in the first summer of 2008, and each summer there are more	We notified them approximately in August of 2008 in person when paying rent	N/A	20%

000122

T19-0508 MS/LM



CITY OF OAKLAND

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

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
For date stamp:
2019 NOV 12 PM 4:31

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 Gloria Gonzalez	Rental Address (with zip code) 2315 High Street Oakland, CA	Telephone: 5 [REDACTED] E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) Bai Z. Huang and Yan X. Li	Mailing Address (with zip code) 34362 Perry Road Union City, CA 94587	Telephone: Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 3

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

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

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

<input checked="" type="checkbox"/>	(a) The CPI and/or banked rent increase notice I was given was calculated in error.
<input checked="" type="checkbox"/>	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or unreasonable.
<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.

Rev. 2/10/17

For more information phone (510) 238-3721.

Tenant Pet
000123

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

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

Date you moved into the Unit: 3/1/2008 Initial Rent: \$ 1000 /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."

*See addendum B regarding receipt of the RAP notice

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		
10/21/2019	12/1/2019	\$ 1310	\$ 1356	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

Yes
 No

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

T19-0363

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:

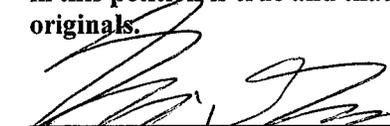
- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

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

11/18/19

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Addendum A-Decrease in Services/Bad Conditions

The bad conditions for which I am seeking a rent adjustment are enumerated in my previous petition T19-0363.


Gloria Gonzalez

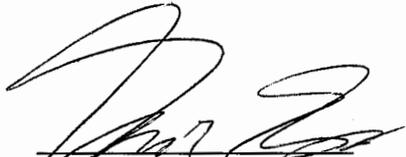
11/8/19
Date

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RENT ARBITRATION PROGRAM
2019 NOV 12 PM 4:33

000127

Addendum B-RAP Notice

The notice of rent increase I received on October 21, 2019 only came with the RAP notice in English. I negotiated my lease in Spanish in 2008 with the then-owner, Maria Hurtado. I have never received the RAP notice in Spanish. Prior to October 21, 2019, I had never received the RAP notice in any language.


Gloria Gonzalez

11/8/19
Date

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UNIFORM PROGRAM
2019 NOV 12 PM 4:33

MS/LM

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

2019 OCT 30 AM 11:38
For date stamp.

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-0243 (510) 238-3721	<u>PROPERTY OWNER</u> <u>RESPONSE</u>
--	--	--

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 T19 - 0363

Your Name Bai Zhong Huang	Complete Address (with zip code) 34362 Perry Rd Union City CA 94587	Telephone: [REDACTED]
Your Representative's Name (if any) Julie Wang	Complete Address (with zip code) 824 E 19 th St #A Oakland, CA 94606	Telephone: [REDACTED] Email:
Tenant(s) Name(s) Gloria Gonzalez	Complete Address (with zip code) 2315 High St Oakland, CA 94601	
Property Address (If the property has more than one address, list all addresses) 2317 High St Oakland CA 94601	Total number of units on property TWO	

Have you paid for your Oakland Business License? Yes No Lic. Number: 00121525

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: 00121525

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: 2.30.2009

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

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

For more information phone (510)-238-3721

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.

Date of Contested Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Debt Service	Fair Return
_____	<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 2007

The tenant's initial rent including all services provided was: \$ 1000 / 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 X

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

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.

Date Notice Given (mo./day/year)	Date Increase Effective	Rent Increased		Did you provide the "RAP NOTICE" with the notice of rent increase?
		From	To	
11/1/2012	1/1/2013	\$ 1000	\$ 1100	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/28/2015	7/1/2015	\$ 1100	\$ 1200	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/30/2016	10/1/2016	\$ 1200	\$ 1230	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/25/2017	10/1/2017	\$ 1230	\$ 1260	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/30/2018	10/1/2018	\$ 1260	\$ 1310	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

110% banking
49% banking

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.

BAI ZHONG HUANG
Property Owner's Signature

10-10-2019
Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

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

File Review

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

Mediation Program

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

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

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

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

[Signature]
Property Owner's Signature

10-10-2019
Date

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-0243 (510) 238-3721	2019 NOV 26 AM 10:53 RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM
		<u>PROPERTY OWNER</u> <u>RESPONSE</u>

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 T19- 0508

Your Name Bai Zhong Huang	Complete Address (with zip code) 34362 Perry Rd Union City CA 94587	Telephone: [REDACTED]
Your Representative's Name (if any) Julie Wang	Complete Address (with zip code) 824 E 19th St #A Oakland, CA 94606	Telephone: [REDACTED]
Tenant(s) Name(s) Giorgia Gonzalez	Complete Address (with zip code) 2315 High St Oakland, CA 94601	Email: [REDACTED]
Property Address (If the property has more than one address, list all addresses) 2317 High St Oakland, CA 94601	Total number of units on property TWO	

Have you paid for your Oakland Business License? Yes No Lic. Number: 00121525
 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: 00121325
 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: 2/30/2009

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 2007.

The tenant's initial rent including all services provided was: \$ 1000 / 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 X

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

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>	
<u>10-21-2019</u>	<u>12-1-2019</u>	<u>\$ 1310</u>	<u>\$ 1356</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

More Responses : see the attached paper

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.

Pi Jung Hung
Property Owner's Signature

11-25-2019
Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open.

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

File Review

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

Mediation Program

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

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

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

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

Pi Jung Hung
Property Owner's Signature

11-25-2019
Date

11/25/2019

PROPERTY OWMER RESPONSE FOR THE CASE T19- 0508

- a. For the year 2019 rent increase 3.5%. calculation is correct ($1310 \times 3.5\% = 46$)
- b. Rent increase is 3.5%. IT IS NOT 10%
- c. This increase is not exceeded the CPA or BANKING. It doesn't needs approval from the Rent Adjustment program.
- d. We served you the NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM together with the rent increase paper.
- e.
- H. We don't think so. DEPARTMENT OF ENVIRONMENTAL HEALTH Vector Control Services District inspected the house, they only found some rats droppings in the basement, We Had pest control service company to do the service three times.
- I. Since we got the house we did a lot of work, such as Changed new carpets, installed New hard floors, replaced new windows, new refrigerator, new heater, new stove and Oven, new painting, etc. Were done in her house

Anytime the tenant called or asked to do something we always be there ASAP. We are responsible Honest, diligent landlord. What we said above are true.

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30-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: Gloria Gonzalez + Daes, Resident(s) and all others in
possession of Apt. No. _____, located at (Street Address) 2315 High St
in the city of Oakland, 94601, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that thirty (30) days
after service upon you of this notice or beginning 12-1-, 2019, whichever is later, the terms of
your rental agreement for the above described property are hereby changed as follows:

YOUR MONTHLY RENT shall be increased from \$ 1310 per month to \$ 1356 per month, an
increase of \$ 46 (3.5%) per month.

YOUR SECURITY DEPOSIT shall be increased from \$ _____ to \$ _____, an increase of
\$ _____.

