

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

April 14, 2022

5:00 P.M.

Meeting Will Be Conducted Via Zoom

AGENDA

PUBLIC PARTICIPATION

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

OBSERVE:

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

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

When: Apr 14, 2022 5:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING- April 14, 2022

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83209634451>

Or One tap mobile :

US: +16699009128,,83209634451# or +13462487799,,83209634451#

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

Webinar ID: 832 0963 4451

International numbers available: <https://us02web.zoom.us/j/83209634451>

COMMENT:

There are two ways to submit public comments.

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

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

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

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - a. Renewal: Adoption of AB 361 Resolution (pp. 3-5)
4. WELCOME NEW BOARD MEMBERS
5. OPEN FORUM
6. APPEALS*
 - a. T19-0159 & T19-0160, Gaona v. Fong & Pelayo v. Fong (pp. 6-69)
 - b. T20-0219, Laws v. Green Sage Management LLC (pp. 70-91)
 - c. T21-0013 Quinones v. Othman (pp. 92-136)
7. SCHEDULING AND REPORTS
8. INFORMATION AND ANNOUNCEMENTS
 - a. Eviction Moratorium Resolution Discussion
9. 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, Cantones, 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.

OAKLAND HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD (HRRRB)

RESOLUTION NO. _____

ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD (HRRRB) AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

WHEREAS, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

WHEREAS, City Council Resolution No. 88075 remains in full force and effect to date; and

WHEREAS, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. See <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

WHEREAS, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

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WHEREAS, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms stay home. *See* <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

WHEREAS, persons without symptoms may be able to spread the COVID-19 virus. *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. *See* <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

WHEREAS, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

WHEREAS, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

WHEREAS, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

WHEREAS, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

WHEREAS, on October 14 and December 9, 2021; January 27, February 10, and March 10, 2022, the Housing, Residential Rent and Relocation Board (HRRRB) adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

RESOLVED: that the Housing, Residential Rent and Relocation Board (HRRRB) finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

FURTHER RESOLVED: that, based on these determinations and consistent with federal, state and local health guidance, the Housing, Residential Rent and Relocation Board (HRRRB) renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

FURTHER RESOLVED: that the Housing, Residential Rent and Relocation Board (HRRRB) firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the

two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

FURTHER RESOLVED: that the Housing, Residential Rent and Relocation Board (HRRRB) will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Housing, Residential Rent and Relocation Board (HRRRB) finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.

CHRONOLOGICAL CASE REPORT

Case Nos.: T19-0159 & T19-0160

Case Name: Gaona v. Fong & Pelayo v. Fong

Property Address: 1354 81st Avenue, Units D & E, Oakland, CA 94621

Parties: Rosa Gaona (Tenant)
Maria Pelayo (Tenant)
Centro Legal de la Raza (Tenant Representative)
May Fong (Owner)

TENANT APPEAL:

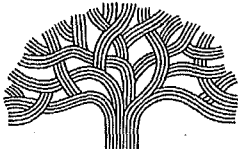
<u>Activity</u>	<u>Date</u>
Tenant Petition filed (T19-0159)	January 23, 2019
Tenant Petition filed (T19-0160)	January 23, 2019
Property Owner Response filed (T19-0159)	July 9, 2019
Tenant Petition filed (T19-0160)	August 9, 2019
Tenant Additional Documentation submitted	August 9, 2019
Administrative Decision mailed	August 14, 2019
Tenant Appeal filed (T19-0159)	August 30, 2019
Tenant Appeal filed (T19-0160)	August 30, 2019

000006

Appeal Brief submitted (T19-0159 & T19-0160) September 12, 2019

T19. 0159 MS/EL

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RENT ARBITRATION PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Ste. 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. 2019 JAN 23 PM 4:05
	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 Rosa Gaona	Rental Address (with zip code) 1354 81st Ave. Apt. D Oakland, CA 94621	Telephone: 510-830-9804 E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) May Lee Fong	Mailing Address (with zip code) 358 Cerro Ct. Daly City, CA 94015	Telephone: 415-812-9908 Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 6

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

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

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

<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
<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 rent increase.

Rev. 9/6/18

For more information phone (510) 238-3721.

Tenant is a monolingual Spanish speaker and requests a Spanish interpreter.

Petition prepared by Centro Legal de la Raza

000008
Tenant Petition

2019 JAN 23 PM 4:05

	(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.
<input checked="" type="checkbox"/>	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
<input checked="" type="checkbox"/>	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
<input checked="" type="checkbox"/>	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
<input checked="" type="checkbox"/>	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(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: 10/15/2007 Initial Rent: \$ 850 /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: 7/5/2018. If never provided, enter "Never."

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
11/7/2018	2/1/2019	\$1000.00	\$2275.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<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. If you did not receive a *RAP Notice* with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

- ☒ Yes
☐ No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:
T18-0383 , T17-0015, L16-0083
Tenant requests this petition be
consolidated with T18-0383

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.

ROSA GAOUA
Tenant's Signature

1-18-2019
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be **received** at the offices of the 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): _____

T19-0160 MS/EL

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 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Ste. 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. 2019 JAN 23 PM 4:07
	<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 Maria Pelayo	Rental Address (with zip code) 1354 81st Ave. Apt. E Oakland, CA 94621	Telephone: 510-485-2496 E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone: Email:
Property Owner(s) name(s) May Lee Fong	Mailing Address (with zip code) 358 Cerro Ct. Daly City, CA 94015	Telephone: 415-812-9908 Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 6

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

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

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

<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.

Rev. 9/6/18

For more information phone (510) 238-3721.

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Tenant is a monolingual Spanish speaker and requests a Spanish language interpreter

Petition prepared by Centro Legal de la Raza

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	(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.
<input checked="" type="checkbox"/>	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
<input checked="" type="checkbox"/>	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
<input checked="" type="checkbox"/>	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
<input checked="" type="checkbox"/>	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(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: 11/1/2007 Initial Rent: \$ 850 /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: 6/1/2018. If never provided, enter "Never."

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
11/7/2018	2/1/2019	\$1000.00	\$2300.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<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

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
O.M.C. 8.22.090 A 2) If
2018 JAN 23 PM 4:07

* 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. If you did not receive a *RAP Notice* with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

☒ Yes

☐ No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:
T18-0382 , L16-0083 Tenant requests this petition be consolidated with T18-0382

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?

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

☒ Yes ☐ No

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Maria Dela
Tenant's Signature

1-18-2019
Date

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RENT ADJUSTMENT PROGRAM
JAN 23 11:07

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): _____

Tenant Petitioner
 Maria Pelayo
 1354 81st Ave. #E
 Oakland, CA 94621

Addendum A-Decrease in Services

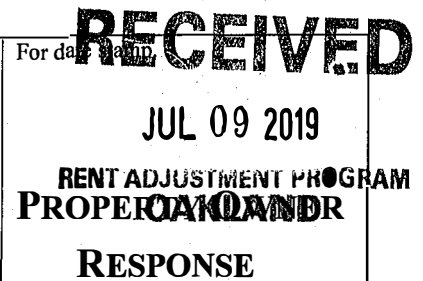
Description of Decreased Service	Approximate Date this Service was Lost	Date Tenant Notified Landlord and how	Date fixed, if any	Estimated Value to Loss of Service
Mold in Bedroom Closet	From November-March in 2017 And beginning October 2018-current	Landlord was verbally in February 2017. Notified again by text January 2019.	N/A	10%
Carpet is old, falling apart, and needs to be replaced	2016	Notified landlord verbally in February 2017. Notified again by text January 2019.	N/A	7%
No functioning carbon monoxide detectors	December 2018	Showed contractors working for landlord in December 2018. Notified again by text January 2019	N/A	10%
Lost Parking Space due to debris and trash from construction	12/4/2018	Landlord took away parking space 12/4/2018	N/A	20%

000016



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

250 Frank H. Ogawa Plaza, Ste 5313
Oakland, CA 94612-0243
(510) 238-3721



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 - 0159

Your Name May Fong Michael Lee	Complete Address (with zip code) 358 Cerro Court Daly City, Ca 94015	Telephone: 415-812-9908
		Email: mayfong@pacbell.net
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) Rosa Gaona	Complete Address (with zip code) 1356A-81st Ave aka 1354-81st Ave Unit D Oakland, Ca 94621	
Property Address (If the property has more than one address, list all addresses) 1356A-81st Ave aka 1354-81st Ave Unit D Oakland, Ca 94621		Total number of units on property 6

Have you paid for your Oakland Business License? Yes ☒ No ☐ Lic. Number: 00149755
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: 42-4247-83
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: 3-29-2012

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>
<hr/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>	<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 10/15/07.

The tenant's initial rent including all services provided was: \$ 850 / month.

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

Yes ☒ No ☐ I don't know ☐

If yes, on what date was the Notice first given? 3/30/12

Is the tenant current on the rent? Yes ☐ No ☒

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

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
11-7-2018	2/1/19	\$ 1200	\$ 2275	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11-30-2016	2/1/17	\$ 1000	\$ 1200	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3-30-2012	6/1/12	\$ 850	\$ 1000	<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

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

☐ 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

7/9/19

Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Ste 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

Date

4

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

PROOF OF SERVICE
Case Number T19-0159

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.

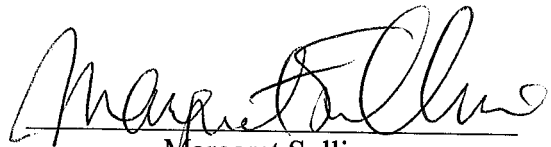
Today, I served the attached **PROPERTY OWNER RESPONSE** by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Tenant:

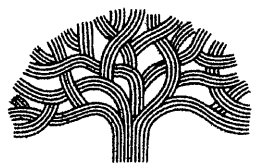
Rosa Gaona
1354 81st Ave., Apt. D
Oakland, CA 94621

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 11, 2019** in Oakland, California.


Margaret Sullivan
Oakland Rent Adjustment Program

000021



CITY OF OAKLAND

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

For date stamp.

TENANT PETITION

2019 AUG

AM 11:32

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RENT ADJUSTMENT PROGRAM

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

Please print legibly

Your Name Maria Pelayo	Rental Address (with zip code) 1354 81st Ave. Apt. E Oakland, CA 94621	Telephone: 510-485-2496
		E-mail:
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) May Lee Fong	Mailing Address (with zip code) 358 Cerro Ct. Daly City, CA 94015	Telephone:
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 6

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

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

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

<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.
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).
X	(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.

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

Date you moved into the Unit: 11/1/2007 Initial Rent: \$ 850 /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: 6/1/2018. If never provided, enter "Never."

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
The rent increases I want to challenge are listed in my prior petitions: T18-0382, T19-0160				<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:

T18-0382 T17-0025 L16-0083

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.

Mayer Delays
Tenant's Signature

8-8-2019
Date

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RENT ADJUSTMENT PROGRAM
2019 AUG -9 AM 11:32

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

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Tenant Petitioner
Maria Pelayo
1354 81st Avenue #E
Oakland CA 94621

Addendum A- Exemption Sought or Obtained through Fraud or a Mistake

Specifically, the condominium conversion project for 1354 and 1356 81st Avenue did not receive a final approval from the Planning and Building Department because the Landlord did not meet all requirements of the condominium conversion ordinance and fraudulently asserted that the building contained four units, rather than six. The Tenant discovered these facts very recently, after reviewing the file associated with the property's condominium conversion and engaging in discussion with the Planning and Building Department.

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Tenant Petitioner
Maria Pelayo
1354 81st Avenue #E
Oakland CA 94621

Addendum B- Decreases In Service and Bad Conditions

The decreases in service and bad conditions I continue to experience are listed in my previous petitions T18-0382 and T19-0160.

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Centro Legal de la Raza

Working for Justice
Strengthening Community
Since 1969

August 9, 2019

Hearing Officer Lambert
City of Oakland Rent Adjustment Program
P.O. Box 70243
Oakland, CA 94612-0243

Re: Case No. T19-0159, T19-0160, T18-0382, T18-0383, T18-0392

Hearing Officer Lambert:

The Tenant respectfully submits this letter regarding the June 7, 2019 Superior Court ruling in Case No. RG18930130, Fong v. City of Oakland, Housing, Residential Rent & Relocation Board.

The Tenant requests a hearing in this case and contends that any Certificate of Exemption issued in Case No. L16-0083 will be the result of fraud or mistake. Oakland Mun. Code Reg. § 8.22.030.B.1.b-c. Specifically, the condominium conversion project for 1354 and 1356 81st Avenue did not receive a final approval from the Planning and Building Department because the Landlord did not meet all requirements of the condominium conversion ordinance, and fraudulently asserted that the building contained four units, rather than six.

The Tenant discovered these facts very recently, after reviewing the file associated with the property's condominium conversion and engaging in discussion with the Planning and Building Department. As such, the Tenant was not able to include this defense and supporting evidence in her response to L16-0083 and her subsequent tenant petitions. Moreover, because no final decision on the Certificate of Exemption had been issued at the time that Tenant filed her original response, she could not have asserted fraud or mistake in her petition. Based on the decision made on appeal, the Tenant now requests a hearing in order to prove this defense. There is support in RAP case law for holding a hearing in this matter and allowing Tenant to present her defense *See* RAP Case No. T17-0237, *Szymasnski v. Madison Park Financial*.

In the alternative, should the hearing office determine that a hearing on the existing petitions is not proper, the tenants are filing new petitions that contest the Certificate of Exemption. In such a case, they request consolidation of their new petitions with this case, if possible.

Sincerely,

Micaela Alvarez, Esq.

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Tenant additional documentation submission

<u>Exhibit</u>	<u>Document Description</u>	<u>Page Numbers</u>
A	Email from City Planner Jason Madani regarding incomplete condominium conversion 8/7/2019	1
B	Copy of tenant petitions filed 8/9/2019	2-19

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Tenant additional documentation submission

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Exhibit A

8/8/2019

Centro Legal de la Raza Mail - Question regarding condizatio TPM 7739

CENTRO
LEGAL DE LA
RAZA

Noel Munger <nmunger@centrolegal.org>

Question regarding condization file TPM 7739

Madani, Jason <JMadani@oaklandca.gov>
To: Noel Munger <nmunger@centrolegal.org>

Wed, Aug 7, 2019 at 11:53 AM

Noel, the subject property at 1354-1356 81st Ave was approved under Tentative Parcel Map (TPM07739) on March 2001. I do not see in our record that they filed a final map. Therefore, this project is expired . They need to file to file Tentative Parcel Map all over with Planning. Jason

[Quoted text hidden]

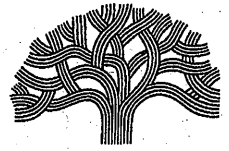
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Tenant additional documentation submission

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Exhibit B



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

Housing and Community Development Department
Rent Adjustment ProgramTEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711**ADMINISTRATIVE DECISION**

CASE NUMBER:	T19-0159	Gaona v. Fong
	T19-0160	Pelayo v. Fong

PROPERTY ADDRESS:	1354 81st Avenue Units D and E.
	Oakland, CA 94602

PARTIES:	Maria Pelayo	Tenant
	Rosa Gaona	Tenant
	May Fong	Owner
	Michael Lee	Owner

SUMMARY OF DECISION

The Tenant petitions are dismissed.

INTRODUCTION

Reason for Administrative decision: An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to allow the parties to present testimony and other evidence to allow resolution of disputes of material fact. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing, and there are no material facts in dispute. Therefore, an administrative decision, without a hearing, is being issued.

On January 23, 2019, the tenant, Rosa Gaona, filed a petition contesting the Notice of Rent Increase dated November 7, 2018, which indicated the rent was increased from \$1,000.00 to \$2,27500.00, effective February 1, 2019, and alleged decreased housing services. The owner filed a timely response on July 9, 2019. The timely

response states under penalty of perjury that the subject unit is a condominium and exempt pursuant to Costa Hawkins.¹

Likewise, on January 23, 2019, the tenant, Maria Pelayo, filed a petition contesting the Notice of Rent Increase dated November 7, 2018, which indicated the rent was increased from \$1,000.00 to \$2,300.00, effective February 1, 2019, and alleged decreased housing services. The owner filed a timely response on July 9, 2019. The timely response states under penalty of perjury that the subject unit is a condominium and exempt pursuant to Costa Hawkins.²

Exemption from the Rent Ordinance:

Costa-Hawkins: The Costa-Hawkins Rental Housing Act³ provides that a dwelling or unit which is separately alienable from any other dwelling or unit is exempt from local rent control, except under certain circumstances. The Oakland Rent Adjustment Ordinance specifically states that if a unit is covered under Costa-Hawkins it is exempt from the Ordinance.⁴

On June 13, 2019, the Superior Court of Alameda County ruled in case RG18930130 that the subject units are exempt from rent control under the Costa Hawkins Rental Housing Act. Therefore, the subject units are exempt from the Rent Adjustment Ordinance, and the Rent Adjustment Program has no jurisdiction over the units. Therefore, the tenant petitions are dismissed.

ORDER

1. Petition T19-0159 and T19-0160 are dismissed.
2. The Hearings scheduled for September 11, 2019, are canceled.

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

¹ Codified at CCP 1954.50, et. seq.

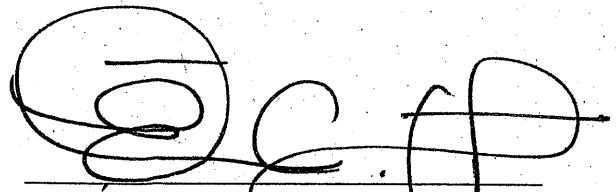
² Codified at CCP 1954.50, et. seq.

³ Civil Code Section 1954.52(a)(3)

⁴ O.M.C. Section 8.22.030(A)(7)

Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: August 13, 2019

A handwritten signature in black ink, appearing to read 'Elan Constrella Lambert', written over a horizontal line.

Elan Constrella Lambert
Hearing Officer
Rent Adjustment Program

000035

PROOF OF SERVICE

Case Numbers: T19-0159, T19-0160

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
Administrative Decision

Owner
May Lee Fong
358 Cerro Court
Daly City, CA 94015

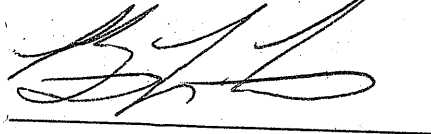
Tenants:
Rosa Gaona
1354 81st Avenue Unit D
Oakland, CA 94621

Maria Pelayo
1354 81st Avenue Unit E
Oakland, CA 94621

Tenant Representative
Noel Munger,
Centro Legal de la Raza
3022 International Blvd. Ste. 410
Oakland, CA 94601

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **August 14, 2019** in Oakland, CA.



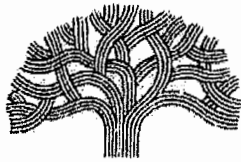
Brittni Lothlen

Oakland Rent Adjustment Program **000036**

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CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

APPEAL

Appellant's Name Rosa Gaona		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1354 81st Avenue #D, Oakland, CA 94621			
Appellant's Mailing Address (For receipt of notices) 1354 81st Avenue #D, Oakland, CA 94621		Case Number T19-0159	
		Date of Decision appealed 8/13/2019	
Name of Representative (if any) Jackie Zaneri		Representative's Mailing Address (For notices) 3022 International Blvd, Oakland CA 94601	

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.

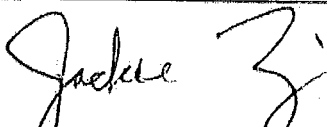
- f) ☒ I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may 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: 2.

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

I declare under penalty of perjury under the laws of the State of California that on August 30, 2019, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	May Lee Fong
Address	358 Cerro Court
City, State Zip	Daly City Ca 94015
Name	
Address	
City, State Zip	

	8/30/19
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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.

Attachment A

Appeal of Administrative Decisions in Case No. T19-0159, T19-0160

- A) The administrative decision is inconsistent with Oakland Municipal Code Section 8.22.030 because the units are not separately alienable under the Costa-Hawkins Rental Housing Act. Plaintiff and Plaintiff's predecessor-in-interest failed to lawfully convert the units into condominiums. The tenants are unaware of the issuance of any certificate of exemption.
- B) The administrative decision is inconsistent with prior hearing decisions regarding the same or similar legal issues.
- C) An exemption cannot be granted because the condominium conversion has not been completed. Prior to the lawful completion of the condominium conversion process, the units are not separately alienable and cannot be granted an exemption.
- D) The decision, which implies the units are separately alienable, violates, among other applicable statutes, California Business and Profession Codes Section 11000 *et seq.* and Oakland Municipal Code Section 8.22.030, and Oakland Municipal Code Section 16.36.000 *et seq.* The tenants are unaware of the issuance of any certificate of exemption.
- E) The owner has failed to meet their burden to provide substantial evidence that the units are separately alienable.
- F) At the time of filing the tenant petitions in the instant cases, the units had been ruled to be rent-controlled. The owner claimed an exemption in her response petition. The tenants have not been given an opportunity to respond to this claim. The tenants' response to the owner's claim of exemption is substantially different from the matter litigated in recent decision issued by the Superior Court regarding Case No. L16-0083.

H) The initial hearing decision for L16-0083 denied an exemption on specific grounds that the units were purchased together. These grounds do not preclude other reasons why an exemption may be denied. The writ cited in the administrative decision ordered that the prior decision in case L16-0083 be set aside. However, in the hearing for L16-0083 the facts established through testimony and evidence submissions provide a clear additional reason that the units are not separately alienable and cannot be granted an exemption. Prior to dismissal of the petitions, a hearing must be held to determine whether the units are separately alienable and due process entitles the tenants an opportunity to address the response to their petitions.

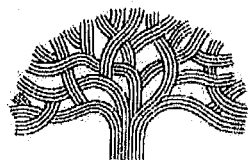
The tenants' briefs in these cases will follow.

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APPEAL



CITY OF OAKLAND

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

Appellant's Name Maria Pelayo		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 1354 81st Avenue #E, Oakland, CA 94621			
Appellant's Mailing Address (For receipt of notices) 1354 81st Avenue #E, Oakland, CA 94621		Case Number T19-0160	
		Date of Decision appealed 8/13/2019	
Name of Representative (if any) Jackie Zaneri		Representative's Mailing Address (For notices) 3022 International Blvd, Oakland CA 94601	

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):

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- 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.

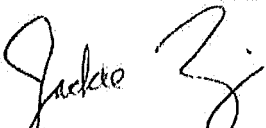
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- g) ☐ The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
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Name	May Lee Fong
Address	358 Cerro Court
City, State Zip	Daly City Ca 94015
Name	
Address	
City, State Zip	

	8/30/19
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.

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- 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.

MS/EL

APPEAL BRIEF FOR TENANT-APPELLANTS MARIA PELAYO & ROSA GAONA

To: Rent Adjustment Program

Fr: Micaela Alvarez, Attorney for Maria Pelayo and Rosa Gaona

Case No: T19-0159; T19-0160

Case Title: Gaona v. Fong; Pelayo v. Fong

Property Address: 1354 81st Avenue Units D& E, Oakland, CA 94602

FACTS AND PROCEDURAL HISTORY

Tenants Rosa Gaona and Maria Pelayo (hereinafter "Tenants") filed the Oakland Rent Adjustment Program (hereinafter "RAP") petitions at issue in this action, T19-0159 and T19-0160, against their landlord, May Fong (hereinafter "Landlord"), on January 23, 2019. The petitions contested rent increase notices, dated November 7, 2018, that purported to increase the Tenants' rent from \$1,000.00 to \$2,275.00, effective February 1, 2019, and alleged decreased housing services.

At the time of filing of these petitions, several other petitions between the two parties were pending. The Landlord filed the first petition involving the parties, L16-0083, on October 31, 2016, asserting that the units where the Tenants live are condominiums, and seeking an exemption from RAP under the Costa Hawkins Rental Housing Act (hereinafter "Costa Hawkins"), California Civil Code Section 1954.52(a)(3). Costa Hawkins stipulates that any dwelling or unit which is separately alienable from any other dwelling or unit is exempt from rent control, except under certain circumstances applicable to condominium units. The Tenants filed responses to the Landlord's petition and Tenant Gaona also filed a tenant petition, T17-0015, contesting rent increases. L16-0083 was consolidated with T17-0015 and a hearing was held on February 23, 2017. At the hearing, the Landlord testified that the property had been

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subdivided into five parcels—four condominium parcels and one parcel containing two apartments.¹

On April 14, 2017, a hearing decision was issued in L16-0083 and T17-0015 denying the exemption and granting Tenant Gaona's petition. Citing an exception to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.52(3)(B)(ii), the hearing officer found that the property was not exempt because it "[had] not been sold separately by the subdivider to a bona fide purchaser for value."² The hearing officer determined that because the Landlord had purchased the entire building from the subdivider, the units had never been sold separately, and therefore they were not exempt from rent control.³

The Landlord appealed the hearing decision, but the Oakland Housing, Residential Rent and Relocation Board (hereinafter "RAP Board") affirmed the holding in June 2018.⁴ The Landlord went on to petition the Alameda County Superior Court for a Writ of Administrative Mandate to direct the RAP Board to set aside its decision denying the Landlord an exemption.⁵ The focus of the Landlord's arguments and the Court's analysis was narrow: the question was whether the units at issue could be considered "sold separately" under the exemption to Costa Hawkins, given that the Landlord owned all the units in the building and had acquired them on one day through one transaction.⁶ Citing a prior RAP case that addressed a similar issue, *Golden State Ventures, LLC v. City of Oakland Housing, Residential Rent and Relocation Board*, the

¹ Hearing Recording 0:14:05-0:14:15, 0:19:50-0:20:05

² RAP Hearing Decision, L16-0083 & T17-0015, p. 4; *see* Exhibit A.

³ *Id.*

⁴ HRRRB Appeal Decision, L16-0083 & T17-0015, p. 2.

⁵ Tenants note that after the decision was affirmed, they received new rent increase notices and so in response filed new tenant petitions, which are still pending. The case numbers for these petitions are T18-0382, T18-0383, T18-0392.

⁶ *Fong v. City of Oakland HRRRB*, Alameda Cty. Super. Ct. Case No. RG18930130 (2019); *see* Exhibit B.

Court found that the units at the property had been sold separately and granted the Landlord's petition for an Administrative Mandate in June 2019.⁷

On August 13, 2019, in response to the Court's order, the hearing officer for the tenant petitions at issue in this appeal, T19-0159 and T19-0160, issued an Administrative Decision dismissing the tenant petitions. The hearing officer stated that "on June 13, 2019, the Superior Court of Alameda County ruled in case RG18930130 that the subject units are exempt from rent control under the Costa Hawkins Rental Housing Act."⁸ A review of the writ shows that the Court made no such determination regarding the issue of exemption. Instead, the Court simply ruled that the units at the subject property were indeed sold separately, and therefore did not fall into one narrow exception to Costa Hawkins outlined in California Civil Code Section 1954.52(3)(B)(ii).

Though the Court determined that the units were sold separately, and that the Landlord was therefore a bona fide purchaser for value, the Court made no finding with regard to whether the property meet other requirements for an exemption from RAP under Costa Hawkins. The Court's interpretation of "sold separately" applies only to California Civil Code § 1954.52(a)(3)(B)(ii). However, in order to qualify for a Costa Hawkins exemption from rent control, the Landlord must also show that the units are "alienable separate from the title to any other dwelling unit" pursuant to California Civil Code § 1954.52(a)(3)(A).

Here, the Landlord not only failed to meet their burden in showing separate alienability, but the evidence and testimony submitted in support of L16-0083 makes clear that the units at the subject property are in fact *not* separately alienable, because they were not lawfully converted to condominiums. Accordingly, the Tenants request that the Administrative Decision

⁷ *Id.*

⁸ Administrative Decision p. 2

be reconsidered on appeal based on the following grounds: (1) the decision is not supported by substantial evidence; (2) the decision violates federal, state, or local law; (3) the decision raises a new policy issue that has not been decided by the Board; (4) the Tenants were denied sufficient opportunity to respond to the Landlord's claim to an exemption; (5) the decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations, or prior decisions.

1. The decision is not supported by substantial evidence.

The decision in this case amounts to a sweeping administrative action exempting the subject property from rent control based on a narrow finding of the court that is not dispositive of the issue. In her decision, the Hearing Officer cites exclusively to findings made by the Court in Case Number RG18930130.⁹ As outlined above, the issue before the Court was whether the subject units could be considered "sold separately" under an exception to Costa Hawkins that stipulates that an exemption from rent control is unavailable to condominiums that had not been "sold separately to a bona fide purchaser for value."

The Court held that even though the Landlord purchased all the units at the subject property from the subdivider in one transaction, the units were indeed "sold separately" for purposes of the exemption to Costa Hawkins.¹⁰ The Court ordered the RAP to vacate its denial of the Landlord's exemption petition, and forbade the RAP from further litigating the question of whether the units were sold separately, but it made no finding with regard to the broader question of the Landlord's right to an exemption from rent control.¹¹

To qualify for an exemption from rent control under Costa Hawkins, a unit must be "alienable separate from the title to any other dwelling unit."¹² In the original February 2017

⁹ Administrative Decision, T19-0159 & T19-0160.

¹⁰ *Fong v. City of Oakland HRRRB*, Alameda Cty. Super. Ct. Case No. RG18930130 (2019); *see* Exhibit B.

¹¹ *Id.*

¹² CA Civ. Code § 1954.52(a)(3)(A).

hearing on the exemption petition, the Landlord did not submit sufficient evidence to establish that the units are separately alienable. Moreover, the little evidence she did submit establishes that the units at the subject property are in fact *not* separately alienable. In support of her exemption petition, the Landlord submitted preliminary title reports and records from the Alameda County Assessor. She also testified that the property had been subdivided into five parcels—four condominium parcels and one parcel containing two apartments.¹³

In order to legally sell individual units in a subdivision of five or more parcels, an owner must first obtain a Notice of Subdivision Public Report from the California Department of Real Estate under California Business and Profession Code § 11018.2. The Court has held that without a Notice of Subdivision Public Report, subdivided units cannot be considered separately alienable.¹⁴ In *City of West Hollywood v. 1112 Investment Company*, the City brought an action against a property owner for violation of the local rent control ordinance, arguing that the units at issue were no longer capable of being sold as condominiums—and therefore no longer entitled to an exemption under Costa Hawkins—because the property owner had allowed to lapse the property's Notice of Subdivision Public Report. The Court sided with the City of West Hollywood, highlighting the breadth of the state statutory scheme and the policy goals it embodies, and ultimately holding that the units “are not alienable within the meaning of the rent control exemption in Civil Code Section 1954.52.”¹⁵

Here, the Landlord did not submit this required report with her exemption petition, and public records requests submitted by the Tenants confirm that no such report exists for the subject property. Thus, in accordance with prior findings by the California Court of Appeal, the

¹³Hearing Recording 0:14:05-0:14:15, 0:19:50-0:20:05

¹⁴ *City of W. Hollywood v. 1112 Inv. Co.*, 105 Cal. App. 4th 1134 (2003).

¹⁵ *City of W. Hollywood v. 1112 Inv. Co.*, 105 Cal. App. 4th 1134, 1152 (2003).

units are not separately alienable and do not qualify for an exemption from rent control under Costa Hawkins.

Aside from the Landlord's failure to comply with the Notice of Subdivision Public Report requirement, the County Assessor records submitted by the Landlord in support of L16-0083 provide further evidence that the units are not separately alienable. As noted previously, the Landlord testified in the hearing that the fifth parcel, APN 42-4247-85, contains the title for two "unconverted" apartments. In fact, the Assessor's Map submitted by the Landlord indicates that the parcel in question is assessed as a condominium common area.¹⁶ This renders the two "unconverted" units inalienable from all dwelling units on the lot.

For condominium units to exist as legal dwelling units, they need easements established by the CC&Rs in a subdivision's common area. If the two dwelling units contained in the APN 42-4247-85 were sold separately to another party, the condominium units would lose their interest in the common area as well as a number of easements and characteristics necessary to be viable dwelling units.¹⁷ Additionally, the units would lose the utility easements necessary to furnish utilities, rendering the units untenable.¹⁸ Because the dwelling units exist in the common area, and because the title to the common area cannot be legally separated from the condominiums, the condominium titles are not separately alienable from other dwelling units, or each other. Unfortunately, because the hearing officer for L16-0083 decided the case on other grounds, these issues did not appear in the original hearing decision for L16-0083 and T17-0015.

¹⁶ See Exhibit C.

¹⁷ See O.M.C. §§ 15.12.010, 16.32.000, 17.17.050; CA Fire Code Chapter 10.

¹⁸ CA Civ. Code § 1941.

2. The decision violates state and local law.

In order to sell a unit in a subdivision of five or more parcels, a property owner must first obtain a Notice of Subdivision Public Report from the California Department of Real Estate pursuant to the California Business and Professions Code § 11018.2. The Landlord testified at the February 2017 hearing that the property consists of five parcels. She did not submit a Notice of Subdivision Report in support of her petition, as no such report for the subject property exists. The California Court of Appeal has held that without this report, a property cannot be considered separately alienable, and therefore does not qualify for an exemption from local rent control under Costa Hawkins.¹⁹ Allowing the Administrative Decision in this case to stand would contravene Costa Hawkins, the relevant case law, and the relevant provisions of the California Business and Professions Code.

In addition to the state regulations governing the conversion and sale of condominiums, the City of Oakland imposes similar reporting and disclosure requirements.²⁰ Under Oakland law, a condominium conversion requires a property owner to provide all tenants and prospective tenants proper notice of the proposed conversion and of the conversion process, including information about the conversion process, notice of hearings, information concerning the tenants' rights, and notice of approval of a final map.²¹ Notably, for a conversion affecting five rental units or more,²² additional requirements apply: a subdivider must first demonstrate conversion rights for an equal amount of housing units within the City of Oakland in order to add replacement units to the City's rental housing supply.²³ Evidence of the conversion rights must

¹⁹ *City of W. Hollywood v. 1112 Inv. Co.*, 105 Cal. App. 4th 1134, 1152 (2003).