TOTAL AMOUNT DUE and payable by the above stated time period:

New Monthly Rent:	\$ <u>1356</u>
Security Deposit Increase:	\$ <u>NO</u>
Other:	\$ _____
Total Due:	\$ <u>1356</u>

OTHER CHANGES:

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) 10-20-, 2019

_____, OWNER(S)
By: Julie Wang, AGENT



CITY OF OAKLAND



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

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

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

TENANTS' SMOKING POLICY DISCLOSURE

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

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

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

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October 18, 2019

From: Julie Wang (property manager # 5102893926)

To: Tenants of

Sub: NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

Dear Tenants,

Oakland has a rent adjustment program(RAP) THAT LIMITS RENT INCREASE. We want to let you know the program and know the rules for rent increase. So we give you the the notice again although you have the notice on the last page of our signed rental agreement.

We are going to do the following two things to your resident.

1. This year Allowable Annual Rent Increase is July1, 2019; 3.5%. This means your rent will increase 3.5% this year. We are going to serve the 30 day notice before the end of October. The increase will start December 1st 2019.
2. Oakland charges owners a Rent Program Service Fee per unit per year \$ 68. Owner is entitles to get half of the fee from you. For so many years passed our owners never charge you the half fee from your. You should appreciated the owner's kindness. You have to pay the half fee \$34 starting from this years. The fee is once a year only. It is not a rental increase. Please pay the \$34 fee together with you November rent. The owner will pay the total \$64 to Rental Board.

Thank you for your residence with us.

Sincerely
Julie Wang

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CITY OF OAKLAND



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

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: T19-0363 and T19-508, Gonzalez v. Huang

PROPERTY ADDRESS: 2315 High St., Oakland, CA

DATE OF HEARING: November 17, 2020, remotely via Zoom

DATE OF DECISION: January 15, 2021

APPEARANCES: Gloria Gonzalez, Tenant
Xavier Johnson, Tenant's Representative
Djohra Chaboub, Spanish Interpreter for Tenant
Bai Zhong Huang, Owner
Julie Wang, Owner's Representative
Reetu Mody, Observer, Centro Legal de la Raza

SUMMARY OF DECISION

The tenant petitions are granted in part.

CONTENTIONS OF THE PARTIES

On July 24, 2019, the tenant filed a tenant petition (T19-0363), contesting five prior rent increases, alleging that the owner did not provide the notice of the existence of the Rent Adjustment Program (the RAP Notice) as required in Spanish and also claiming code violations and decreased housing services.

On November 12, 2019, the tenant filed second tenant petition (T19-0508), contesting a rent increase that was give since filing of the earlier petition.

Both petitions were consolidated into one hearing.

The owner filed timely responses to each petition, claiming that the rent increases were justified by banking and/or for the CPI amount only, and the alleged decreased

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housing services identified by the tenant were addressed. The owner responses also stated that the owner did not know whether he provided the RAP Notice to the tenant.

THE ISSUES

- (1) Did the tenant receive the RAP Notice?
- (2) Are the contested rent increases valid and what is the current rent?
- (3) Have the tenant's housing services been decreased, and if so, by what amount?

EVIDENCE

Background

The tenant moved into the subject unit on March 1, 2008, at an initial monthly rent of \$1,000.00. She testified that she spoke only Spanish with the prior owner, Maria Hurtado, and also negotiated the lease agreement and any business relating to her tenancy in Spanish.

The tenant's representative submitted an evidence packet consisting of 59 pages, that was admitted into evidence without objection and will be referred to in this Hearing Decision.

The current owner acquired the building in 2009. The subject building consists of two (2) residential units and the owner submitted proofs of payments of both Oakland Business License and the Rent Program Service Fee.¹

Rent Increases

The tenant contests the following rent increases:

1. from \$1,310.00 to \$1,356.00, effective December 1, 2019;
2. from \$1,260.00 to \$1,310.00, effective October 1, 2018;
3. from \$1,230.00 to \$1,260.00, effective October 1, 2017;
4. from \$1,200.00 to \$1,230.00, effective October 1, 2016;
5. from \$1,100.00 to \$1,200.00, effective July 1, 2015; and
6. from \$1,000.00 to \$1,100.00, effective January 1, 2013.

The tenant submitted copies of the rent increase notices.² The tenant also submitted copies of rent receipts, showing the monthly rent payment and that she paid all rent increases, except the most recent one. She has been paying \$1,310.00 per month since October 1, 2018.³ This evidence was not disputed.

¹ Exhibit A

² Exhibit B (page 14 through 18 of the Tenant's packet)

³ Exhibit C (pages 1 through 13 of the Tenant's packet)

RAP Notice

The tenant testified at the hearing that the first RAP Notice she received was with the most recent rent increase, dated October 20, 2019, and it was in English only. She testified that all notices she ever received from the current owner were in English. The owner never provided the RAP Notice to the tenant in Spanish.

The owner testified that she was learning the rules relating to the Rent Adjustment Ordinance. She asked questions at the hearing relating to the RAP Notices. The owner testified that she told the tenant about the rent control in Oakland but admitted that she did not know that she must provide notices in writing with each rent increase, and also in other languages.

Code Violation

There was no evidence of any code violation or evidence that any notice of violation was issued. Therefore, this claim is dismissed.

Decreased Housing Services/Changed Condition

At the hearing, the tenant testified that the repairs have been completed in May and June of 2019 and limited the issues to the windows, carpet and mold. The owner testified that they already replaced the windows, and are willing to address any items that were still outstanding at the time of the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increases - No RAP Notice in Spanish

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁴ and together with any notice of rent increase.⁵ The Owner must give the initial notice in three languages: English, Spanish and Chinese.⁶

There was no evidence that any of the contested rent increases included the RAP Notice. The current owner gave the initial RAP Notice to the tenant with the most recent rent increase in 2019 and only in English.

Additionally, California Civil Code §1632(b)(3) states that, when a person enters into a contract, including a rental contract or agreement, and primarily negotiates the terms of the contract in a language other than English, the owner must give the consumer a translation of the contract in the same language in which the negotiation was held. Here, when the tenant moved into the unit, he negotiated the lease in Spanish

⁴ O.M.C. §8.22.060(A)

⁵ O.M.C. §8.22.070(H)(1)(A)

⁶ O.M.C. §8.22.060(

and all discussions were in Spanish with the prior owner. The RAP Board has held that, in keeping with Civil Code §1632(b)(3), the *RAP Notice* must also be given in the same language in which the negotiations were held. (*Soriano et al. v. Western Mgt. Properties*, T06-0154, Housing, Residential, Rent and Relocation Board.)

There is no evidence that the owner provided the RAP notice with the rent increases and in Spanish. The current owner stands in the shoes of the prior owner. Therefore, all contested rent increases are not valid and the monthly rent will be rolled back to \$1,000.00, the rent amount prior to the first contested rent increase. The evidence established that the tenant paid the rent increases. Therefore, the tenant is entitled to restitution, which is limited to thirty-six months prior to the hearing⁷ and will be applied as follows:

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Oct-18	1-Nov-20	\$1,310	\$1,000	\$ 310.00	26	\$ 8,060.00
1-Oct-17	30-Sep-18	\$1,260	\$1,000	\$ 260.00	12	\$ 3,120.00
TOTAL OVERPAID RENT						\$ 11,180.00

RESTITUTION

MONTHLY RENT	\$ 1,000
TOTAL TO BE REPAYED TO TENANT	\$ 11,180.00
TOTAL AS PERCENT OF MONTHLY RENT	1118%
AMORTIZED OVER	MO. BY REG. IS
OR OVER 36	MONTHS BY HRG. OFFICER IS
	\$ 310.56

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁸ and may be corrected by a rent adjustment.⁹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability¹⁰ of a unit or one that was provided at the beginning of the tenancy and is no longer being provided, or one that was contracted between the parties.

In a decreased services case, the tenant has the burden of proving decreased housing services by a preponderance of the evidence and must establish he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to a relief.¹¹

⁷ HRRAB Appeal Decisions T06-0051 (*Barajas/Avalos v. Chu*) & T08-0139 (*Jackson-Redick v. Burks*)

⁸ O.M.C. §8.22.070(F)

⁹ O.M.C. §8.22.110(E)

¹⁰ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

¹¹ Hearing Decision T11-0191, *Howard v. Smith* (2012)

At the hearing the tenant testified that all repairs were completed by May and June of 2019. The owner testified that the parties were on good terms now working together and that the owner repaired everything that the tenant requested and if there was anything that still needed to be fixed, the owner will address it. Therefore, the claims for decreased housing services are denied at this time. However, the owner is on notice to address any issues, if any remains, relating to mold, carpet and windows.

ORDER

1. Tenant Petitions T19-0363 and T19-0508 are granted in part.
2. The rent increases are not valid. The new monthly base rent is \$1,000.00.
3. The monthly base rent of \$1,000.00 is further temporarily decreased due to rent overpayments (\$11,180.00), which are amortized over the next thirty-six (36) months as shown on the chart below:

Base Rent	\$1,000.00
Rent overpayments \$11,180.00 amortized over 36 months (\$11,180.00 divided by 36)	- 310.56
Rent for the next 36 months	\$ 689.44

4. After thirty-six (36) months, the rent will increase by \$310.56 as the credit for rent overpayments expires per chart above. This is not a rent increase but end of restitution.

5. The tenant is entitled to reduce the rent in accordance with this Order per chart above after this 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 the parties.

6. The claims for decreased housing services are denied.

7. The owner is otherwise eligible to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program as required in all languages and in accordance with California Civil Code §827.

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 RAP form, which must be received within twenty days after service of decision, shown on the attached Proof of Service.

Dated: January 15, 2021



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T19-0363, T19-0508

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

Bai Z Huang
34362 Perry Road
Union City, CA 94587

Owner

Yan X Li
34362 Perry Road
Union City, CA 94587

Owner Representative

Julie Wang
824 E. 19th St. #A
Oakland, CA 94606

Tenant

Gloria Gonzalez
2315 High Street
Oakland, CA 94601

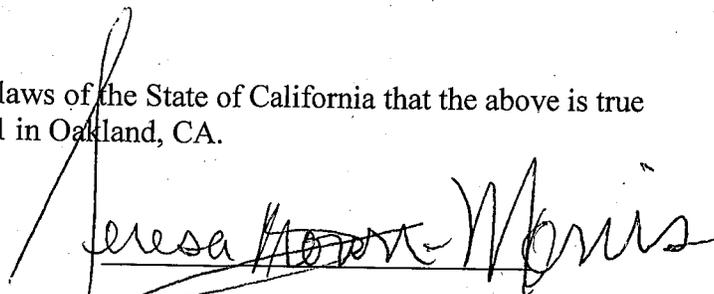
Tenant Representative

Noel Munger, Centro Legal de la Raza
3400 E. 12th Street
Oakland, CA 94601

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

000145

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

A handwritten signature in black ink, appearing to read "Teresa Brown-Morris". The signature is written over a horizontal line. There is a large, sweeping stroke that starts from the left side of the page and crosses over the signature.

Teresa Brown-Morris

Oakland Rent Adjustment Program



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

APPEAL

Appellant's Name <i>Bai Zhong Huang</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>2315 High St Oakland, CA 94601</i>			
Appellant's Mailing Address (For receipt of notices) <i>34362 Perry Rd. Union City CA 94587</i>		Case Number <i>T19-0363 T19-0508</i>	Date of Decision appealed <i>Jan 15, 2021</i>
Name of Representative (if any) <i>Julie Wang</i>	Representative's Mailing Address (For notices) <i>824 E 19th St. #A Oakland, CA 94606</i>		

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.)*

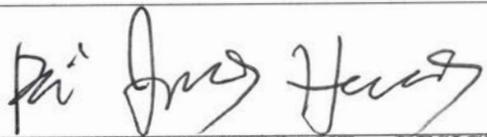
For more information phone (510) 238-3721.

- 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: 14

• 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 3/1, 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:

<u>Name</u>	Gloria Gonzalez
<u>Address</u>	2315 High St. Oakland, CA 94601
<u>City, State Zip</u>	Oakland, CA 94601
<u>Name</u>	Noel Munger Centro Legal de la Raza
<u>Address</u>	3400 E. 12th St.
<u>City, State Zip</u>	Oakland, CA 94601

	<u>2/28/2021</u>
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.

Appeal letter for
Case Number: T19-0363 and T19-0508, Gonzalez vs. Huang

To: Honorable Judge and Respectful RAP board members,

After receiving the decision from your office, I researched the RAP Guidelines on the City of Oakland website and tried to understand your reasoning to the best of my knowledge. I believe there are strong reasons for me to appeal the decision. I appeal that the current tenants rent should be at \$1260 per month, with total overpaying rent being only \$1300.

Background Facts:

1. I (the owners) acquired the 2315-2317 Duplex property through the bank-own REO back in 2009. At the time of the purchase, we never received any disclosure from the bank or the current tenant regarding a Spanish rental contract. At the same time, tenant Gloria Gonzalez never once mentioned requesting a Spanish contract in the past 11 years. The tenant has always communicated in English verbally or through text messages to Julie Wong, the property manager, regarding repairs, rent payments, and rent increases. According to real estate law even a verbal contract is a contract. Therefore, whether the tenant's argument of having a negotiated Spanish contract with the previous owner, or not being able to communicate in English is a weak argument. Furthermore, she failed to request from us a Spanish contract after 11 years, until she filed for petition on July 24, 2019.

2. According to the Oakland RAP website posted on August 31, 2018. The effective date of providing three languages RAP to the tenant is September 21, 2016, and the tenant has 60 days to file a petition. But if RAP notice is not served the petition date is extended to 120 days. Tenant files for petition on July 24, 2019, which is way passed the 120 days window. Tenant's petition only applies to the 2019 rent increase, anything prior to that would have been more than 120 days.

3. As for the owner must initially provide the RAP notice to the tenant, otherwise rent increases may not be considered valid. This rule only appeared on two RAP documents, one issued on August 31, 2018 and another one was published in July 2019 in The Guide to Oakland Rental Housing Law. Owner purchased the property back in 2009, thus all the rent increases should be grandfathered until these documents were published. Any rent increases after 2019 without RAP notice can be considered not to be valid. Please refer to the table in the next page for my calculation.