²⁰ See e.g., O.M.C. § 16.36.120.

²¹ O.M.C. §§ 16.36.020-040.

²² The Tenants note that while there are actually six units at the property, the Landlord has been careful to consistently represent the property as four condominiums and two "unconverted" dwelling units. Nonetheless, all units have been affected by the conversion.

²³ O.M.C. § 16.36.070(A).

be filed along with the final map, along with additional documentation such as the tenant assistance program for the property.²⁴ An application for a subdivision report must also be submitted to the California Department of Real Estate.²⁵

Again, the Landlord submitted no evidence of her compliance with these provisions and public records requests confirm that the required reports and disclosures do not exist. Thus, a decision by the RAP Board to affirm the Administrative Decision would stand for the proposition that a Landlord in open noncompliance with the City of Oakland's own Municipal Code can secure an exemption from the City's rent control ordinance.

3. The Tenants were denied sufficient opportunity to respond to the Landlord's claim to an exemption

The Tenants filed the petitions at issue in this appeal (T19-0159 and T19-0160) in January 2019 in response to rent increase notices that the Landlord served after she filed the Writ seeking an Administrative Mandate from the Alameda County Superior Court. Thus, in filing their petitions, the Tenants relied on a hearing decision that had been affirmed by the RAP Board in June 2018, finding the property to be subject to rent control. In her property owner response to tenant petitions T19-0159 and T19-0160, the Landlord again claimed an exemption from rent control under Costa Hawkins. Then, in June 2019, the Court granted the Writ, and the hearing officer in this case issued an Administrative Decision on the basis of the Court's findings.

As is laid out in greater detail above, the issue before the Court was the narrow question of whether the units had been "sold separately to a bona fide purchaser for value" pursuant to an exception to Costa Hawkins, Section 1954.52(3)(B)(ii) of the California Civil Code. While

²⁴ O.M.C. §§ 16.36.090(A), (E).

²⁵ O.M.C. § 16.36.040(B)(3).

the Court agreed with the Landlord in holding that the units had been sold separately, the Court stopped well short of finding the property entitled to an exemption under Costa Hawkins.²⁶ The Court's order indicated that the RAP is collaterally estopped from further hearings on the "statutory bona fide purchaser test," but the Court did not forbid the RAP from further hearings on the broader question of whether the subject property is exempt from rent control under Costa Hawkins.²⁷

Costa Hawkins exempts properties that are "alienable separate from the title to any other dwelling unit" from local rent control ordinances.²⁸ Because the original Landlord exemption petition was decided on other grounds (namely, California Civil Code Section 1954.52(3)(B)(ii)), the RAP has not yet made any findings around the alienability of the units. Indeed, no analysis of whether the units are separately alienable appears in the original decision. As is laid out in detail above, based in part on evidence submitted by the Landlord herself, the Tenants are prepared to show that the units at the property are not separately alienable and therefore do not qualify for an exemption under Costa Hawkins. However, instead of consolidating all the outstanding petitions, and scheduling a hearing on the matter, which would allow the Tenants to present their arguments, the Hearing Officer in this case issued an administrative decision summarily dismissing the Tenants' petitions and mischaracterizing the Court's holding.

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

This case raises a new policy issue regarding the Landlord's evidentiary burden when making a claim to an exemption from rent control under Costa Hawkins. Again, the exemption from local rent control under Costa Hawkins is available to units that are "alienable separate

²⁶ *Fong v. City of Oakland HRRRB*, Alameda Cty. Super. Ct. Case No. RG18930130 (2019); see Exhibit B.

²⁷ *Id.*

²⁸ CA Civ. Code § 1954.52(a)(3)(A).

from the title to any other dwelling unit.”²⁹ The RAP Board has not yet addressed the question of what is required to demonstrate that a unit is “separately alienable” under Costa Hawkins, although the California Court of Appeal has found that compliance with applicable land use law is required.³⁰

Here, the Landlord has offered little in the way of documentary evidence to support her claim that the units are indeed separately alienable. In making her claim to an exemption under Costa Hawkins, the Landlord identified five parcel numbers at the property, and submitted preliminary title records, as well as documents from the County Assessor that show the units assessed as condominiums. Crucially, she failed to include a Notice of Subdivision Public Report from the California Department of Real Estate, which is required to sell any unit in a subdivision of five parcels or more under California Business and Professions Code Section 11018.2. As outlined in detail in part one, the California Court of Appeal has held that noncompliance with this provision renders a unit ineligible for an exemption from rental control under Costa Hawkins.³¹

The Landlord also neglected to demonstrate compliance with applicable provisions of the Oakland Municipal Code that govern the sale of condominiums.³² Moreover, as discussed in detail above, some of the documents she submitted further bolster the Tenants’ position that the units are not alienable. The question of what is required to prove separate alienability in a case like this one has not yet been decided by RAP. Should this administrative decision stand, it will conflict with prior controlling case law and set an extremely low bar for Landlords seeking an exemption from rent control under Costa Hawkins.

²⁹ CA Civ. Code § 1954.52(a)(3)(A).

³⁰ *City of W. Hollywood v. 1112 Inv. Co.*, 105 Cal. App. 4th 1134, 1152 (2003).

³¹ *Id.*

³² See e.g., O.M.C. § 16.36.120.

5. The decision is inconsistent with O.M.C. 8.22, Rent Board Regulations or prior decision of the Board.

Rent Adjustment Program regulations stipulate that when an owner seeks a Certificate of Exemption, "the petition cannot be decided on a summary basis and may only be decided after a hearing on the merits. In this case, while there was a hearing held on the exemption petition, the Hearing Officer's decision rested solely on the "sold separately" analysis, pursuant to California Civil Code Section 1954.52(3)(B)(ii).³³ There was no discussion of whether the units are separately alienable. And later, when the Court ultimately overturned the decision, it drew no conclusion with regard to the issue of alienability. Therefore, neither the Court nor RAP has made any findings that support the conclusion that the units are separately alienable, and consequently exempt from rent control under Costa Hawkins. Instead, a decision was made on a "summary basis" denying the tenants their right to respond to the issue of the exemption, which the Landlord raised in her response to the petitions at issue in this appeal.

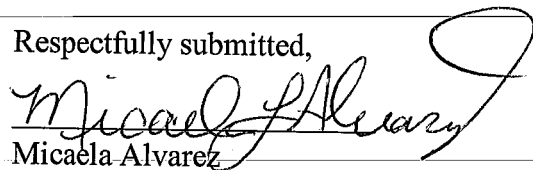
CONCLUSION

In light of the aforementioned, Tenant-Petitioners respectfully request that the Board rule:

- (1) That all the outstanding petitions between these parties (specifically L16-0083, T17-0015, T18-0382, T18-0383, T18-0382, T19-0159, and T19-0160), which all hinge on the question of whether the property qualifies for an exemption to rent control under Costa Hawkins, be consolidated and administered by one Hearing Officer;
- (2) That the resulting consolidated case be remanded to the Hearing Officer to reconsider whether the units are separately alienable and therefore exempt from rent control under Costa Hawkins.

Date: September 12, 2019

Respectfully submitted,


Micaela Alvarez

Attorney for Tenant-Petitioners

³³ *Fong v. City of Oakland HRRRB*, Alameda Cty. Super. Ct. Case No. RG18930130 (2019); *see* Exhibit B.

Exhibit A

CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: L16-0083, Fong v. Tenants
T17-0015, Gaona v. Fong

PROPERTY ADDRESS: 1356 81st Ave., No. A,B
1354 81st Ave., No. A(aka D), B
Oakland, CA

DATE OF HEARING: February 23, 2017

DATE OF DECISION: April 14, 2017

APPEARANCES:

Maria Pelayo	Tenant
Rosa Gaona	Tenant
Alondra Jullana	Tenant
Gary Cloutier, Esq.	Tenant Representative for Tenant Apodaca Salazar
Ana Jeronimo	Tenant
Marica Zarate	Tenant
Virginia Dominguez	Tenant
Mabel Nielsen	Interpreter
May Fong	Owner
Michael Lee	Owner

SUMMARY OF DECISION

The owner petition is denied. Tenant Gaona's petition is granted in part.

INTRODUCTION

On October 31, 2016, May Fong and Michael Lee, the owners, filed a Landlord Petition for Certificate of Exemption regarding the above referenced property, on the grounds that the units are condominiums.

Tenants Alondra Yuliana filed a timely tenant response on November 23, 2016, to the Landlord Petition. The following tenants filed untimely tenant responses to the Landlord Petition:

<u>Tenant</u>	<u>Date Filed</u>
• Maria Pelayo	January 6, 2017
• Ricardo Dominguez	December 28, 2016
• Rosa Gaona	January 10, 2017

Tenant Gaona also filed a petition on January 10, 2017, which contests the following rent increases in 2012, 2014, 2015, November 30, 2016, and December 19, 2016:

• 3/2012	\$850.00 to \$900.00
• 11/1/14	\$900.00 TO \$930.00
• 10/31/15	\$930.00 to \$1,000.00
• 11/30/16	\$1,000.00 to \$1,200.00
• 12/19/16	\$1,200.00 to \$1,210.00

Tenant Gaona challenged the rent increases on the following grounds:

- The increase exceeds the CPI adjustment and is justified or is greater than 10%;
- No concurrent RAP notice was given with the notice of the rent increase;
- She did not receive the RAP notice 6 months prior to the challenged rent increases.

The two petitions were consolidated for Hearing on February 15, 2017, which was held on February 23, 2017.

THE ISSUES

1. Are the units exempt from the Rent Ordinance?
2. Has tenant Gaona received the form notice of the existence of the Rent Adjustment Program?
3. Are the rent increases valid regarding tenant Gaona?

EVIDENCE

Exemption

The owners testified that the subject units are condominiums and are exempt from the Rent Adjustment Program. They purchased the entire building, which consists of four units, from Deutsche Bank National Trust Company, Trustee for Ameriquest Mortgage Securities Inc., asset-Backed Pass-Through Certificates, Series 2003-2. They provided a copy of the Grant Deed was dated March 29, 2012.¹

¹ Ex. Nos. 1-2

The owner provided documentation that each unit has a separate assessor parcel number as follows;

<u>Unit No.</u>	<u>Assessor's Parcel No.</u>
1354A-81 st Avenue	042-4247-081-00
1354B 81 st Avenue	042-4247-082-00
<u>Unit No.</u>	<u>Assessor's Parcel No.</u>
1356 A 81 st Avenue	042-4247-083-00
1356B 81 st Avenue	042-4247-084-00 ²

T17-0015, Gaona v. Fong

Rent History and Notice of Rent Adjustment Program

The owners' petition states that tenant Gaona received the Notice of the existence of the Rent Adjustment Program (RAP) on November 1, 2014. Tenant Gaona testified that moved into her unit in 2007 at an initial monthly rent of \$850.00. She first received the Notice of the Rent Adjustment Program in 2014. She is currently paying \$1,000.00 monthly.

Code Violation

The tenant representative for Ms. Salazar provided a copy of a Notice of Violation from the Planning and Building Department, June 23, 2015, regarding the following:

- Smoke detectors missing or not working properly throughout the apartment. Provide a working smoke detector in each bedroom and at the outside of the immediate vicinity of each bedroom such as the hallway. Carbon monoxide detectors are required on the outside for immediate vicinity of bedrooms;
- Unapproved drain trap under the kitchen sink. Replace in an approved manner. Obtain required permits, inspections, and approvals;
- Unpermitted installation of stove exhaust vent in the kitchen. Base board heater detached from the wall in the living room. Exposed electrical wires in the crawlspace at the front of the house. Obtain required permits, inspections and approvals;
- Smoke stains in ceiling and top wall throughout the house. Remove stains and re-paint areas if needed.

This document was not submitted at least seven days prior to the Hearing. The tenant representative testified that he had just been advised of the Hearing one hour prior to the Hearing. The Hearing Officer found good cause for the delay in submission of the documents and received them into evidence.

² Ex. Nos. 3-5

The owner representative testified that the owner received the Notice of Violation from the City and corrected the violations as of July 21, 2015. This testimony was undisputed.

Decreased Housing Services

The tenant's petition, Checked the box Yes for the question "Are you being charged for services originally paid by the owner? Attached in evidence." She did not list any specific complaints for this item in her petition.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Exemption

The Rent Ordinance exempts single family dwellings and condominiums which are separately alienable from any other dwelling or unit pursuant to the Costa-Hawkins Act, California Civil Code §1954.52, except under certain circumstances.

However, Costa-Hawkins does not exempt dwelling units that have not been sold separately by the subdivider to a bona fide purchaser for value.

Section 1954.52 of the California Civil Code, known as the Costa-Hawkins Bill, states that an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or unit except §1954.52(3)(B)(ii) which states that this paragraph does not apply to a condominium dwelling or unit that has not been sold separately by the subdivider to a bona fide purchaser for value.

The units were not sold separately. The owner purchased the entire building, which consists of four units. Therefore, the owner's units are not exempt from the Rent Ordinance.³

The Board has also held that an owner who purchased a four building from the subdivider was not entitled to an exemption from the Rent Ordinance because the units were not purchased by individual purchasers.⁴

RAP Notice-Tenant Gaona

Notice and Filing Requirements: 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 tenancy⁵ and together with any notice of rent increase.⁶

Tenant Gaona received the notice of the Rent Adjustment Program in 2014.

³ California Civil Code, Section 1954.3(A)

⁴ T15-0229, 0230,0336,0337, Tenants v. Golden State Ventures

⁵ O.M.C. Section 8.22.060(A)

⁶ O.M.C. Section 8.22.070(H)(1)(A)

A tenant petition must be filed within 90 days of the date of service of a rent increase notice or the date the tenant first receives the RAP Notice, whichever is later.² The rent increases for 2012, 2014, and 2015 are not timely filed and are dismissed. The challenges were not filed within the 90 day time period.

The challenge to the rent increase effective November 30, 2016, is valid. The owners' claim for exemption from the Rent Ordinance is denied and they have not provided any justification for the two hundred dollar rent increase. The challenge to the rent increase effective December 19, 2016, from \$1,200.00 to \$1,210.00 is a second rent increase within a twelve month period and is invalid. The tenant's monthly rent remains \$1,000.00.

Code Violation

The tenants provided documentation in support of a building code violation. However, the violations were corrected in July 2015 and the owner may increase the tenant's rent in accordance with the Rent Ordinance and Section 827 of the California Civil Code.

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent and may be corrected by a rent adjustment.⁷ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that is required to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence. The tenant also has the burden of proving notice to the owner about a complaint and the owner must be afforded a reasonable opportunity to respond to the complaint.

The tenant did not list any complaints in her petition regarding decreased housing services. Therefore, the owners were unaware of any such complaints and had no opportunity to respond. Therefore, this claim is denied.

ORDER

1. The subject units are not exempt from the Rent Ordinance.
2. Tenant Gaona's petition is granted in part. The challenge to the rent increases in 2012, 2014, and 2015, are untimely and are dismissed.
3. The rent increase from \$1,000.00 to \$1,200.00 effectively November 13, 2016, and the rent increase from \$1,200.00 to \$1,210.00, are invalid.
4. Tenant Gaona's monthly base rent is \$1,000.00.

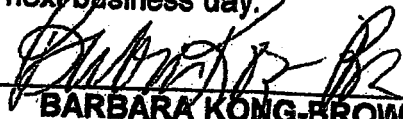
⁷ O.M.C. Section 8.22.060(C)

5. The claim for decreased housing services is denied.

6. The owners are otherwise entitled to increase the tenants' rents upon proper notice in accordance with the Rent Ordinance and Section 827 of the California Civil Code.

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

Dated: April 14, 2017


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

PROOF OF SERVICE

Case Number L16-0083

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

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

Tenants

Alejandro Arechiga
1356 81st Ave #B
Oakland, CA 94621

Ana Rosas
1354 81st Ave #B
Oakland, CA 94621

Leo Pena
1356 81st Ave #B
Oakland, CA 94621

Lorena Arechiga
1356 81st Ave #B
Oakland, CA 94621

Maria Arechiga
1356 81st Ave #B
Oakland, CA 94621

Rafael Arechiga
1356 81st Ave #B
Oakland, CA 94621

Ricardo Dominguez & Ana Jeronimo
1354 81st Ave #A
Oakland, CA 94621

Rosa Gaona & Ignacio Gaona
1354 81st Ave #B
Oakland, CA 94621

Owner

May Lee Fong & Michael B. Lee
358 Cerro Ct
Daly City, CA 94015

Yuliana & Salazar Apodaca
1356 81st Ave #A
Oakland, CA 94621

Tenant Representative
Andrew Wolff, Esq.
1956 Webster St. Ste.275
Oakland, CA 94612

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 18, 2017 in Oakland, CA.