Case # T19-0363 and T19-0508

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Rental increase History	According RAP supporting DOC.
From \$1,310.00 to \$1356.00, effective December 1, 2019	Not Valid
From \$1,260.00 to \$1,310.00, effective October 1, 2018	Not Valid
From \$1,230.00 to \$1,260.00, effective October 1, 2017	Valid (Increase According to CPI)
From \$1,200.00 to \$1,230.00, effective October 1, 2016	Valid (Increase According to CPI)
From \$1,100.00 to 1,200.00, effective July 1, 2015	Valid (Banking increase)
From \$1,000.00 to \$1,100.00, effective January 1, 2013	Valid (Banking increase)

Overpaid Rent						
From	To	Monthly Rent Paid	Max Monthly Rent	Difference Per Month	No. of Months	Sub Total
10/1/2018	11/1/2020	\$1,310	\$1,260	\$50	26 months	\$1,300
8/31/2018	9/30/2018	\$1,260	\$1,260	\$0	1 month	\$0
				Total Overpay rent		\$1,300

In conclusion, we request the RAP board to review the attached evidence, and make a reasonable decision. I, the Owner strongly believe that the current tenant rent should be at \$1260 per month, total overpaying rent should be at \$1300. This is a fair request from me, the owner.

Thank you very much for your time.

Sincerely,
Bai Zhong Huang

Case # T19-0363 and T19-0508

000151

RESIDENTIAL INCOME

DUPLEX

List Price:

\$175,000

Sold-REO

2317 HIGH ST

OAKLAND

CA 94601-4

Area: 2601

MLS#: 40403391

Orig. Price: \$175,000

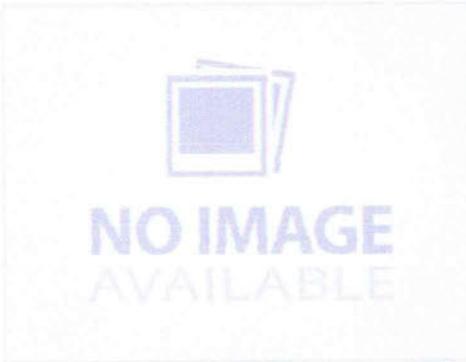
Sold Price: \$186,800

List Date: 3/23/2009 Off-Mkt Date: 4/16/2009

Pending Date: 4/16/2009 COE Date: 5/4/2009

DOM: 24

CDOM: 24



Print/Email:

Property Information

Total Units: 2 D/N/S: Building Sq Ft: 0 Year Built: 1940 Lot Sq Ft: 4,910 Source: Public
Parking Spaces: 2 Age: 73 Acres: 0.11

Table with columns: Unit # or No., Approx. Sq Ft, Monthly Rent, Occupant, Bedrms, Baths, Pkg Spc, Din Rm, A/C, Fireplace, Refrig, Range/Oven

Showing & Listing Information

Occ By: Tenant Occ Phone: Showing Info: Call agent for appt Mgr Unit: Supra Box?: No Lockbox Location:
Listing Type: Excl Right Comp Selling Ofc: 3 Listing Service: Full Service
Listing Ofc: RE/MAX IN MOTION - Off: 510-733-1700 LA DRE#: Special Information: REO
Listing Agt: SUSAN JONES - 510-583-5400 jsusan984@comcast.net Associated Docs: 0 Agent Hit Count:
Co-List Agt: Listing Broker DRE#: Client Hit Count:
Zoning: APN: 32-2075-21 Census Tract: 4071.00 Point of Sale Ord: No City Transfer Tax: Yes
Disclosures.io Link: Use PEAD in Glide During Covid-19 Schedule a Showing

Remarks

Bank Foreclosure- 2 bed /1 bath units. fireplace in each unit. living & dining room. Inside laundry. Attached garage. rear yard. Near transportation and shopping

Confidential Remarks

REO Bank owned- Tenant rights. Non conforming studio w/kitchen and bath . AS_IS sale .Call agent for more information on showing. Drive by- Susan Jones 510 393-0368. fax offers to 510 728-3577

Property Features:

ADDTL MISC. FEATURES None BASEMENT None COOLING No Air Conditioning DISCLOSURES REO/Bank Owned EQUIPMENT ADDITIONAL Water Heater Gas EXISTING LEASE TERMS Other EXTERIOR Stucco FLOORING Linoleum, Carpet HEATING Floor Furnace LAUNDRY Inside Unit, Washer/Dryer Hookups LOT DESCRIPTION Regular
PARKING DESCRIPTION Garage Parking POSSESSION COE ROOF Composition Shingles SEPARATE METERS Electric, Gas, Water TENANT PAYS Electric, Gas, Water TERMS Cash, Conventional WATER/SEWER Sewer System - Public, Water - Public YARD DESCRIPTION Back Yard, Fenced

Elementary School District: High School District: Oakland (510) 879-8111

Financials

Deposits: \$0 Rental Income: \$0 Misc Income: \$0 Ann Vacancy Exp: \$0
Gross Oper Inc: \$0 Gross Sched Inc: \$0 Gross Fee Inc: \$0 Net Oper Inc: \$0
Annual Taxes: \$0 Ann Maintenance: \$0 Annual Utilities: \$0 Other Expense: \$0
Ann Insurance: \$0 Mgmt Expense: \$0 License Exp: \$0 Total Ann Oper Exp: \$0
Expense Year: 0 Fin Data Source: Other

Buyer Agent: SUSAN JONES - 510-583-5400 Buyer Agent DRE#:
Sold Price: \$186,800 Sale/Orig \$: 107 Sale/Last \$: 107 List \$/SqFt: Sale \$/SqFt:
Concessions: Number of offer: Sale Terms: Cash

©Bay East, CCAR, bridgeMLS. Based on information from Bay East and Contra Costa Association of REALTORS® and bridgeMLS. All data, including all measurements and calculations of area, is obtained from various sources and has not been, and will not be, verified by broker or MLS. All information should be independently reviewed and verified for accuracy. Properties may or may not be listed by the office/agent presenting the information.

Provided By: CalBRE CASE# T19-0363 T19-0508 02/27/2021

000152

CASE# T19-0363, T19-0508

City of Oakland | Notice to Tenants | x +

https://www.oaklandca.gov/resources/notice-to-tenants-of-the-rent-adjustment-program

CITY OF OAKLAND Search

NEWS SERVICES DEPARTMENTS CALENDAR CITY COUNCIL Mayor Libby Schaaf

Notice to Tenants of the Rent Adjustment Program

Owners are required to give tenants the form, Notice to Tenants of the Residential Rent Adjustment Program, upon move in.

[Download](#) [Download](#) [Download](#)

NOTICE TO TENANTS OF THE RENT ADJUSTMENT PROGRAM (ENGLISH) NOTICE TO TENANTS OF THE RENT ADJUSTMENT PROGRAM (SPANISH) NOTICE TO TENANTS OF THE RENT ADJUSTMENT PROGRAM (CHINESE)

Date Posted: **August 31st, 2018 @ 3:44 PM**
Last Updated: **January 20th, 2021 @ 7:52 PM**

The form also is known as the "RAP Notice" and the "Notice to Tenants." This form explains the existence of the RAP and tenants' rights under the rent law. Owners are also required to give another RAP Notice with every notice of rent increase or other notice of change in terms of tenancy.

New Requirement for RAP Notice in Multiple Languages at Move-In.

- **Effective September 21, 2016**, owners are required to provide the RAP Notice in three languages: English, Spanish and Chinese. This rule applies only to move-ins that started on or after September 21, 2016. These notices can be found below.
- Failure of the current or previous owner to provide the RAP Notice at the beginning of a tenancy can delay the effective date of a rent increase.
- Failure to provide the RAP Notice can extend the time that tenants have to file petitions. The time can be extended from 90 days to 120 days.
- Rent increase given without the RAP Notice may be considered invalid.

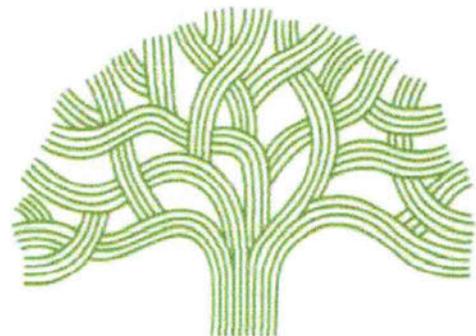
AS OF JULY 2019

GUIDE TO OAKLAND RENTAL HOUSING LAW

Rent Control and Eviction Protection



CASE# T19-0363
T19-0508



CITY OF OAKLAND

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

250 FRANK H. OGAWA PLAZA

SUITE 5313

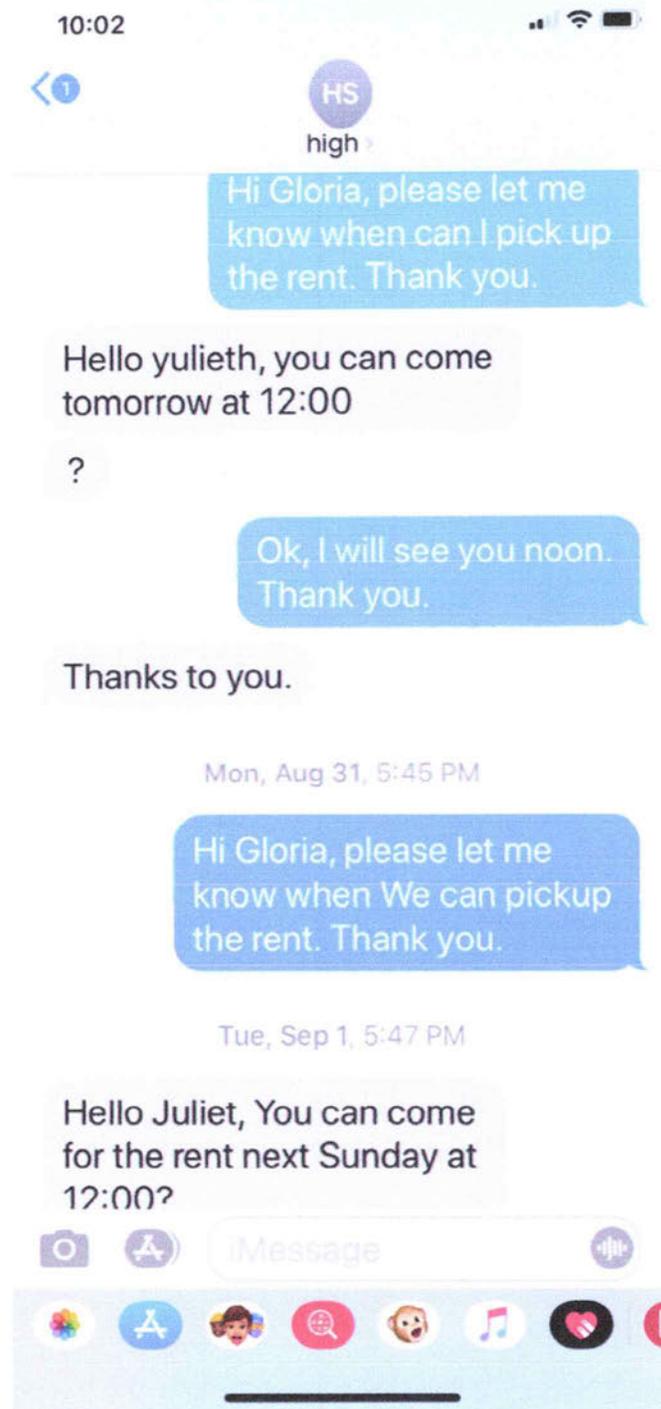
OAKLAND CA 94612

510-238-3721

www.oaklandca.gov/rap

000154

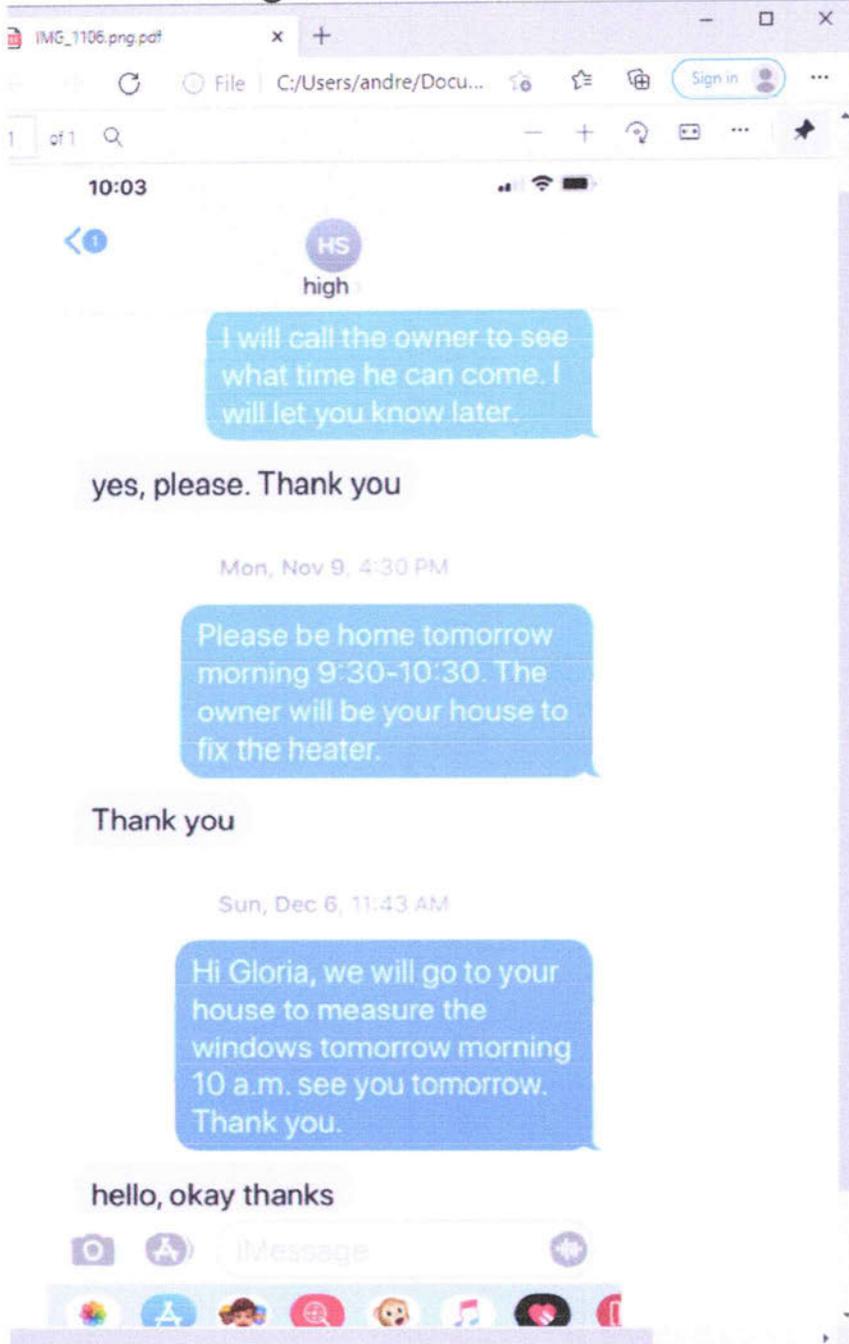
Text message between Gloria and Julie



Case # T19-0363 and T19-0508

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Text message between Gloria and Julie