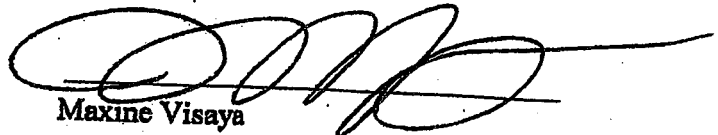

Maxine Visaya

Exhibit B

Katz Appellate Law
Attn: Katz, Paul J.
484 Lake Park Ave #603
#557
Oakland, CA 94610

's Office
n, Jamilah A.
One Frank H. Ogawa Place, 6th Floor
Oakland, CA 94612

Superior Court of California, County of Alameda Rene C. Davidson Alameda County Courthouse

Fong	No. <u>RG18930130</u>
Plaintiff/Petitioner(s)	Order
VS.	Date: 06/07/2019
City of Oakland, Housing, Residential Rent & Relo	Time: 02:00 PM
Defendant/Respondent(s)	Dept: 17
(Abbreviated Title)	Judge: Frank Roesch

The Petition for Writ of Mandate was set for hearing on 06/07/2019 at 02:00 PM in Department 17 before the Honorable Frank Roesch. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: Petitioners May Lee Fong and Michael B. Lee petition the Court for a writ of administrative mandate directing Respondent City of Oakland, Housing, Residential Rent and Relocation Board ("OHRRRB") to set aside its decision denying Petitioners' application for certificate of exemption from Oakland's Rent Adjustment Program ("RAP"). (Oakland Mun. Code ch. 8.22.)

Fong and Lee bid for and purchased several condominiums in the same building at a foreclosure sale. The building's prior owner had operated the building as an apartment house, but the units were converted to condominiums before being sold to Fong and Lee. The same tenants remained in the condominium units (formerly apartments) and were unaware that a conversion had even occurred. Fong and Lee applied for exemption from the RAP on the grounds that the units were condominiums exempt from local rent control under the Costa-Hawkins Act (Civ. Code § 1954.50 et seq.). OHRRRB denied the application on the grounds that Fong and Lee had "stepped into the shoes" of the prior landlord.

The sole issue on this petition is a question of law and statutory interpretation of the provision of the Costa-Hawkins Act that exempts condominiums from local rent control ordinances after they are sold to a bona fide purchaser. (Civ. Code § 1954.52(a)(3) [exempting dwelling units "alienable separate from the title to any other dwelling unit" from local rent control].) After the Costa-Hawkins Act was initially passed, the Legislature became concerned that some apartment buildings were being legally converted to condominiums but never sold to new owners; buildings could escape local rent control through a trick of paperwork while maintaining the same ownership, management, and tenants. (See Decl. of P.J. Katz Ex. A (Sen. J. Comm. Analysis) ["[S]ome apartment property owners have taken advantage of the law by obtaining a permit to convert to condominiums, but never completing the process. . . ."].) The legislature amended the exemption to provide that condominiums is not available for "[a] condominium dwelling or unit that has not been sold separately by the subdivider to a bona fide purchaser for value." (Stats 2001, ch. 729 (S.B. 985), § 2, codified as Civ. Code § 1954.52(a)(3)(B)(ii); see also Decl. of P.J. Katz Ex. A ["This bill would close that loophole and provide that the exemption would apply only when the unit is sold separately to a bona fide purchaser for value. Thus, apartment units that have remained

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rentals would be subject to local rent control laws."].) In other words, the Legislature provided that the exemption from rent control is not available to the owner who subdivides his property into condominiums though it is available to subsequent bona fide purchasers of the individual condominium units.

The parties agree that the units in question are condominium units and that Fong and Lee were bona fide purchasers. OHRRRB argues that the units were not "sold separately" because they were sold on the same day, one owner continues to own the entire building, no units were sold to individual owners, and the same tenants continue to occupy the units. The small phrase "sold separately" can carry this weight. The word "separate" occurs elsewhere in the statute-the language of the general exemption language ("alienable separate from the title to any other dwelling unit"), which requires that the title to the individual condominium units be individually alienable. In context, "sold separately" means sold as condominiums, with separate title.

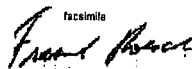
The OHRRRB is also prohibited from relitigating this issue by the doctrine of collateral estoppel. The doctrine of collateral estoppel forbids a party from re-litigating a specific factual or legal issue that has already been actually decided by another court when the identical issue was actually litigated in a prior suit and was finally adjudicated against a party to the first suit or a person in privity. (*Key v. Tyler* (2019) 34 Cal.App.5th 503; -.)

Here, the OHRRRB already litigated the issue of whether the RAP applies when several condominiums in the same building are sold to the same owner. The issue was decided adverse to the OHRRRB in the case of *Golden State Ventures, LLC v. City of Oakland Housing, Residential Rent and Relocation Board* (Alameda Cty. Super. Ct. Case No. RG16 834166, 1st Dist. Ct. App. Case No. A151421, Jan. 25, 2018) 2018 WL 549174. That is, both this Court and the Court of Appeal held that the Costa-Hawkins Act exempts such condominiums from the RAP because they were sold separately to a bona fide purchaser. (Civ. Code § 1954.52(a)(3)(A), (a)(3)(B)(ii).) The judgment in *Golden State Ventures* is final, and the OHRRRB filed its return certifying compliance with this Court's writ and the Court of Appeal's decision on June 7, 2018.

The Court does not agree with the OHRRRB's argument that the issues are distinguishable on their facts. To apply the statutory bona fide purchaser test, the Court need not determine whether the condominiums were sold in one transaction or a series of transactions, whether the condominiums were sold directly by the subdivider, and whether the building's condominium conversion was total or partial.

The OHRRRB is therefore collaterally estopped from relitigating the issue. Fong and Lee's petition is GRANTED.

Dated: 06/07/2019

facsimile


Judge Frank Roesch

Exhibit C

Revised

CASE # L16-0083

LANDLORD PETITION FOR CERTIFICATE OF EXEMPTION ADDENDUM

Section 2.

1354 - 81st Avenue #A, Oakland, Ca 94621

Tenants: Ricardo Dominguez, Ana Jeronimo, et al

1354 - 81st Avenue #B, Oakland, Ca 94621

Tenants: Yuliana Apodara, Salazar Apodaca, et al

1356 - 81st Avenue #A, Oakland, Ca 94621 (AKA 1354-81st Avenue #D)

Tenants: Rosa Gaona, Ana Rosas, Ignacio Gaona

1356 - 81st Avenue #B, Oakland, Ca 94621 (AKA 1354-81st Avenue #E)

Tenants: Lorena Arechiga, Maria Arechiga, Rafael Arechiga, Alejandro Arechiga, Leo Pena

Single-Family or Condominium (Costa-Hawkins):

1. No

2. No

3. No

4. No

5. Yes

6. 1354 - 81st Avenue #A, Oakland, Ca 94621 - 8/3/12

APN 42-4247-81

1354 - 81st Avenue #B, Oakland, Ca 94621 - 10/1/10

APN - 42-4247-82

1356 - 81st Avenue #A, Oakland, Ca 94621 - 11/1/07

AKA 1354 - 81st Ave # D

APN 42-4247-83

1356 - 81st Avenue #B, Oakland, Ca 94621

AKA 1354 - 81st Ave # E

- 11/1/07

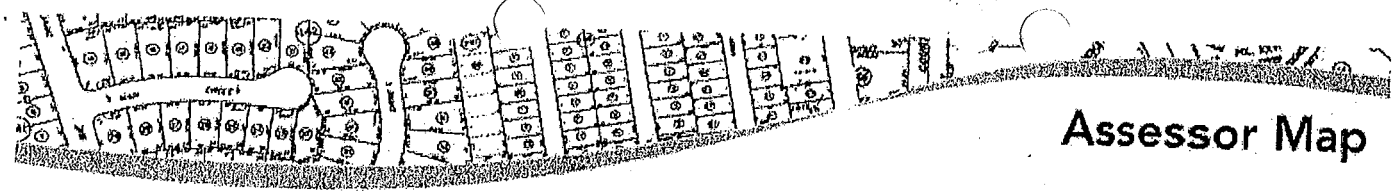
APN - 42-4247-84

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RENT ADJUSTMENT PROGRAM
OAKLAND

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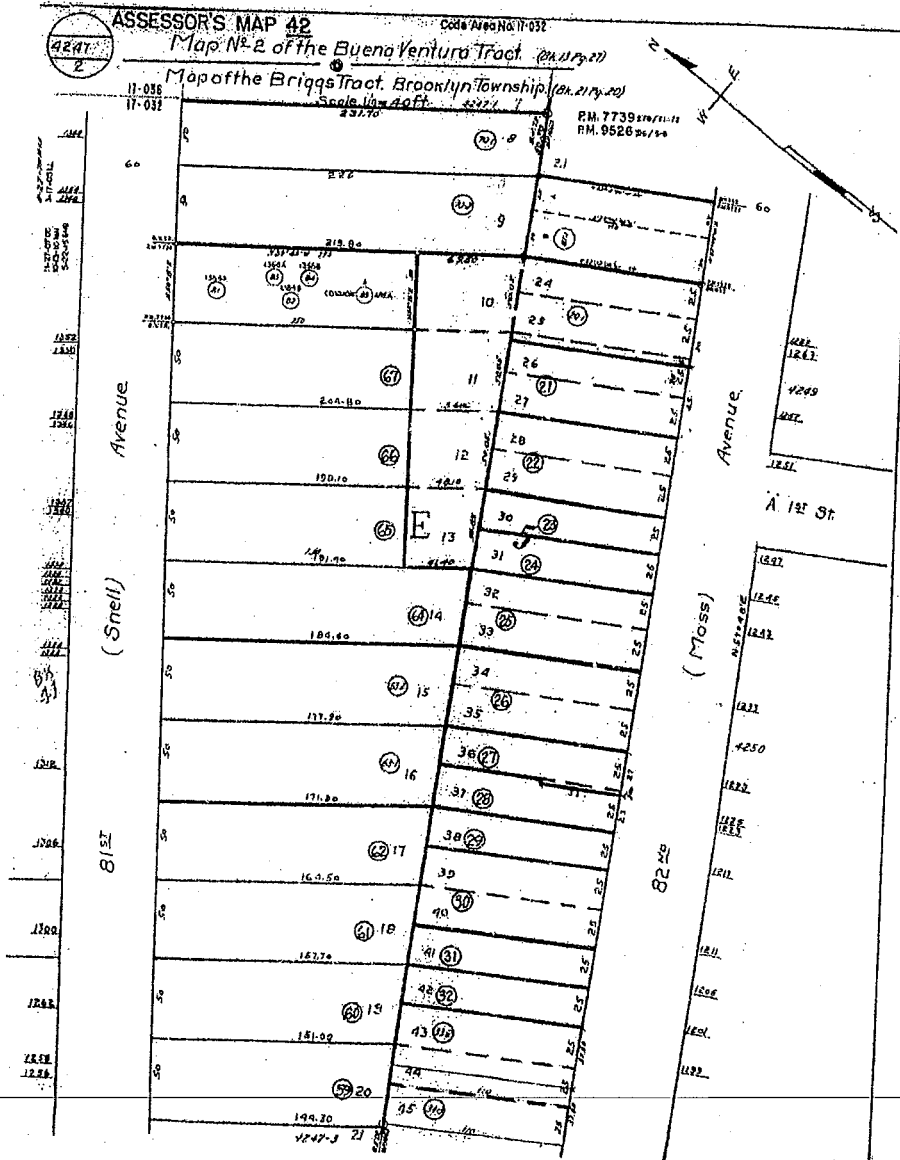
Assessor Map

CASE # L16-0083

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DEC 14 2016

RENT ADJUSTMENT PROGRAM
OAKLAND



Old Republic Title

Prepared On : 05/03/2016

OLD REPUBLIC TITLE

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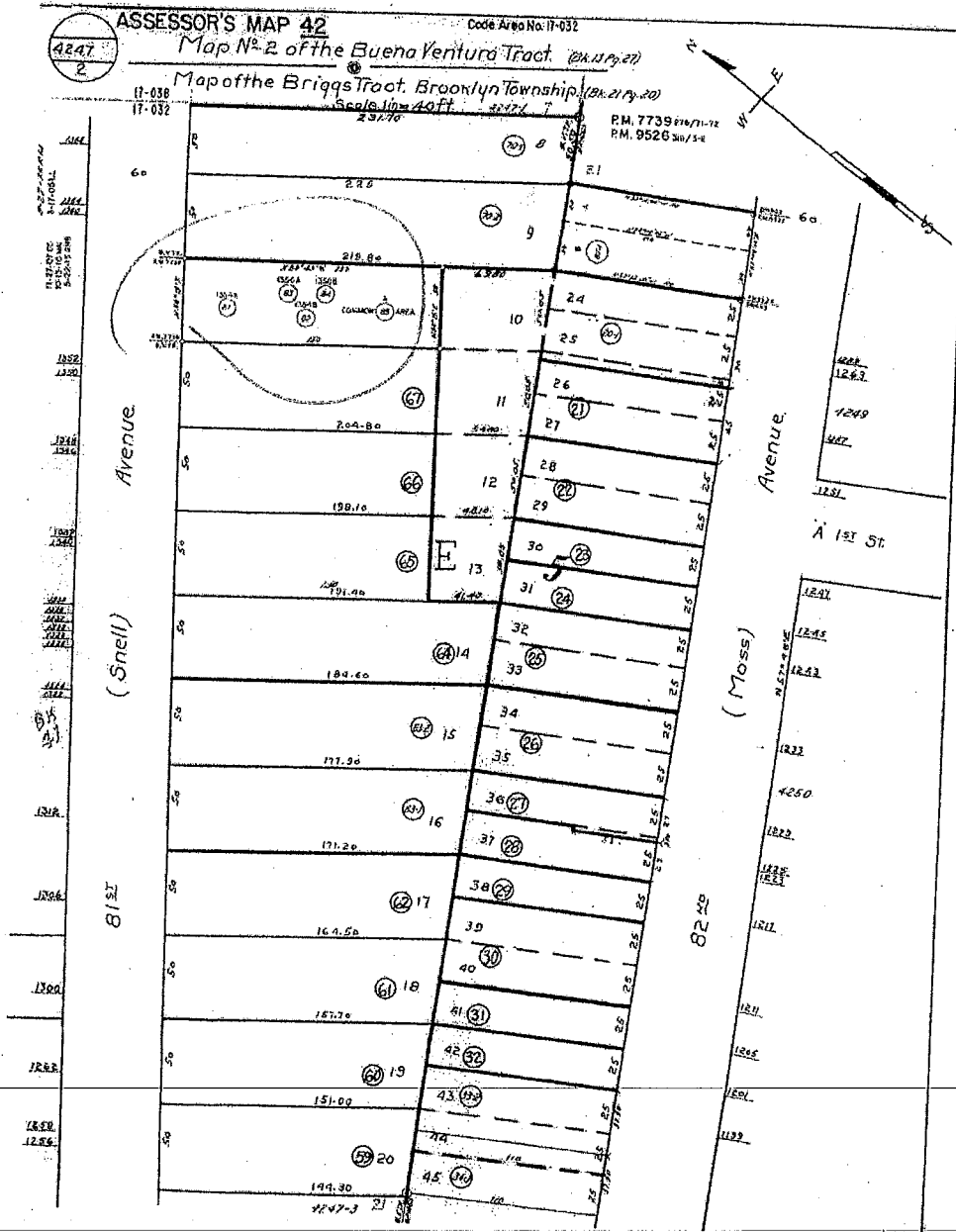
Assessor Map

CASE # L16-0083

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DEC 14 2016

RENT ADJUSTMENT PROGRAM
CANTON



Old Republic Title

Prepared On : 05/03/2016

OLD REPUBLIC TITLE

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PROOF OF SERVICE

I, Micaela Alvarez, declare and state that I am over the age of 18 and not a party to this action. My address is:

3022 International Blvd. Suite 410
Oakland, CA 94601

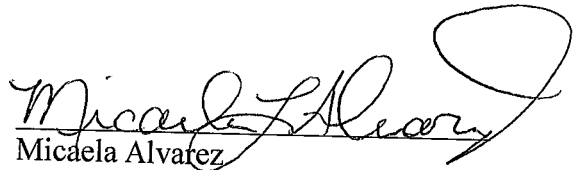
On September 12, 2019, I served the following:

Tenant-Petitioners' Rent Adjustment Program Appeal, T19-0159, T19-0160

by placing a true copy thereof, enclosed in a separate sealed envelope, with postage fully pre-paid, in the U.S. mail, addressed to:

Katz Appellate Law
Attn: Katz, Paul J.
484 Lake Park Ave #603, #557
Oakland, CA 94610

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 12, 2019, at Oakland, California, County of Alameda.