Case # T19-0363 and T19-0508

000156

CITY OF OAKLAND



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

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBERS: T19-0363 and T19-508, Gonzalez v. Huang
PROPERTY ADDRESS: 2315 High St., Oakland, CA
DATE OF HEARING: November 17, 2020, remotely via Zoom
DATE OF DECISION: January 15, 2021
APPEARANCES: Gloria Gonzalez, Tenant
Xavier Johnson, Tenant's Representative
Djohra Chaboub, Spanish Interpreter for Tenant
Bai Zhong Huang, Owner
Julie Wang, Owner's Representative
Reetu Mody, Observer, Centro Legal de la Raza

SUMMARY OF DECISION

The tenant petitions are granted in part.

CONTENTIONS OF THE PARTIES

On July 24, 2019, the tenant filed a tenant petition (T19-0363), contesting five prior rent increases, alleging that the owner did not provide the notice of the existence of the Rent Adjustment Program (the RAP Notice) as required in Spanish and also claiming code violations and decreased housing services.

On November 12, 2019, the tenant filed second tenant petition (T19-0508), contesting a rent increase that was give since filing of the earlier petition.

Both petitions were consolidated into one hearing.

The owner filed timely responses to each petition, claiming that the rent increases were justified by banking and/or for the CPI amount only, and the alleged decreased

CASE # T19-0363, T19-0508

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housing services identified by the tenant were addressed. The owner responses also stated that the owner did not know whether he provided the RAP Notice to the tenant.

THE ISSUES

- (1) Did the tenant receive the RAP Notice?
- (2) Are the contested rent increases valid and what is the current rent?
- (3) Have the tenant's housing services been decreased, and if so, by what amount?

EVIDENCE

Background

The tenant moved into the subject unit on March 1, 2008, at an initial monthly rent of \$1,000.00. She testified that she spoke only Spanish with the prior owner, Maria Hurtado, and also negotiated the lease agreement and any business relating to her tenancy in Spanish.

The tenant's representative submitted an evidence packet consisting of 59 pages, that was admitted into evidence without objection and will be referred to in this Hearing Decision.

The current owner acquired the building in 2009. The subject building consists of two (2) residential units and the owner submitted proofs of payments of both Oakland Business License and the Rent Program Service Fee.¹

Rent Increases

The tenant contests the following rent increases:

1. from \$1,310.00 to \$1,356.00, effective December 1, 2019;
2. from \$1,260.00 to \$1,310.00, effective October 1, 2018;
3. from \$1,230.00 to \$1,260.00, effective October 1, 2017;
4. from \$1,200.00 to \$1,230.00, effective October 1, 2016;
5. from \$1,100.00 to \$1,200.00, effective July 1, 2015; and
6. from \$1,000.00 to \$1,100.00, effective January 1, 2013.

The tenant submitted copies of the rent increase notices.² The tenant also submitted copies of rent receipts, showing the monthly rent payment and that she paid all rent increases, except the most recent one. She has been paying \$1,310.00 per month since October 1, 2018.³ This evidence was not disputed.

¹ Exhibit A

² Exhibit B (page 14 through 18 of the Tenant's packet)

³ Exhibit C (pages 1 through 13 of the Tenant's packet)

CASE # T19-0363, T19-0508

RAP Notice

The tenant testified at the hearing that the first RAP Notice she received was with the most recent rent increase, dated October 20, 2019, and it was in English only. She testified that all notices she ever received from the current owner were in English. The owner never provided the RAP Notice to the tenant in Spanish.

The owner testified that she was learning the rules relating to the Rent Adjustment Ordinance. She asked questions at the hearing relating to the RAP Notices. The owner testified that she told the tenant about the rent control in Oakland but admitted that she did not know that she must provide notices in writing with each rent increase, and also in other languages.

Code Violation

There was no evidence of any code violation or evidence that any notice of violation was issued. Therefore, this claim is dismissed.

Decreased Housing Services/Changed Condition

At the hearing, the tenant testified that the repairs have been completed in May and June of 2019 and limited the issues to the windows, carpet and mold. The owner testified that they already replaced the windows, and are willing to address any items that were still outstanding at the time of the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increases - No RAP Notice in Spanish

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁴ and together with any notice of rent increase.⁵ The Owner must give the initial notice in three languages: English, Spanish and Chinese.⁶

There was no evidence that any of the contested rent increases included the RAP Notice. The current owner gave the initial RAP Notice to the tenant with the most recent rent increase in 2019 and only in English.

Additionally, California Civil Code §1632(b)(3) states that, when a person enters into a contract, including a rental contract or agreement, and primarily negotiates the terms of the contract in a language other than English, the owner must give the consumer a translation of the contract in the same language in which the negotiation was held. Here, when the tenant moved into the unit, he negotiated the lease in Spanish

⁴ O.M.C. §8.22.060(A)

⁵ O.M.C. §8.22.070(H)(1)(A)

⁶ O.M.C. §8.22.060(C)

CASE # T19-0363, T19-0508

and all discussions were in Spanish with the prior owner. The RAP Board has held that, in keeping with Civil Code §1632(b)(3), the *RAP Notice* must also be given in the same language in which the negotiations were held. (*Soriano et al. v. Western Mgt. Properties*, T06-0154, Housing, Residential, Rent and Relocation Board.)

There is no evidence that the owner provided the RAP notice with the rent increases and in Spanish. The current owner stands in the shoes of the prior owner. Therefore, all contested rent increases are not valid and the monthly rent will be rolled back to \$1,000.00, the rent amount prior to the first contested rent increase. The evidence established that the tenant paid the rent increases. Therefore, the tenant is entitled to restitution, which is limited to thirty-six months prior to the hearing⁷ and will be applied as follows:

OVERPAID RENT						
From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Oct-18	1-Nov-20	\$1,310	\$1,000	\$ 310.00	26	\$ 8,060.00
1-Oct-17	30-Sep-18	\$1,260	\$1,000	\$ 260.00	12	\$ 3,120.00
TOTAL OVERPAID RENT						\$ 11,180.00

RESTITUTION	
MONTHLY RENT	\$ 1,000
TOTAL TO BE REPAYED TO TENANT	\$ 11,180.00
TOTAL AS PERCENT OF MONTHLY RENT	1118%
AMORTIZED OVER	MO. BY REG. IS
OR OVER 36	MONTHS BY HRG. OFFICER IS
	\$ 310.56

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁸ and may be corrected by a rent adjustment.⁹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability¹⁰ of a unit or one that was provided at the beginning of the tenancy and is no longer being provided, or one that was contracted between the parties.