Micaela Alvarez

000069

CHRONOLOGICAL CASE REPORT

Case No.: T20-0219

Case Name: Laws v. Green Sage Management LLC

Property Address: 5707 San Leandro Street, Unit B, Oakland CA 94621

Parties: Matthew Laws (Tenant)
Deirdre Draginoff (Tenant)
Lisa Giampaoli (Tenant Representative)
Green Sage Management LLC (Owner)
Oakland Cannery Real Estate LLC (Owner)
5733 SLOCA Partnership (Owner)
Timothy Larsen (Owner Representative)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	October 20, 2020
Property Owner Response filed	-----
Administrative Decision mailed	July 2, 2021
Tenant Appeal filed	July 16, 2021

000070

RECEIVED

OCT 20 2020

**RENT ADJUSTMENT PROGRAM
OAKLAND**

T2C 0219

RC/LM

3/16

City of Oakland

Rent Adjustment Program

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

(510) 238-3721

Tenant Petition

Property Address: 5707 SAN LEANDRO ST

Case:

Petition: 11559

Date Filed:

10/20/2020

Party	Name	Address	Mailing Address	
Manager	Green Sage Management LLC	100 Fillmore St, 5th Floor Denver, CO 80206		(720) 612-7739
Owner	Unknown Unknown 5733 SLOCA Partnership	3600 AMERICAN RIVER DRIVE SUITE 215 Sacramento, CA 80206		(720) 612-7739
Representative	Lisa Giampaoli	100 Pine St 1250 San Francisco, CA 94111		(415) 890-6529 info@giampaolilaw.com
Tenant	Matthew A Laws	5707 San Leandro Street B Oakland, CA 94621		(650) 648-3732 laws.matt@gmail.com

Number of units on the property

1

Type of unit you rent

Apartment, Room or Live-work

Are you current on your rent?

Yes

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.)

City of Oakland
Rent Adjustment Program
 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612
 (510) 238-3721

Tenant Petition
 Property Address: 5707 SAN LEANDRO ST.
 Case: Petition: 11559
 Date Filed: 10/20/2020

Grounds for Petition

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:

- b) The increase (or increases) exceeds the CPI Adjustment and is unjustified, or is greater than 10%.
- 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.
- 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.
- 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.

City of Oakland

Rent Adjustment Program

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

(510) 238-3721

Tenant Petition

Property Address: 5707 SAN LEANDRO ST

Case:

Petition: 11559

Date Filed:

10/20/2020

Rental History

Date you moved into the Unit

Initial Rent

\$ 0.00 /month

When did the property owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)?

Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?

No

List all rent increases that you want to challenge.

Date you received the notice	Date increase goes into effect	Monthly rent increase From	Monthly rent increase To	Are you Contesting this Increase in this Petition? *	Did You Receive a Rent Program Notice With the Notice Of Increase?
		\$ 0.00	\$ 0.00	No	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 your rental unit?

No

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

City of Oakland

Rent Adjustment Program

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

(510) 238-3721

Tenant Petition

Property Address: 5707 SAN LEANDRO ST

Case: Petition: 11559

Date Filed: 10/20/2020

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? **No**

Have you lost services originally provided by the owner or have the conditions changed? **No**

Are you claiming any serious problem(s) with the condition of your rental unit? **No**

City of Oakland

Rent Adjustment Program

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

(510) 238-3721

Tenant Petition

Property Address: 5707 SAN LEANDRO ST

Case: Petition: 11559

Date Filed: 10/20/2020

Mediation

Mediation is an entirely voluntary process to assist you in reaching an agreement with the petitioner. 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.

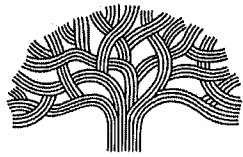
You may choose to have the mediation conducted by a Rent Adjustment Program Hearing Officer or select an outside mediator. Rent Adjustment Program Hearing Officers conduct mediation sessions free of charge. If you and the owner agree to an outside mediator, please call (510) 238-3721 to make arrangements. 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. 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.

Would you like to request Mediation?

No

Duplicate T20-0219 RC/LM



CITY OF OAKLAND

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
 250 Frank H. Ogawa Plaza, Ste. 5313
 Oakland, CA 94612-0243
 (510) 238-3721

RECEIVED

For date stamp.

OCT 20 2020

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 Matthew Arthur Laws Deirdre Draginoff	Rental Address (with zip code) 5707 San Leandro Street, Studio B Oakland, CA 94621 Assessor's Parcel No: 41-3848-13-3	Telephone: 650-648-3732
		E-mail: laws.matt@gmail.com
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) Oakland Cannery Real Estate LLC 5733 SLOCA Partnership KBP Acquisitions Real Estate, LLC	Mailing Address (with zip code) 3600 AMERICAN RIVER DRIVE SUITE 215 SACRAMENTO CA 95864 100 Fillmore St, 5th Floor Denver, Colorado 80206	Telephone:
		Email:
Property Manager or Management Co. (if applicable) Green Sage Management LLC	Mailing Address (with zip code) 100 Fillmore St, 5th Floor Denver, Colorado 80206	Telephone: (720) 612-7739
		Email: info@greensagemb.com

Number of units on the property: 20

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.) Management will claim I am not current because they are attempting to collect a retroactive common area fee, but I am current on my rent.

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:**

	(a) The CPI and/or banked rent increase notice I was given was calculated incorrectly.
X	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
X	(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.

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	(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.
	(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)
	(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: April 7, 2013 Initial Rent: \$ \$1,500 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: 8/3/20. 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		
VIA USPS	January 31, 2019	March 1, 2019	\$ 1618.86	\$ 1779	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
VIA USPS	August 3, 2020	September 1, 2020	\$ 1779	\$ 1992.09	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
			\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			\$	\$	<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:

T19-218

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): _____

Problems With Rental Unit

Since the early morning of July 30, 2020, our building at 0 / 33 on Dean Road Street has been placed on fire watch by the Alameda Fire Department. The fire inspection report is attached to this petition. Since that time, our building has not had power supplied by _____, but instead through a diesel generator. This generator is roughly 0 yards from my unit and the fumes blow into my house. The entire unit smells like diesel exhaust. We do not have air conditioning, so at certain points I have to open windows in order to cool off the unit. Diesel exhaust pours in. This would appear to violate Alameda Municipal Code 8.8.00, which deals with smoke and soot.

Rent Increase Calculation

In addition to the amount claimed as rent in the notice of rent increase, the landlord is increasing the common area fee by \$2.80. The increase in rent by \$0.00 plus the \$2.80 common area fee increase equals an increase of \$23.00. My rent was previously \$_____ and therefore the increase is \$_____.

Improper Service & Notice Period

The landlord did not attempt personal service and no notice was ever posted on the unit before mailing the notice of rent increase. Since the increase is greater than \$0, the landlord was required to provide 30 days notice and did not do so. Moreover, I did not receive the mailed notice until August 3, 2020, which was not actually 30 days prior to the date of the claimed increase. Finally, the notice attempts to charge a retroactive raise in the common area fee, without any notice.

Oakland Fire Department
Fire Prevention Bureau
250 Frank H. Ogawa Plaza, Ste 3341
Oakland, CA 94612
510-238-3851



Fire Inspection Report
Narrative/Additional Comments
☐ Residential ☐ Commercial



For Official Use Only
Start Time: _____ End Time: _____
Occ Class: _____ Batt. #: _____
Company #: _____ Total Job Time: _____

Address: 5707 Sanleandro Ste _____ Business Name: Cannery

Contact Name: Matt Burton Owner / Mgr Bus. Phone # 925-607-6993 Fax# _____

* Bruce Miller - 310-367-3737

Billing Address: _____ Ste _____ City: _____ State: _____

Contact Name: _____ Phone # _____ Fax# _____ Email Address: _____

Insp.: 1st 2nd 3rd ☒ Other _____ Insp. Date: 7/30/20 Insp. Type: FIRE Watch Insp. Ref. #: _____

Contact Made/Inspection Permission Granted: ☐ Yes ☐ No

Code	Deficiency/Comment
901.7	<ul style="list-style-type: none">- FIRE Watch is being implemented For the Following:<ul style="list-style-type: none">* Power supply to Alarm Down* All Extinguishers need to be Replaced* Generator NEEDS Repairs and Permits.- MAINTAIN Fire watch ON A 24-Hour Basis- Direct contact to Fire Dispatch in case of Emergency DIAL 911- Contact AFM Watson (510) 755-5803- Fire Watch cannot Be Removed until office OFD Fire Prevention Bureau

In accordance with the California Fire Code Section 104.5 you are hereby ordered to correct all above noted violations immediately upon receipt of this notice. An inspection to determine if you have complied with this order will be conducted on or about 7/30/20. Failure to comply with this lawful order may result in a citation to appear in Municipal Court, plus additional fines, fees, and civil penalties. If you have questions, contact the undersigned inspector.

Owner/Mgr Name (print): Emmanuel Watson Signature: [Signature] Date: 7/30/2020
Inspector Name (print): Jeff Szklanczyk Inspector Signature: [Signature] Contact No. _____

Page _____ of _____

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Oakland Fire Department/Fire Prevention Bureau
250 Frank Ogawa Plaza, Ste 3341
Oakland, CA 94612
510-238-3851



**Order to Restore Fire & Life Safety System and Establish and
Approved Fire Watch**

Address: 5707-5733 San Leandro Date: 7/30/2020
Business: Cannery Time: 1:00AM
Issued To: Jeff Sklanecki Issued By: EW

I. Failure to Meet Minimum Standards

The Oakland Fire Department has determined that the fire and life safety system does not minimum standards established for system operation and reliability.

II. Order to Comply

In accordance with California Fire Code, Section 901.7, you are ordered to:

1. Immediately establish an approved 24-hour a day continuous fire watch at the subject facility address.
2. Immediately cause the fire and life system to be restored to a fully operational condition by means of repair or replacement.

III. Duration of Fire Watch

The fire watch shall remain on the premises until a qualified contractor presents written certification to the Oakland Fire Department that the fire and life safety system meets all applicable standards and is fully operational. This Fire Watch Order CANNOT be rescinded verbally.

IV. Service of Order

The fire watch shall be provided immediately upon service of this order. Your immediate attention to this matter is required to avoid further legal action.

V. Penalty

These requirements are made pursuant to authority granted through the Oakland City Ordinance 13401 sections 109.4 and CFC 901.7. Each day that this violation continues after due notice has been served shall be deemed a separate offense. Cost recovery for this enforcement shall be provided per Section 109.4.3 of this code.

The undersigned accepts the requirements within this standard and will follow the guidelines as written.

X Jeff Sklanecki
Responsible Party Name

Emmanuel Watson
Fire Marshal or Representative Name

[Signature]
Responsible Party Signature
[Signature]
Fire Marshal or Representative Signature

Responsibility for Instruction

The owner, manager, or responsible person in charge or control of the building or premises shall assign to the fire watch as many personnel as deemed necessary, and shall instruct fire watch personnel as to:

1. The procedure for notifying the Fire Department, Fire Marshal or representative.
2. Detailed instruction of method, location and frequency of area to be patrolled.
3. A method of alerting building occupants and an evacuation procedure. When two or more personnel are required, two-way radios shall be provided to facilitate communication and evacuation.
4. A procedure shall be provided for reactivating sprinkler valves in the event of fire when the sprinkler system has been taken out of service and any other instruction required by authority having jurisdiction.

Log Book

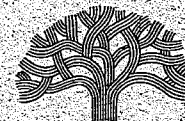
1. The owner manager, or responsible person in charge or control of the premises shall provide a logbook, which contains a directory or names, telephone numbers, and other information to assist in making emergency calls and calls to key management personnel (exception: special events as approved by the Chief).
2. The logbook shall be maintained on the premises and immediately available for inspection by the authority having jurisdiction.
3. The logbook shall be used to record a history of patrol rounds.

Specific Duty Requirements - Assigned fire watch personnel shall:

1. Be thoroughly familiar with the area they are patrolling
2. Perform patrol operations per the instructions from the Fire Marshal or representative
3. Patrol designated area at least once each half hour
4. Make reports as instructed. A record of patrol rounds and any significant information shall be created on a fire watch logbook.
5. Assigned fire watch personnel shall perform fire watch duties only and have no other responsibility.
6. Relay any special orders or pertinent information to relief personnel and management
7. Remain on duty until properly relieved
8. Patrol the entire building, all rooms, including offices, basements, penthouses, etc.
9. Alert building occupants of an emergency and direct evacuation when required.

NOTE: The fire watch conditions shall not be terminated without the Fire Marshal's or representative's written authorization.

CITY OF OAKLAND
OAKLAND FIRE DEPARTMENT



EMMANUEL WATSON
ASSISTANT FIRE MARSHAL
FIRE PREVENTION BUREAU
email: ewatson@oaklandca.gov

(510) 238-6559
CELL 755-5803
FAX 238-6739

250 FRANK H. OGAWA PLAZA, STE 3341, OAKLAND, CA 94612

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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

ADMINISTRATIVE DECISION

CASE NUMBER: T20-0219, Laws v. Green Sage Management, LLC
PROPERTY ADDRESS: 5707 San Leandro St., Unit #B, Oakland, CA

An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to reach resolution of disputed material facts. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing and there are no material facts in dispute. Therefore, an Administrative Decision is being issued.

Property Exempt by Prior Case T18-0281 et seq.

A remote hearing in T18-0281 et seq. (Tenants v. Green Sage Management) was held on April 26, 2021. This case involved a group of consolidated cases, including Tenant's prior case T19-0218. A Hearing Decision was just issued and held that the subject property is exempt from the Oakland Rent Ordinance as newly constructed and a Certificate of Occupancy was issued for it on or after January 1, 1983. Accordingly, the Rent Adjustment Program does not have jurisdiction over the subject property and cannot address any issues raised in the tenant's petition.

ORDER

1. The Tenant Petition T20-0219 is dismissed for lack of jurisdiction.
2. The Remote Hearing scheduled for July 6, 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 RAP appeal form which must be received within 15 days after service of the decision, shown on the attached Proof of Service.

Dated: July 2, 2021

Linda Moroz

Linda M. Moroz, Hearing Officer
Rent Adjustment Program

000085

PROOF OF SERVICE
Case Number T20-0219

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

Owner:

Green Sage Management LLC
100 Fillmore Street, 5th Floor
Freemont, CA 94539

Owner Representative:

Timothy A. Larsen
Attorney at Law
123 Bay Place, Suite 11
Oakland, California 94610

Tenant:

Matthew A. Laws
5707 San Leandro Street, Unit B
Oakland, CA 94621

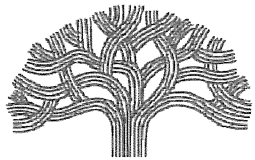
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first 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 2, 2021** in Oakland, California.



Robert F. Costa
Oakland Rent Adjustment Program

000086

 <p>CITY OF OAKLAND</p>	<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721</p>	<p>For date stamp.</p> <p style="text-align: right;"><u>APPEAL</u></p>
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Appellant's Name Matthew Laws		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
Property Address (Include Unit Number) 5707 San Leandro Street, Unit B Oakland, CA 94621		
Appellant's Mailing Address (For receipt of notices) 5707 San Leandro Street, Unit B Oakland, CA 94621	Case Number T20-0219 Date of Decision appealed July 2, 2021	
Name of Representative (if any)	Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

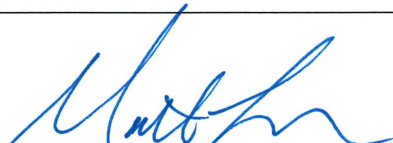
- f) ☐ I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.)
- g) ☐ The decision denies the Owner a fair return on my investment. (You may appeal on this ground only when your underlying petition was based on a fair return claim. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.)
- h) **X Other.** The denial of the tenant petition in this matter was based on the July 1, 2021 decision issued in consolidated cases T18-0281 et al (Tenants vs Green Sage Mgmt). Appellant's individual case within the consolidated cases was T19-0218. Appellant is concurrently appealing the July 1, 2021 decision in T19-0218. Because *this* appeal in T20-0219 depends entirely upon the matters being appealed in T19-0218, pending resolution of the appeal in T19-0218, appellant requests the RAP receive and process this appeal, but stay and hold this appeal in abeyance until the resolution of all appellate procedures in T19-0218.

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

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

I declare under penalty of perjury under the laws of the State of California that on 7/16/21, 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>	Green Sage Management
<u>Address</u>	1137 Bannock Street
<u>City, State Zip</u>	Denver, CO 80204
<u>Name</u>	Tim Larsen
<u>Address</u>	tlarsenlaw@gmail.com
<u>City, State Zip</u>	23 Bay Pl #11, Oakland, CA 94610

	<u>7/16/21</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
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(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION OR RESPONSE (PLUS ANY ADDITIONAL DOCUMENTS) ON THE OPPOSING PARTIES.

- Use this PROOF OF SERVICE form to indicate the date and manner in which service took place, as well as the person(s) served.
- Provide a copy of this PROOF OF SERVICE form to the opposing parties together with the document(s) served.
- File the completed PROOF OF SERVICE form with the Rent Adjustment Program together with the document you are filing and any attachments you are serving.
- Please number sequentially all additional documents provided to the RAP.

PETITIONS FILED WITHOUT A PROOF OF SERVICE WILL BE CONSIDERED INCOMPLETE AND MAY BE DISMISSED.

I served a copy of:

Notice of Appeal in T20-0219

(insert name of document served)

☐ And Additional Documents

Lawson v. Green Sage

and (write number of attached pages) _____ attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- ☒ a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as listed below.
- ☐ c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.

PERSON(S) SERVED:

Name	<u>Green Sage Mgmt</u>
Address	<u>1137 Bannock St.</u>
City, State, Zip	<u>Denver, CO 80204</u>

Name	Tim Larsen tlarsen@gmail.com
Address	23 Bay Pl #11, Oakland CA 94610
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

To serve more than 8 people, copy this page as many times as necessary and insert in your proof of service document. If you are only serving one person, you can use just the first and last page.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on 7/16/21 (insert date served).

Matt Laws
PRINT YOUR NAME

[Signature]
SIGNATURE

7/16/21
DATE

CHRONOLOGICAL CASE REPORT

Case Nos.: T21-0013

Case Name: Quinones v. Othman

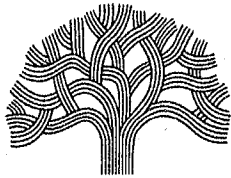
Property Address: 3251 Martin Luther King Jr. Way, Oakland, CA 94609

Parties: Muna Othman (Owner)
Anna Quinones (Tenant)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 28, 2021
Property Owner Response filed	March 8, 2021
Hearing Date	May 25, 2021
Hearing Decision E-mailed	December 6, 2021
Owner Appeal filed	December 10, 2021

000092



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JAN 28 2021

**RENT ADJUSTMENT PROGRAM
OAKLAND**

5/25

TENANT PETITION

T21-0013 EL

Please fill out this form as completely as you can. Use this form to contest a rent increase, seek a rent decrease, and/or contest an owner exemption from the Rent Adjustment Program. Failure to provide the required information may result in your petition being rejected or delayed. See the last pages of this petition packet ("Important Information Regarding Filing Your Petition") or the RAP website for more information. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR PETITION BEFORE SUBMITTING.** To make an appointment email RAP@oaklandca.gov.

Rental Unit Information

3251 Martin Luther King Jr Way # 1 Oakland, CA 94609
Street Number Street Name Unit Number Zip Code

Move-in Date: 11/01/2009 Initial Rent at Move-In: \$ 1450.00 Current Rent: \$ 1929.00

Is your rent subsidized or controlled by a government agency (such as HUD or Section 8), other than Oakland Rent Adjustment Program? (See page 5 "Jurisdiction" for more information)

- ☐ Yes
☒ No
☐ Not sure

Are you current on rent?

- ☒ Yes
☐ No*

(*Note: You must be current on your rent or lawfully withholding rent in order to file a petition. Checking "No" without providing an adequate explanation may result in your petition being dismissed.)

If not current on rent, explain why: _____

When (if ever) did the property owner first provide you with the City form, NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")?

- ☐ I first received the RAP Notice on: _____
☒ I was never provided with the RAP Notice
☐ I do not remember if I ever received the RAP Notice

Case number(s) of any relevant prior Rent Adjustment case(s): T20 - 0200 2020.09.23**Tenant Information** (List each tenant petitioner in unit. If you need more space, attach additional sheet.)

Anna Quinones
First Name Last Name

Mailing Address (if different from above): same as above

Primary Telephone: 510-692-1498 Other Telephone: _____ Email: anna.m.quinones@gmail.com

First Name Last Name

Mailing Address (if different from above): _____

Primary Telephone: _____ Other Telephone: _____ Email: _____

Tenant Representative (Check one): ☒ No Representative ☐ Attorney ☐ Non-Attorney

First Name Last Name Firm/Organization (if any)

Mailing Address: _____

Phone Number: _____ Email: _____

Property Owner Information

Property Owner

First Name MunaLast Name Othman

Company/LLC/LP (if applicable): _____

Mailing Address: 1911 Donner Ave., San Bruno, CA 94066Phone Number: 650-784-5126Email: mlaith@hotmail.com

Property Manager (if applicable)

First Name _____

Last Name _____

Name of Management Company _____

Mailing Address: _____

Phone Number: _____

Email: _____

GROUNDS FOR PETITION

Select the grounds for this petition from the list below. Check all that apply. You must check at least one box. To contest a rent increase, select item(s) from Category A. If you have experienced a decrease in housing services and/or have issues with the condition of your unit, or are being charged for utilities in violation of the law, select item(s) from Category B. For more information on each of the grounds, see Oakland Municipal Code (O.M.C.) Sections 8.22.070 and 8.22.090 (Rent Adjustment Ordinance) and the corresponding Regulations. A copy of the Ordinance and Regulations are available here: www.oaklandca.gov/resources/read-the-oakland-rent-adjustment-program-ordinance.

A.	Unlawful Rent Increase(s) <i>(Complete section A on page 3)</i>	<input checked="" type="checkbox"/> (A1) I received a rent increase above the allowable amount.
		<input checked="" type="checkbox"/> (A2) I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice ("Notice to Tenants of the Residential Rent Adjustment Program").
		<input type="checkbox"/> (A3) I received a rent increase and do not believe I should be required to pay it because a government agency has cited my unit for serious health, safety, fire, or building code violations. <i>(You must attach a copy of the citation to your petition.)</i>
B.	Decreased Housing Services <i>(Complete section B on page 3)</i>	<input type="checkbox"/> (B1) The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. <i>(Check this box for petitions based on bad conditions/failure to repair.)</i>
		<input type="checkbox"/> (B2) I am being unlawfully charged for utilities.
C.	Other	<input type="checkbox"/> (C1) My rent was not reduced after a prior rent increase period for capital improvements.
		<input type="checkbox"/> (C2) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.
		<input type="checkbox"/> (C3) The initial rent amount when I first moved in was unlawful because the property owner was not permitted to set the initial rent without limitation. O.M.C. § 8.22.080 (C).

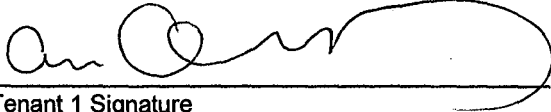
A.	Unlawful Rent Increase(s)					
<i>(Complete this section if any of the grounds for petition fall under category A, above)</i>						
<p>List all rent increases you wish to contest. Begin with the most recent increase and work backwards. If you never received the RAP Notice, you can contest all past increases. See the "Important Information" page at the end of this petition packet for more information on time limits for contesting rent increases. If you need additional space, attach a separate sheet or an additional copy of this form.</p> <ul style="list-style-type: none"> For petitions contesting a rent increase on the grounds that the unit has been cited by a government agency for serious health, safety, fire, or building code violations, you must attach a copy of the citation to your petition. Failure to attach a copy of the citation may result in your petition being dismissed. 						
Date received rent increase notice:		Date rent increase went into effect:		Amount of increase:		Received RAP Notice with notice of rent increase?
(Month/Day/Year)		(Month/Day/Year)		FROM	TO	YES NO
approx. 8/30/2020		10/01/2020		\$ 1878.00	\$ 1928.00	<input type="checkbox"/> <input checked="" type="checkbox"/>
approx. 9/01/2019		10/01/2019		\$ 1815.00	\$ 1878.00	<input type="checkbox"/> <input checked="" type="checkbox"/>
approx. 9/01/2018		10/01/2018		\$ 1650.00	\$ 1815.00	<input type="checkbox"/> <input checked="" type="checkbox"/>
				\$	\$	<input type="checkbox"/> <input type="checkbox"/>
				\$	\$	<input type="checkbox"/> <input type="checkbox"/>

B.	Decreased Housing Services					
<i>(Complete this section if any of the grounds for petition fall under category B, above)</i>						
<p>List all the conditions that you believe entitle you to a rent decrease. If your petition is based on problems related to your unit, or because the owner has taken away service(s) or is charging for services originally provided by the owner, you must complete this section. If you need more space, attach a separate sheet or an additional copy of this form.</p> <ul style="list-style-type: none"> You are strongly encouraged to submit documentary evidence (photographs, inspection reports, correspondence with your landlord, etc.) together with your petition. Evidence may be submitted up to seven calendar days prior to your hearing. You may wish to have a City inspector come inspect your unit for possible code violations in advance of your hearing. Copies of any inspection report(s) may be submitted in support of your petition. To schedule an inspection, contact the City of Oakland Code Enforcement Unit at (510) 238-3381, or file a complaint online at https://www.oaklandca.gov/services/file-a-complaint-with-code-enforcement. <i>Note: if additional items are cited in an inspection report that were not included in your original petition (below), you must file an additional petition listing those items in order for RAP staff to consider them as a part of your claim.</i> 						
	Description of problem or decreased housing service (list separately):	Date problem or decreased service started: (Month/Day/Year)	Date first notified owner or manager of problem: (Month/Day/Year)	Date problem or service was fixed, if ever: (Month/Day/Year)	What is the dollar value of your claimed loss?	
1.					\$	
2.					\$	
3.					\$	
4.					\$	

TENANT VERIFICATION

(Required)

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



Tenant 1 Signature

11/24/2021
Date

Tenant 2 Signature

Date

CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

Check the box below if you agree to have RAP staff send you documents related to your case electronically. If all parties agree to electronic service, the RAP will send certain documents only electronically and not by first class mail.

☒ I/We consent to receiving notices and documents in this matter electronically at the email address(es) provided in this response.

MEDIATION PROGRAM

Mediation is an optional process offered by RAP to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. A trained third party will work with the parties prior to the hearing to see if a mutual agreement can be reached. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

Mediation will only be scheduled if both parties agree to mediate. Sign below if you agree to mediation in your case.

I agree to have the case mediated by a Rent Adjustment Program staff mediator.

Tenant Signature

Date

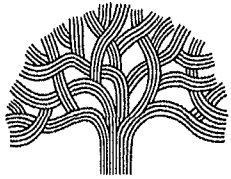
INTERPRETATION SERVICES

If English is not your primary language, you have the right to an interpreter in your primary language/dialect at the Rent Adjustment hearing and mediation session. You can request an interpreter by completing this section.

☐ I request an interpreter fluent in the following language at my Rent Adjustment proceeding:

- ☐ Spanish (Español)
- ☐ Cantonese (廣東話)
- ☐ Mandarin (普通话)
- ☐ Other: _____

-END OF PETITION-



CITY OF OAKLAND

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For Rent Adjustment Program date stamp.

RECEIVED

JAN 28 2021

**RENT ADJUSTMENT PROGRAM
OAKLAND**

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION (PLUS ANY ATTACHMENTS) ON THE PROPERTY OWNER PRIOR TO FILING YOUR PETITION WITH RAP. You must include a copy of the RAP form "NOTICE TO PROPERTY OWNER OF TENANT PETITION" (the preceding page of this petition packet) and a completed PROOF OF SERVICE form together with your Petition.

- 1) Use this PROOF OF SERVICE form to indicate the date and manner of service and the person(s) served.
- 2) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 3) File a completed copy of this PROOF OF SERVICE form with RAP together with your Petition. Your Petition will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 01 / 24 / 2021 I served a copy of (check all that apply):

- ☒ **TENANT PETITION** plus _____ attached pages (number of pages attached to Petition not counting the Petition form, NOTICE TO PROPERTY OWNER OF TENANT PETITION, or PROOF OF SERVICE)
- ☒ **NOTICE TO PROPERTY OWNER OF TENANT PETITION**
- ☒ Other: proof of service

by the following means (check one):

- ☒ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ **Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.
- ☐ **Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

PERSON(S) SERVED:

Name	Muna Othman
Address	1911 Donner Ave.
City, State, Zip	San Bruno, CA 94066

Name	
Address	
City, State, Zip	

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

Anna Quinones

PRINTED NAME



SIGNATURE

01/24/2021

DATE SIGNED



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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For Rent Adjustment Program date stamp

PROOF OF SERVICE Case # 21-od3

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR RESPONSE (PLUS ANY ATTACHMENTS) ON THE TENANT(S) PRIOR TO FILING YOUR RESPONSE WITH RAP.

- 1) Use this PROOF OF SERVICE form to indicate the date and manner of service and the person(s) served.
- 2) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 3) File a completed copy of this PROOF OF SERVICE form with RAP together with your Response. Your Response will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 3 / 01 / 2021 I served a copy of (check all that apply):

☒ **PROPERTY OWNER RESPONSE TO TENANT PETITION** plus 15 attached pages
(number of pages attached to Response not counting the Response form or PROOF OF SERVICE)

☐ Other: _____

by the following means (check one):

☒ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

☐ **Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.

☐ **Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

PERSON(S) SERVED:

Name	Anna Guinones
Address	3251 Martin Luther King Jr
City, State, Zip	OAKland CA 94609

Name	
Address	
City, State, Zip	

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

MURVA Othman
PRINTED NAME

Murva
SIGNATURE

3/01/2021
DATE SIGNED



CITY OF OAKLAND

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For Rent Adjustment Program date stamp.

CASE NUMBER T - _____

PROPERTY OWNER RESPONSE TO TENANT PETITION

Please fill out this form as completely as you can. Use this form to respond to the Tenant Petition you received. By completing this response form and submitting it in the required time for filing, you will be able to participate in the hearing. Failure to provide the required information may result in your response being rejected or delayed. See "Important Information Regarding Filing Your Response" on the last page of this packet for more information, including filing instructions and how to contact the Rent Adjustment Program ("RAP") with questions. Additional information is also available on the RAP website. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING.** To make an appointment email RAP@oaklandca.gov.

Rental Unit Information

Street Number 3251 Street Name Martin Luther King Jr Unit Number # Oakland, CA 94609
Zip Code

Is there more than one street address on the parcel? ☐ Yes If yes, list all addresses: _____
☒ No

Type of unit(s) (check one): ☐ Single family home
☐ Condominium
☒ Apartment, room, or live-work
Number of units on property: 5
Date acquired property: 2014

Case number(s) of any relevant prior Rent Adjustment case(s): _____

Tenant Information

Name of Tenant Petitioner(s): Anna Quinones
Date tenant(s) moved into rental unit: 11/01/2009 Initial rent amount: \$ 1450.00
Is/are tenant(s) current on rent? ☒ Yes
☐ No

Property Owner Information

First Name Muna Othman Last Name Mutasim Othman / Brema Khalaf

Company/LLC/EP (if applicable): _____

Mailing address: 1911 Donner Ave / San Bruno, CA 94066

Primary Telephone: (650) 784-5126 Other Telephone: (650) 784-5498 Email: Mlaith@hufmail.com
M40thman3@hufmail.com

Property Owner Representative (Check one): ☒ No Representative ☐ Attorney ☐ Non-attorney

First Name _____ Last Name _____ Firm/Organization (if any) _____

Mailing Address: _____

Phone Number: _____ Email: _____

GENERAL FILING REQUIREMENTS

To file a Response to a Tenant Petition, the property owner must be current on the following requirements and submit supporting documentation of compliance. Property Owner Responses that are submitted without proof of compliance with the below requirements will be considered incomplete and may limit your participation in the hearing.

Requirement	Documentation
<input checked="" type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license.
<input checked="" type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee")	Attach proof of payment of the current year's RAP Fee for the subject property.
<input checked="" type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	<p>Attach a signed and dated copy of the <u>first</u> RAP Notice provided to the petitioning tenant(s) or check the appropriate box below.</p> <p><input type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date) _____</p> <p><input type="checkbox"/> I have never provided a RAP Notice.</p> <p><input type="checkbox"/> I do not know if a RAP Notice was ever provided.</p>

PROPERTY OWNER CLAIM OF EXEMPTION

If you believe that the subject property is exempt from the Rent Adjustment Ordinance (pursuant to O.M.C. § 8.22.030), check each box below that is the claimed basis of exemption. Attach supporting documentation together with your response form. If you do not claim any exemption, proceed to the "Response to Tenant Petition" section on the following page.

- ☐ The unit is a single-family residence or condominium exempted by the Costa Hawkins Rental Housing Act (Civil Code 1954.50, et seq.). **If claiming this exemption, you must answer the following questions. Attach a separate sheet if necessary.**
- Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
 - Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
 - Was the prior tenant evicted for cause?
 - At the time the prior tenant vacated were there any outstanding violations of building housing, fire or safety codes in the unit or building?
 - Is the unit separately alienable, meaning it can be sold separately from any other unit on the parcel?
 - Did the petitioning tenant have roommates when he/she moved in?
 - 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. (Attach documentation.)
- ☐ The unit was newly constructed and issued a Certificate of Occupancy on or after January 1, 1983. (Attach copy of Certificate of Occupancy.)
- ☐ The unit is located in a motel, hotel, or rooming/boarding house, which the tenant petitioner has occupied for less than 30 days.
- ☐ The unit is in a building that was previously issued a certificate of exemption from RAP based on substantial rehabilitation. (Attach copy of Certificate of Exemption.)
- ☐ The unit is an accommodation in a hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged, or dormitory owned and operated by an educational institution. (Attach documentation.)

Use the chart(s) below to respond to the grounds stated in the Tenant Petition. Enter your position on each claim in the appropriate section(s) below. You may attach any documents, photographs, or other tangible evidence that support your position together with your response form. If you need more space, attach additional copies of this page or state your response in a separate sheet attached to this form.

Complete this section if any of the grounds for the Tenant Petition fall under Category A on the Tenant Petition.