In a decreased services case, the tenant has the burden of proving decreased housing services by a preponderance of the evidence and must establish he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to a relief.¹¹

⁷ HRRAB Appeal Decisions T06-0051 (*Barajas/Avalos v. Chu*) & T08-0139 (*Jackson-Redick v. Burks*)

⁸ O.M.C. §8.22.070(F)

⁹ O.M.C. §8.22.110(E)

¹⁰ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

¹¹ Hearing Decision T11-0191, *Howard v. Smith* (2012)

CASE # T19-0363, T19-0508

At the hearing the tenant testified that all repairs were completed by May and June of 2019. The owner testified that the parties were on good terms now working together and that the owner repaired everything that the tenant requested and if there was anything that still needed to be fixed, the owner will address it. Therefore, the claims for decreased housing services are denied at this time. However, the owner is on notice to address any issues, if any remains, relating to mold, carpet and windows.

ORDER

1. Tenant Petitions T19-0363 and T19-0508 are granted in part.
2. The rent increases are not valid. The new monthly base rent is \$1,000.00.
3. The monthly base rent of \$1,000.00 is further temporarily decreased due to rent overpayments (\$11,180.00), which are amortized over the next thirty-six (36) months as shown on the chart below:

Base Rent	\$1,000.00
Rent overpayments \$11,180.00 amortized over 36 months (\$11,180.00 divided by 36)	- 310.56
Rent for the next 36 months	\$ 689.44

4. After thirty-six (36) months, the rent will increase by \$310.56 as the credit for rent overpayments expires per chart above. This is not a rent increase but end of restitution.
5. The tenant is entitled to reduce the rent in accordance with this Order per chart above after this 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 the parties.
6. The claims for decreased housing services are denied.
7. The owner is otherwise eligible to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program as required in all languages and in accordance with California Civil Code §827.

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 RAP form, which must be received within twenty days after service of decision, shown on the attached Proof of Service.

Dated: January 15, 2021



Linda M. Moroz
 Hearing Officer
 Rent Adjustment Program

CASE # T19-0363, T19-0508

PROOF OF SERVICE
Case Number T19-0363, T19-0508

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

Bai Z Huang
34362 Perry Road
Union City, CA 94587

Owner

Yan X Li
34362 Perry Road
Union City, CA 94587

Owner Representative

Julie Wang
824 E. 19th St. #A
Oakland, CA 94606

Tenant

Gloria Gonzalez
2315 High Street
Oakland, CA 94601

Tenant Representative

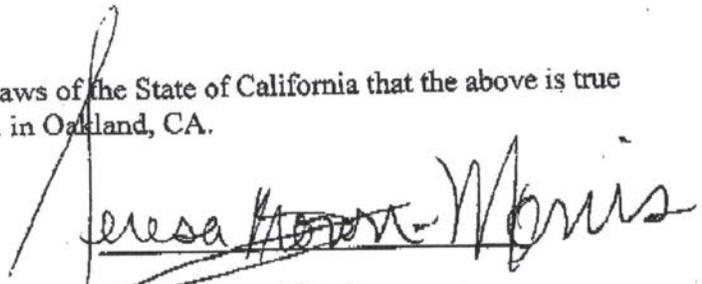
Noel Munger, Centro Legal de la Raza
3400 E. 12th Street
Oakland, CA 94601

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

CASE # T19-0363, T19-0508

000162

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

A handwritten signature in black ink that reads "Teresa Brown-Morris". The signature is written in a cursive style and is positioned above a horizontal line.

Teresa Brown-Morris

Oakland Rent Adjustment Program

CASE # T19-0363 - T19-0508

000163



MEMORANDUM

Date: June 4, 2021
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Kent Qian, Deputy City Attorney
Re: Appeal Summary in T20-0143
Wheaton v. Ngo
Appeal Hearing Date: June 10, 2021

Property Address: 4428 MacArthur Blvd., Unit #A, Oakland, CA
Appellants/Tenants: Valerie Wheaton
Respondent/Owner: Lien Ngo

BACKGROUND

The tenant filed a petition alleging code violations and serious problems with the conditions of the unit. The tenant alleged that her toilet would always clog up. She testified that the owner would respond promptly each time but the problem keeps happening. The owner testified that the plumbing issues were due to flushes and wipes being flushed down the toilet.

The tenant also alleged decreased housing services because the City of Oakland issued a Notice of Violation that the unit was an unpermitted unit. The owner testified that the tenant would not cooperate to let the owner make the necessary repairs.

RULING ON THE CASE

The Hearing Officer denied the decreased housing services claim for the toilet because the owner responded each time the tenant called about the problem and eventually replaced the plumbing system and the sewer line.

The Hearing Officer denied the claim based on the illegal unit because the tenant refused owner access to do the work to correct the notice of violation.

GROUND FOR APPEAL

The tenants appealed on the ground that the decision is not supported by substantial evidence. Specifically, the tenant contends that:

- The hearing officer was biased;
- The owner never hired a plumber to fix the toilet;
- The owner did not replace the sewer line;
- The owner never contacted the tenant to arrange access to the unit to fix the Notice of Violation.

ISSUES

1. Is the hearing officer’s decision supported by substantial evidence?

APPLICABLE LAW AND PAST BOARD DECISIONS

Substantial Evidence – Findings of Fact

In conducting substantial evidence review, the reviewing body must examine the whole record, not simply the part of it that supports the hearing officer’s decision. In other words, the reviewing court must scrutinize all of the evidence in the record—both that supporting and that detracting from the findings of fact. The reviewing body cannot sustain the hearing officer’s decision based only on the evidence supporting that decision viewed in isolation.

Board Decisions

A. Decreased Housing Services

T18-0293 **Kelly v. Claridge Hotel LLC**

Board affirmed Hearing Decision that denied a decreased housing services claim for pest infestation (bed bugs and roaches) where the Hearing Officer found that the owner began pest control treatment immediately after receiving notice from the tenant. (Note, the Board also upheld the decreased rent and restitution of 10% for a non-working heater.)

T16-0076 Lee v. Millar

Board affirmed Hearing Decision that denied tenant's claims of decreased housing services and found that items were tenant's responsibility or were due to tenant maintenance and sanitation issues.

T15-0576 Kellybrew v. Lewis

Board affirmed Hearing Decision that denied claim for mold due to leaking bathroom faucets because owner responded within a reasonable time and found that bugs in ceiling light fixture was not a hazardous condition affecting habitability of the unit.



MEMORANDUM

Date: June 4, 2021

To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)

From: Kent Qian, Deputy City Attorney

Re: Appeal Summary in
T19-0007 McQuillion v. American Liberty
T19-0510 McQuillion v. American Liberty
T20-0054 McQuillion v. JJCM Investments

Appeal Hearing Date: June 10, 2021

Property Address: 3114 Ashbrook Court, Oakland, CA

PROCEDURAL BACKGROUND

The tenant filed petitions on June 9, 2019, November 6, 2019, and January 30, 2020, contesting rent increases and alleging decreased housing services. All three cases were consolidated and a hearing was set for September 23, 2020. Subsequently, the owner representative notified the Rent Adjustment Program that there is a lawsuit pending in Superior Court (Case Number RG19008160) that addresses the very same claims listed in the tenant petitions referenced above.

The Mutual Settlement Agreement and Release shows that a release in the agreement precludes the tenant from raising all claims arising out of her tenancy at 3114 Ashbrook Court, in Oakland, California, that were brought or which could have been brought in the litigation entitled “Fatima McQuillon v. American Liberty Investments, LLC, Triple Good Investments & Management, LLC, Frederick O. Lewis, III., and Does 1 through 30,” Action No. RG19008160 in the Superior Court of California, County of Alameda, and from any and all other claims which could have been brought by her related to or stemming from her occupancy and possession of 3114 Ashbrook Court.