List all rent increases given within the past five years, starting with the most recent increase.

Date tenant given notice of rent increase:	Date rent increase went into effect:	Amount of increase:		Did you provide a RAP Notice with the notice of rent increase?		Reason for increase (CPI, banking, or other):
		FROM	TO	YES	NO	
(mm/dd/yy)	(mm/dd/yy)					
8/2018	10/01/2018	\$1650 (\$584)	\$1815 (\$605)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	banking, paid from
8/2019	10/01/2019	\$1815 (\$605)	\$1878 (\$625)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	\$584 → \$605 Annu
8/2020	10/01/2020	\$1878 (\$625)	\$1928 (\$625)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	city limit/paid \$625

If the Tenant Petition is based on either of the following grounds, state your response in the space below or in a separate sheet attached to this form.

Tenant Petition Grounds	Owner Response
(A2) Tenant did not receive proper notice, was not properly served, and/or was not provided with the required RAP form with rent increase(s).	my partner mail ROP notice by mail 3 Language every time
(A3) A government agency has cited the unit for serious health, safety, fire, or building code violations.	

Complete this section if any of the grounds for the Tenant Petition fall under Category B on the Tenant Petition.

Tenant Petition Grounds	Owner Response
(B1) The owner is providing tenant(s) with fewer housing services and/or charging for services originally paid for by the owner.	
(B2) Tenant(s) is/are being unlawfully charged for utilities.	

Complete this section if any of the grounds for the Tenant Petition fall under Category C on the Tenant Petition.

Tenant Petition Grounds	Owner Response
(C1) Rent was not reduced after a prior rent increase period for capital improvements.	
(C2) Owner exemption based on fraud or mistake.	
(C3) Tenant's initial rent amount was unlawful because owner was not permitted to set initial rent without limitation (O.M.C. § 8.22.080 (C)).	

OWNER VERIFICATION

(Required)

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

MOWA
Property Owner 1 Signature

3/01/2021
Date

MOTASINE
Property Owner 2 Signature

3/01/2021
Date

CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

Check the box below if you agree to have RAP staff send you documents related to your case electronically. If all parties agree to electronic service, the RAP will send certain documents only electronically and not by first class mail.

☒ I/We consent to receiving notices and documents in this matter electronically at the email address(es) provided in this response.

MEDIATION PROGRAM

Mediation is an optional process offered by RAP to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. A trained third party will work with the parties prior to the hearing to see if a mutual agreement can be reached. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

Mediation will only be scheduled if both parties agree to mediate. Sign below if you agree to mediation in your case.

I agree to have the case mediated by a Rent Adjustment Program staff mediator.

Property Owner Signature

Date

INTERPRETATION SERVICES

If English is not your primary language, you have the right to an interpreter in your primary language/dialect at the Rent Adjustment hearing and mediation session. You can request an interpreter by completing this section.

☐ I request an interpreter fluent in the following language at my Rent Adjustment proceeding:

- ☐ Spanish (Español)
- ☐ Cantonese (廣東話)
- ☐ Mandarin (普通話)
- ☐ Other: _____

-END OF RESPONSE-

1- First rent increase October 2018
 From \$1650 → \$1815.00 Anna paid only \$584.00
 To \$605.00

~~Increased~~ Increased from \$584.00 → To \$ 605.00 (Bank)
 never increased for Last 3 year
 She paid her portion separately
 (proof of payment and date Attached)

2- Second increase
 October 2019 from \$1815 → \$1878.00
 Anna paid only \$605 → \$625
 She paid her portion separately (proof attached)
 (City limit increase)

3- Third increase
 October 2020 from \$1878.00 → \$1928.00
 (city limit increase)

Important Anna paid little portion of that
 She used to have another 2 Roommate that
 moved out of country Sep /2020

1

Done

R-110515210208L001.pdf

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Linked Account

42013229996

Citigold Account Package Fees & Rates Detail

Citibank gives you the benefit of lower charges, better rates and higher transaction limits as you maintain higher balance levels. When determining your rates, rebates of ATM surcharges for non-Citibank ATM transactions and monthly service fee for this statement period, and the transaction limits and fee waivers that apply during the next statement period, Citibank considers your average balance during the month of January in all your qualifying accounts that you asked us to combine. If you have a Citibank secured credit card, then Citibank will also include the balance in your Collateral Holding Account or your Certificate of Deposit that secures your Citibank credit card. These balances may be in accounts that are reported on other statements. To link additional eligible Citibank accounts for consideration for next month's balances please refer to the phone number on page 1.

Rates and Charges	Your Combined Balance Range
Rates	\$250,000-\$499,999
Monthly Service Fee	Preferred
	None

Please refer to your Client Manual-Consumer Accounts and Marketplace Addendum booklet for details on how to determine monthly fees, charges and applicable transaction limits.

Checking

Checking Activity

Citigold Interest Checking 42013229996

Date	Description	Amount Subtracted	Amount Added	Balance
02/01/18	Opening Balance			39,362.99
02/01/18	Deposit 1xtr		1,200.00	40,562.99
02/01/18	Check # 546	4,842.23		35,720.76
02/05/18	Deposit 1xtr		584.00	36,304.76
02/05/18	Deposit 1xtr		1,067.00	37,371.76
02/05/18	Deposit 1xtr		1,300.00	38,671.76
02/05/18	Deposit 1xtr		1,335.00	40,006.76
02/05/18	Check # 547	204.00		39,802.76
02/05/18	Check # 548	717.78		39,084.98
02/05/18	ACH Electronic Debit WASTE MANAGEMENT INTERNET	270.15		38,814.83
02/07/18	Transfer to MasterCard 10.23a #4544 ONLINE Reference # 307.08	1,443.66		37,371.17
02/20/18	Bill Payment 20180219 PG&E 010888 CBOL	39.05		37,332.12
02/20/18	Bill Payment 20180219 PG&E 010888 CBOL	85.44		37,246.68
02/20/18	Bill Payment 20180219 EBR&D 010888 CBOL	339.06		36,907.60
02/22/18	Bill Payment JORGE LUCAS 010888 CBOL	50.00		36,857.60
02/26/18	Interest for 28 days Annual Percentage Yield Earned 3.00%		0.85	36,858.45
	Total Subtracted/Added	7,971.39	5,486.85	
02/26/18	Closing Balance			36,878.45

All transaction times and dates reflected are based on Eastern Time.

Anna Payment Feb / 2018 \$584.00

2

Done

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Citigold Account Package Fees & Rates Detail

March 1 - March 31, 2018 Page 2 of 4
REEMA A KHALAF, MUNA KHALAF OTHMAN
Credit Account 42013228996

Citibank gives you the benefit of lower charges, better rates and higher transaction limits as you maintain higher balance levels. When you open a Citibank account, you'll receive a complimentary credit card. To receive this benefit, you must maintain a minimum balance of \$1,000 in your Citibank account for 90 consecutive days. If you don't, you'll lose the benefit. To learn more, visit citibank.com/creditcard. Citibank also offers a variety of other benefits, including a complimentary travel kit and a complimentary hotel stay. To learn more, visit citibank.com/benefits. Citibank also offers a variety of other benefits, including a complimentary travel kit and a complimentary hotel stay. To learn more, visit citibank.com/benefits. Citibank also offers a variety of other benefits, including a complimentary travel kit and a complimentary hotel stay. To learn more, visit citibank.com/benefits.

Fees	Your Combined Balance Range \$250,000-\$499,999
Monthly Service Fee	None

Please refer to your Client Manual/Consumer Accounts and Marketplace Addendum booklet for details on how to determine monthly fees, charges and applicable transaction limits.

Checking

**Operating
Activities**

CitiGold Interest Checking 42013238994

Date	Description	Amount Subtracted	Amount Added	Balance
03/01/18	Opening Balance			36,878.45
03/01/18	Deposit Total		1,067.00	37,945.45
03/02/18	Deposit Total	Anna →	584.00	38,529.45
03/02/18	Deposit Total		1,200.00	39,729.45
03/05/18	Deposit Total		1,300.00	41,029.45
03/05/18	Deposit Total		1,335.00	42,364.45
03/06/18	ACH Electronic Debit - WASTE MANAGEMENT INTERNET	279.15		42,084.30
03/07/18	Transfer to MasterCard 07/36p #4544 ONLINE Reference # W01888	626.58		41,457.71
03/22/18	Bill Payment - JORDI LUCAS - STREET CROOL	50.00		41,417.71
03/30/18	Interest for 31 days - Annual Percentage Yield Earned 0.33%		1.05	41,418.76
	Total Subtracted/Added	945.74	5,487.00	
03/31/18	Closing Balance			41,418.76

All transaction times and dates reflected are based on Eastern Time

Anna payment march 1/2018 \$584.00

③

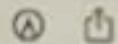
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Please refer to your Client Manual Consumer Accounts and Marketplace Addendum booklet for details on how we determine your monthly fees and charges.

Checking

Checking
Activity

Citigold Interest Checking 42013228996

Date	Description	Amount Subtracted	Amount Added	Balance
06/01/18	Opening Balance			29,236.14
06/01/18	Deposit: Auto		584.00	29,820.14
06/01/18	Deposit: Auto		1,200.00	31,020.14
06/04/18	Deposit: Auto		1,300.00	32,320.14
06/04/18	Deposit: Auto		1,335.00	33,655.14
06/05/18	Deposit: Auto		1,087.00	34,742.14
06/05/18	ACH Electronic Debit: WASTE MANAGEMENT INTERNET	275.15		34,466.99
06/07/18	Bill Payment: PG&E 010807 CBOX	47.96		34,419.03
06/20/18	Bill Payment: PG&E 010808 CBOX	69.89		34,349.14
06/20/18	Bill Payment: EDWARDS 010808 CBOX	335.02		33,994.12
06/22/18	Bill Payment: JORGE LUCAS 010808 CBOX	50.00		33,944.12
06/25/18	ACH Electronic Debit: FARMERS AG 06/25 PMT	891.38		33,052.74
06/25/18	ACH Electronic Debit: FARMERS AG 06/25 PMT	1,734.83		31,317.91
06/29/18	Interest for 30 days: Annual Percentage Yield Earned 0.33%		0.63	31,318.54
	Total Subtracted/Added	3,399.03	5,486.63	
06/30/18	Closing Balance			31,323.94

Anna →

June 1 - June 30, 2018 Page 3 of 4
 REEMA A KHALAF, MUNA KHALAF OTHMAN
 Citigold Account 42013228996

Please read the paragraphs below for important information on your accounts with us. Note that some of these products may not be available in all states or in all packages.

CITIBANK ACCOUNTS

The products reported on this statement have been combined with one monthly statement at your request. Opening and closing dates of the statement period are disclosed with the opening and closing balances for each bank product in the applicable transaction activity section. The ownership and title of individual products reported here may be different from the address(es) on the first page.

CHECKING AND SAVINGS

FDIC Insurance

The following bank deposits are FDIC insured up to applicable limits: Checking, Interest Checking, Interest Money Market Account, Certificate of Deposit and IRA & Keogh funds held in bank deposits.

CERTIFICATES OF DEPOSIT

Anna paymed June /2018 \$584.00

4

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● ● ●

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©

11

Investment accounts. If you have a Citibank secured credit card, then Citibank will also include the balance in your CofaLend Holding Account or your Certificate of Deposit that secures your Citibank credit card. These balances may be in accounts that are reported on other statements. If you do not maintain a minimum combined average monthly balance of \$200,000 in eligible linked deposit, retirement, and investment accounts, your Citicoll Account Package will be converted to a Cit Priority Account Package, and your accounts will be subject to the terms and conditions then in effect for that package. Other banks and ATM service providers may charge you a fee when you conduct a Citibank deposit account transaction using their ATMs. You will receive reimbursement from Citibank for ATM fees charged by other banks in any statement period where you are eligible for Citicoll.

Fees	Your Combined Balance Range
Monthly Service Fee	\$100,000-\$249,999
	None

Please refer to your Client Manual/Consumer Accounts and Marketplace Addendum booklet for details on how we determine your monthly fees and charges.

Checking

Checking Activity

Citigold Interest Checking 42013228996

Date	Description	Amount Subtracted	Amount Added	Balance
06/01/19	Opening Balance			32,258.35
06/03/19	Deposit Teller		280.00	32,538.35
06/04/19	Deposit Teller		1,210.00	33,748.35
06/04/19	Deposit Teller		1,680.00	35,408.35
06/05/19	Deposit Teller		905.00	36,013.35
06/06/19	ACH Electronic Debit WASTE MANAGEMENT INTERNET	282.70		35,730.65
06/24/19	ACH Electronic Debit FARMERS INS. EFT PYMT	975.78		34,754.86
06/24/19	ACH Electronic Debit Fire Insurance EFT PYMT	1,889.00		33,065.86
06/24/19	ACH Electronic Debit FARMERS INS. EFT PYMT	1,895.30		31,170.56
06/28/19	Check # 504	1,000.00		30,170.56
06/28/19	Interest for 30 days, Annual Percentage Yield Earned 0.05%		0.88	30,171.43
	Total Subtracted/Added	5,842.78	3,795.88	
06/30/19	Closing Balance			30,171.43

All transaction times and dates reflected are based on Eastern Time.

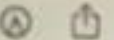
Anna payment June 1 2019 → \$ 605.00

5

Done

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investment accounts, your Citigold Account Package will be converted to a Cit Priority Account Package, and your accounts will be subject to the terms and conditions then in effect for that package. Other banks and ATM service providers may charge you a fee when you conduct a Citibank deposit account transaction using their ATMs. You will receive reimbursement from Citibank for ATM fees charged by other banks in any statement period where you are eligible for Citigold.

Fees	Your Combined Balances Range
Monthly Service Fee	\$100,000-\$249,999 None

Please refer to your Client Manual Consumer Accounts and Marketplace Addendum booklet for details on how we determine your monthly fees and charges.

Checking

Checking Activity

Citigold Interest Checking 42013229906

Date	Description	Amount Subtracted	Amount Added	Balance
07/01/19	Opening Balance			30,171.43
07/01/19	Bill Payment 20190630 JORGE LUCAS 9101X CBOL	50.00		30,121.43
07/02/19	Deposit Total		1,630.00	31,751.43
07/05/19	Deposit Total		605.00	32,356.43
07/05/19	Deposit Total		1,210.00	33,566.43
07/06/19	Bill Payment 20190706 PG&E 9101B CBOL	52.64		33,513.79
07/06/19	Bill Payment 20190706 PG&E 9101B CBOL	55.83		33,457.96
07/06/19	Bill Payment 20190706 S&W 9101B CBOL	425.89		33,032.07
07/23/19	ACH Electronic Debit WASTE MANAGEMENT INTERNET	299.10		32,732.97
07/29/19	Bill Payment 20190727 PG&E 9101B CBOL	48.00		32,684.97
07/29/19	Bill Payment 20190727 PG&E 9101B CBOL	91.27		32,593.70
07/30/19	Bill Payment JORGE LUCAS 9101B CBOL	50.00		32,543.70
07/30/19	Check # 505	2,800.00		29,743.70
07/30/19	Check # 506	10,000.00		19,743.70
07/31/19	Interest for 31 days Annual Percentage Yield Earned 0.03%		0.81	19,744.51
	Total Subtracted/Added	13,863.03	3,445.81	
07/31/19	Closing Balance			19,754.21

All transaction times and dates reflected are based on Eastern Time.

Transactions made on weekends, bank holidays or after bank business hours are not reflected in your account until the next business day.

July 1 - July 31, 2019

Page 3 of 4

Anna payment July 1/2019 → \$ 605.00

6

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investment accounts. If you have a Citibank secured credit card, then Citibank will also include the balance in your Collateral Holding Account or your Certificate of Deposit that secures your Citibank credit card. These balances may be in accounts that are reported on other statements. If you do not maintain a minimum combined average monthly balance of \$200,000 in eligible linked deposit, retirement, and investment accounts, your Citigold Account Package will be converted to a Cit Priority Account Package, and your accounts will be subject to the terms and conditions then in effect for that package. Other banks and ATM service providers may charge you a fee when you conduct a Citibank deposit account transaction using their ATMs. You will receive reimbursement from Citibank for ATM fees charged by other banks in any statement period where you are eligible for Citigold.

Fees	Your Combined Balance Range
	\$100,000-\$249,999
Monthly Service Fee	None

Please refer to your Client Manual-Consumer Accounts and Marketplace Addendum booklet for details on how we determine your monthly fees and charges.