RULING ON THE CASE

The hearing officer dismissed the tenant petition on the basis that the Rent Adjustment Program no longer has jurisdiction over the case because the Superior Court assumed jurisdiction over all claims arising from the tenant's tenancy at 3114 Ashbrook Court, and all claims were resolved in the Mutual Settlement Agreement and Release, the Rent Adjustment Program no longer has jurisdiction over claims raised in the above-referenced tenant petitions. Therefore, the tenant petitions are dismissed.

GROUND FOR APPEAL

The tenant appealed the hearing decision on the following grounds:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board;
- The decision violates federal, state or local law;
- The decision is not supported by substantial evidence;
- I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.

Specifically, the tenant contends the following:

1. The settlement does not cover current conditions because the lawsuit was against the former owners, American Liberty Investments, LLC; Fredick A. Lewis, III, and Triple Goods Investment & Management LLC. JJCM Investments Inc. purchased the property on December 9, 2019 and was not party to the lawsuit.
2. The settlement agreement did not make any determination as the proper amount of rent.

ISSUES

1. Does RAP lack jurisdiction over matters in the unit despite a Settlement with a prior owner?

APPLICABLE LAW AND PAST BOARD DECISIONS

1. Board decisions:

T17-0371 Arnold v. Farley

Board dismissed tenant's appeal of dismissal of decreased services petition, based on prior court proceedings between the same parties on the same issues that were resolved via a settlement agreement over which the Superior Court retained continuing jurisdiction.

T13-0140 Lewis et al v. Advent Properties

Appeal dismissed administratively with prejudice pursuant to settlement between parties in Superior Court.



MEMORANDUM

Date: June 4, 2021
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Kent Qian, Deputy City Attorney
Re: Appeal Summary in T19-0363 and T19-0508
Gonzalez v. Huang

Appeal Hearing Date: June 10, 2021

Property Address: 2315 High Street, Oakland, CA
Appellant/Owner: Bai Zhong Huang
Appellant/Owner Representative: Julie Wang
Respondent/Tenant: Gloria Gonzalez
Respondent/Tenant Representative: Xavier Johnson

PROCEDURAL BACKGROUND

On July 24, 2019, the tenants filed the petition (T19-0363) contesting five prior rent increases going back to 2013, alleging that the owner did not provide a RAP as required in Spanish and also claiming code violations and decreased housing services. On November 12, 2019, the tenant filed a second petition (T19-0518) contesting a new increase served after the first petition was filed.

RULING ON THE CASE

The hearing officer invalidated the rent increases on the basis that the tenant negotiated the lease with the prior owner in Spanish, and the owner never provided a RAP notice in Spanish and gave RAP notices in English only with the most recent rent increase in 2019. The hearing officer also awarded restitution as reductions in rent for overpayments due to invalidation of rent increases.

GROUNDS FOR APPEAL

The owner appealed the hearing decision on the following grounds:

- The decision is not supported by substantial evidence;

Specifically, the owner contends the following:

1. The tenant never mentioned requesting a Spanish contract and always communicated in English verbally or through text message to the property manager.
2. The effective date of the ordinance requiring RAP notices to be provided in three languages was in September 2016 and if the RAP notice was not served with the rent increase, the tenant has 120 days to file the petition. The petitions are late for all increases before 2019.
3. The rule that the owner must provide RAP notice to the tenant was not clearly communicated on the RAP web site until 2018, so the prior rent increases should be valid before these documents were published.

ISSUES

1. Was the hearing officer's decision supported by substantial evidence?

APPLICABLE LAW AND PAST BOARD DECISIONS

Rent Adjustment Ordinance

8.22.060 Notice of the existence of this Chapter required at commencement of tenancy.

- A. Notice at Commencement of Tenancy. The owner of any covered unit is required to comply with the following notice requirements at the commencement of any tenancy:
 1. On or before the date of commencement of a tenancy, the owner must give the tenant a written notice in a form prescribed by the Rent Adjustment Program which must include the following information:
 - a. The existence and scope of this Chapter;
 - b. The tenant's rights to petition against certain rent increases;
 - c. Whether the Owner is permitted to set the initial Rent to the new Tenant without limitation (such as pursuant to the Costa-Hawkins Act (California Civil Code Sec. 1954.52));

- d. If the Owner is not permitted to set the initial Rent to the new Tenant (such as after an eviction noticed pursuant to California Civil Code Sec. 1946), the Owner must state the Rent in effect when the prior Tenant vacated, and if the initial Rent is in excess of the Rent to the prior Tenant the basis for any Rent in excess of the Rent to the prior tenant (which can only be based on the CPI Rent Adjustment, Banking, and/or a final a final decision in an Owner's petition).
 - 2. The Owner must give the initial notice in three languages: English, Spanish, and Chinese.
- B. Evidence of Giving Notice. When filing an owner's response to a tenant petition or an owner's petition for a rent increase, the owner must submit evidence that the owner has given the notice required by this section to the affected tenants in the building under dispute in advance of the filing. When responding to a tenant petition, the owner may allege that the affected dwelling units are exempt in lieu of providing evidence of complying with the notice requirement. If an owner fails to submit the evidence and the subject dwelling unit is not exempt, then the owner's petition or response to a tenant's petition must be dismissed. This evidence can be a statement of compliance given under oath, however, the tenant may controvert this statement at the hearing. An owner's filing the notice in advance of petition or response prevents the owner's petition or response from being dismissed, but the owner may still be subject to the rent increase forfeiture if the notice was not given at the commencement of the tenancy or within the cure period set out in Section 8.22.060(C).
- C. Failing to Give Notice. An owner who fails to give notice of the existence and scope of the Rent Adjustment Program at the commencement of a tenancy, but otherwise qualifies to petition or respond to a petition filed with the Rent Adjustment Program, will forfeit six months of the rent increase sought unless the owner cured the failure to give the notice. An owner may cure the failure to give the notice at the commencement of a tenancy required by this section and not be subject to a forfeiture of a rent increase if the owner gives the notice at least six months prior to serving the rent increase notice on the tenant or, in the case of an owner petition, at least six months prior to filing the petition.

O.M.C. 8.22.090 Petition and response to filing procedures.

A. Tenant Petitions

- 2. For a petition contesting a rent increase, the petition must be filed as follows:
 - a. If the owner provided written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy:

- i. The petition must be filed within ninety (90) days of the date the owner serves the rent increase notice if the owner provided the RAP notice with the rent increase; or
- ii. The petition must be filed within one hundred twenty (120) days of the date the owner serves the rent increase if the owner did not provide the RAP notice with the rent increase.

b.If the owner did not provide written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy, within ninety (90) days of the date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060.

Board Decisions

RAP Notice and Civil Code 1632

T06-154 Soriano, et al. v. Western Management Properties

The Board found good cause for late filing when decrease in housing services was ongoing and where Notice to Tenants of the scope and existence of the Rent Adjustment Program was not given in the same language used in negotiating the terms of the tenancy in compliance with Civil Code, § 1632(b)(3).

T19-0007 Cortez v. Qmacin

The Board affirmed a hearing decision that invalidated rent increases on the basis that the Spanish speaking tenants were not provided RAP notices in Spanish.