Checking

Checking Activity

Citigold Interest Checking 42013228998

Date	Description	Amount Subtracted	Amount Added	Balance
06/01/19	Opening Balance			19,754.21
06/01/19	Deposit Total		1,630.00	21,384.21
06/01/19	Deposit Total		5,000.00	26,384.21
06/02/19	Deposit Total		605.00	26,989.21
06/05/19	Deposit Total		1,215.00	28,199.21
06/13/19	Transfer	10,000.00		18,199.21
06/22/19	ACH Electronic Debit - WASTE MANAGEMENT INTERNET	299.10		17,900.11
06/30/19	Bill Payment - JORGE LUCAS - SHILOH CIRCLE	50.00		17,850.11
06/30/19	Interest for 31 days, Annual Percentage Yield Earned 0.00%		0.56	17,850.67
	Total Subtracted/Added	10,349.10	8,445.56	17,850.67
06/31/19	Closing Balance			17,850.67

Anna



Anna payment Aug/2019 → \$ 605.00

7

[Check Details](#)

① ② ③

134

\$645.00

Subscribed & sworn to before me this 29th day of June 1902

ly www.ly.com

vol. 9, no. 1, 1998

2478000496C 595400984P 0194

Anna payment 07/2020

\$ 625.00 only

8

949

000114

Oct 21, 2020 at 8:17:54 AM

I was
out of
town
and I did
notice
by hand

My partner
did by
mail

From: MUNA Othman

Notice To Tenant of The
Rent ADjustment programme

Apt # 1

To: Anna Guinones

Send second time
by me

Oct 21, 2020 at 8:18:07 AM



From: Mali Othman

Notice to Tenants of the
East Apartment complex

Apt # 1

To: Mali Othman

12

THIS DOCUMENT HAS A TRUE WATERMARK AND VISIBLE FIBERS DISCERNIBLE FROM BOTH SIDES

**CITY OF OAKLAND
BUSINESS TAX CERTIFICATE**

**ACCOUNT
NUMBER**

00170213

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. For Section 67.04, 1983, of the O.M.C. you are allowed a renewal grace period until March 1st for the following year.

DBA

OTHMAN MUNA & MUTASIM ETAL

BUSINESS LOCATION

3251 MARTIN LUTHER KING JR WAY
OAKLAND, CA 94609-2928

BUSINESS TYPE

M Rental- Apartment

EXPIRATION DATE

12/31/2028



MUNA OTHMAN
MUNA OTHMAN
1911 DONNER AVE
SAN BRUNO, CA 94066-4708

THIS DOCUMENT IS ALTERATION PROTECTED AND REFLECTS FLUORESCENT FIBERS UNDER UV LIGHT

A BUSINESS TAX CERTIFICATE
IS REQUIRED FOR EACH
BUSINESS LOCATION AND IS
NOT VALID FOR ANY OTHER
ADDRESS

3

ALL OAKLAND BUSINESSES
MUST OBTAIN A VALID
ZONING CLEARANCE TO
OPERATE YOUR BUSINESS.
LEGALLY RENTAL OF REAL
PROPERTY IS EXCLUDED
FROM ZONING.

PUBLIC INFORMATION ABOVE
THIS LINE TO BE
CONSPICUOUSLY POSTED

000117

Outlook

Search

New message

Delete Archive Junk Sweep Move to



Folders



Inbox 36

Junk Email 91

Drafts 24

Sent Items 14

Deleted Items 85

Archive

Notes

1 4

Conversation History

Food recepies 2

Health squad

MLK building

Mody Corp

Nadia Sinnaei receipt



> New employee



Ohaio mitchigan co...



Park way plaza



Pictures



Roof repair



sun beam

عقارة الحرية ومخارن الحصة

RAP Renewal Accepted



SA

Silveira, Ava
Received. Thank you.

Mon 1/4/2021 1:54 PM

MO

muna OTHMAN
Sent from my iPad Begin forwa...

Thu 12/31/2020 7:17 PM



You forwarded this message on Thu 12/31/2020 7:17 PM

N

noreplyhdl@oaklandnet.com

Thu 12/26/2019 7:22 AM

To: You

← → ...

The RAP renewal for OTHMAN MUNA & MUTASIM ETAL,
Account # 00170214, has been accepted.

No further action is required.

Thank you for doing business in the City of Oakland.

Rap renewal 2020

14

**CITY OF OAKLAND
BUSINESS TAX CERTIFICATE**

**ACCOUNT
NUMBER**

00170213

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. For Section 504 (90.4) of the O.M.C. you are allowed a covered grace period until March 1st the following year.

DBA

OTHMAN MUNA & MUTASIM ETAL

BUSINESS LOCATION

2251 MARTIN LUTHER KING JR WAY
OAKLAND, CA 94609-2628

BUSINESS TYPE

M Rental-Apartment

EXPIRATION DATE

12/31/2021



Starting January 1, 2021, Assembly Bill 687 requires the provision of gender-neutral discrimination of business establishments. A full notice is available in English or other languages by going to: <https://www.dca.ca.gov/business>



MUNA OTHMAN
MUNA OTHMAN
1911 DOWNER AVE
SAN BRUNO, CA 94066-4708

A BUSINESS TAX CERTIFICATE
IS REQUIRED FOR EACH
BUSINESS LOCATION AND IS
NOT VALID FOR ANY OTHER
ADDRESS

ALL OAKLAND BUSINESSES
MUST OBTAIN A VALID
ZONING CLEARANCE TO
OPERATE YOUR BUSINESS
LEGALLY. RENTAL OF REAL
PROPERTY IS EXCLUDED
FROM ZONING.

PUBLIC INFORMATION ABOVE
THIS LINE TO BE
CONSPICUOUSLY POSTED

RAP @ business renewal

51

000119



HEARING DECISION

CASE NUMBER: T21-0013

CASE NAME: Quinones v. Othman

PROPERTY ADDRESS: 3251 Martin Luther King, Unit 1
Oakland, CA

DATE OF HEARING: May 25, 2021

DATE OF DECISION: November 29, 2021

APPEARANCES: Anna Quinones, Tenant
Gregory Ching, Tenant's Attorney
Muna Othman, Owner
Mustasim Othman, Owner
Samantha Beckett, Attorney Observer
Xavier Johnson, Attorney Observer
Seth, Observer

SUMMARY OF DECISION

The Tenant's petition is granted.

INTRODUCTION

The Tenant filed the petition, T21-0013, on January 28, 2021, which alleges an unlawful rent increase raising the rent from \$1,650.00 to \$1,815.00, effective October 1, 2018, from \$1,815.00 to \$1,878.00, effective October 1, 2019, from \$1,878.00 to \$1,928.00, effective October 1, 2020, on the following grounds:

- The Consumer Price Index was calculated incorrectly;

- The increase exceeds the CPI Adjustment and is greater than 10%;
- No RAP Notice¹ at Inception or 6 Months Prior;
- Rent Increase Violates State Law;

The Owner filed an Owner Response to the tenant petition and appeared at the Hearing. At the hearing, Mr. Othman, on behalf of the respondents, requested a continuance; Mr. Chin objected and argued that good cause as required by the ordinance should not include the failure to obtain representation when adequate notice to the Respondent of the petition and hearing was provided. The request was denied.

ISSUE(S) PRESENTED

1. When, if ever, was the Tenant given written notice of the Rent Adjustment Program (RAP Notice)?
2. What is the allowable rent?
3. If so, what restitution is owed to the Tenant, and how does that impact the rent?

EVIDENCE

The Tenant testified that she moved into the subject unit on November 1, 2009, and her rent was \$1,450.00. She testified that she didn't receive a RAP notice at the inception of her tenancy but did receive the RAP notice on approximately October 21, 2020. The Tenant testified that she recalled receiving the RAP notice in October 2020 for the first time because it was left in an envelope on her front door, as shown in the picture, with nothing else, after she filed her first petition.

The Tenant testified that she initially filed a petition on September 23, 2020. (T20-0200). That petition, T20-0200, was voluntarily dismissed on February 8, 2021. The Tenant's rent is currently \$1,928.00, and she is current on her rent payments as of the hearing.² The Tenant testified that she pays the total rent between herself and her roommates.

¹ Notice to Tenant of Residential Rent Adjustment Program.

² Exhibit C. This Exhibit, and all other Exhibits to which reference is made in this Decision, were admitted into evidence without objection.

Prior to October 1, 2018, the Tenant's rent was \$1,650.00. The Tenant received a Notice of Rent increase indicating that effective October 1, 2018, her rent would be increased to \$1,815.00. She did not receive a RAP notice with that increase, and she testified that she did pay the increase.

The Tenant received a Notice of Rent increase indicating that effective October 1, 2019, her rent would be increased to \$1,878.00. She did not receive a RAP notice with that increase, and she testified that she did pay the increase.

The Tenant also received a Notice of Rent increase indicating that effective October 1, 2020, her rent would be increased to \$1,928.00. She did not receive a RAP notice with that increase, and she testified that she did pay the increase, as well.

The Tenant additionally testified that she doesn't throw away any part of the rent increase notices when she receives them. She testified that she keeps them and other documents involved with her unit printed out in a folder. She testified that she does this with everything she receives from her landlord.

The Tenant testified that everyone in the unit could check the mailbox; there is one mailbox per unit.

Respondent, Muna Othman, testified that she acquired the building in 2014 and provided the RAP notice by mail in 2014 in three different languages³, but that they did not have proof of delivery because it was routine and whenever someone went into the building, they provide that.

She testified that there are five units at the subject property. The 2021 Business Tax and RAP Fees were paid, and the certificate was submitted.⁴ She testified that she couldn't remember how much she paid in RAP fees in 2020⁵ but that she only pays the RAP Fees if the unit is occupied because, with the pandemic, there are many empty spaces in the building. She testified that the envelope picture was when the RAP notice was provided on October 21, 2020, in three languages. She also testified that the rent was \$1,650.00 before the October 1, 2018 increase, that the rent was increased from \$1,650.00 to \$1,815.00 in 2018, and that the rent was increased from \$1,815.00 to \$1,878.00 in 2019.

³ Of note, the Ordinance was amended in effective September 20, 2016, requiring the RAP Notice be provided in three languages.

⁴ Exhibit AA.

⁵ Exhibit BB.

The Owner testified that she did not receive any documentation from the prior Owner indicating that the RAP notice had been provided at the inception of the tenancy in 2009. She testified that it was routine to serve RAP Notices, so she didn't take pictures. She further testified that all the RAP notices were sent in the mail by her partner and that he was in charge of providing the notices.

Upon further questioning, the Owner testified that she did complete the Owner Response filed in the prior petition.⁶ She testified that she completed it without assistance from her partner and executed the document under penalty of perjury on October 30, 2020. She acknowledged that she did indicate on the Owner Response form that she didn't know if the prior Owner had ever given a RAP notice to the Tenant. She testified that she referred to herself when completing the response and that she did not provide a RAP Notice to the Tenant in 2018, 2019, and 2020.

The Owner testified that her partner was out of town when she filed out the Owner's response to the prior petition, but when her partner returned, he told her that the RAP notices were sent.

Owner, Mustasim Othman, testified that he didn't begin to take pictures for proof until the Tenant filed her prior petition. He testified that he put the RAP Notices with each increase in the mailboxes himself and that he didn't need a protocol because he just opened the gate and put them in the mailboxes. He testified that if he provided RAP Notices in 2014, he did it but didn't keep records, and he doesn't remember.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

When, if ever, was the Tenant given written notice of the Rent Adjustment Program (RAP Notice)?

The Rent Adjustment Ordinance requires an owner to serve the RAP Notice at the start of a tenancy⁷ and together with any notice of rent increase or change in the terms of a tenancy.⁸ A tenant may file a petition to contest any rent increase. However, a tenant petition must be filed within 90 days of the date of service of a rent increase notice or the date the Tenant first receives written notice of the existence and scope of the RAP, whichever is later.⁹

⁶ Pursuant to Evidence Code Section 452, judicial notice is taken of the Owner Response filed in T20-0200.

⁷ O.M.C. § 8.22.060.

⁸ O.M.C. § 8.22.070.

⁹ O.M.C. Section 8.22.090

The Tenant's testimony that she was not given a copy of the RAP Notice at the inception of her tenancy is undisputed. Likewise, the Tenant's testimony that she first received a copy of the RAP Notice on October 21, 2020, is credited and supported by the Owner's testimony that they provided her a RAP Notice in the envelope after the prior petition was filed. Furthermore, Official Notice is taken of T20-0200, in which one of the Owners declared under penalty of perjury that they were not aware of whether or not the prior Owner provided a RAP Notice and that no RAP Notice was provided with the 2018, 2019, and 2020 rent increases. Accordingly, the Tenant was first given written notice of the RAP Program on October 21, 2020.

What is the allowable rent?

The Rent Adjustment Ordinance requires an owner to serve a RAP Notice at the start of a tenancy¹⁰ and together with any notice of rent increase or change in any term of the tenancy.¹¹ An owner may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after the Tenant receives the required RAP notice.¹²

The Tenant was served Notices of Rent Increase with effective dates of October 1, 2018, October 1, 2019, and October 1, 2020. The Tenant was first given the RAP Notice on October 21, 2020. Therefore, none of the rent increases given before October 21, 2020, are valid. Accordingly, the rent for the subject unit is \$1,650.00.

What restitution is owed to the Tenant, and how does that impact the rent?

Where the RAP Notice has never been given, a tenant can be granted restitution for rent overpayments for a maximum of 3 years.¹³ However, a tenant petition must be filed within 90 days of the date of service of a rent increase notice or the date the Tenant first receives written notice of the existence and scope of the RAP, whichever is later.¹⁴

¹⁰ O.M.C. Section 8.22.060.

¹¹ O.M.C. Section 8.22.070.

¹² O.M.C. Section 8.22.060.

¹³ Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

¹⁴ O.M.C. Section 8.22.090 (A)(2)

The evidence established that the Tenant did not receive the RAP at the inception of her tenancy. However, the RAP Notice was first provided to the Tenant on October 21, 2020. Therefore, the Tenant had until January 19, 2021, to file a petition to contest a rent increase. The petition herein was filed on January 8, 2021. Therefore, the Tenant may properly challenge all rent increases alleged in the petition for 2018 through 2021.

Because the Tenant was not provided a RAP Notice until October 21, 2020, the rent is reduced to the amount before the first invalid rent increase, \$1,650.00. Further, the Tenant overpaid rent since October 1, 2018, when they paid the first unlawful rent increase. A Tenant's claim for rent overpayments is limited, by Board decision, to three years.¹⁵ See also, Cal. Code of Civil Procedure, Section 338. Therefore, the rent overpayments are computed from October 1, 2018, through December 31, 2021.

As indicated above, the legal rent for the unit is \$1,650.00 per month. From October 1, 2018, to September 30, 2019, the Tenant paid \$1,815.00 per month; from October 1, 2019, to September 30, 2020, the Tenant paid \$1,878.00 per month; and from October 1, 2020, to the present and continuing the Tenant has paid \$1,928.00.

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¹⁵ Chaney-Williams v. Lau, T05-0080; Barajas v. Chu, T06-0051

As noted on the chart below, the Tenant is entitled to restitution of \$8,886.00 for overpayment of rent.

OVERPAID RENT						
From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Oct-18	30-Sep-19	\$1,815	\$1,650	\$ 165.00	12	\$ 1,980.00
1-Oct-19	30-Sep-20	\$1,878	\$1,650	\$ 228.00	12	\$ 2,736.00
1-Oct-20	31-Dec-21	\$1,928	\$1,650	\$ 278.00	15	\$ 4,170.00
				\$ -		-
			TOTAL OVERPAID RENT			\$ 8,886.00
			RESTITUTION			
			MONTHLY RENT			\$1,650
			TOTAL TO BE REPAID TO TENANT			\$ 8,886.00
			AL AS PERCENT OF MONTHLY RENT			539%
		MORTIZED OVER		MO. BY REG. IS		
		OR OVER	18	MONTHS BY HRG. OFFICER I		\$ 493.67

The chart above indicates rent overpayments of \$8,886.00. Restitution is usually awarded over a 12-month period, but when the Tenant is owed 239% of the monthly rent, extending the restitution period to 18 months is proper.¹⁶ Amortized over 18 months, the restitution amount is \$493.67 per month.

Therefore, the Tenant's monthly restitution amount is subtracted from the current legal rent of \$1,650.00 for a total of \$1,156.33. From January 2022 through June 2023, the rent will be \$1,156.33, and the rent will revert to the current legal rent in July 2023.

ORDER

- Petition T21-0013 is granted.

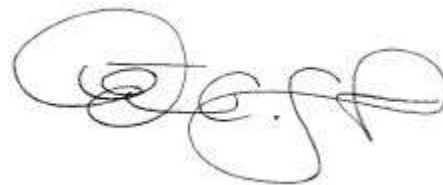
¹⁶ Regulations, § 8.22.110(F).

2. The current base rent for the subject unit is \$1,650.00
3. The total overpayment of rent by the Tenant is \$8,886.00.
4. The Tenant's rent is stated below as follows:

Base rent	\$1,650.00
Less restitution	\$ 493.67
Net Rent on January 1, 2023	\$1,156.33

5. The Tenant's rent for the months of January 2023 through June 2024 is \$1,156.33. The rent will revert to the current legal rent of \$1,650.00 in July 2024.
6. If the Owner wishes to, they can repay the restitution owed to the Tenant at any time. If they do so, the monthly decrease for restitution ends when the Tenant is provided restitution.
7. Nothing in this order prevents the Owner from increasing the rent according to the laws of the Rent Adjustment Ordinance and the State of California at any time, at least 6 months after the Tenant was served with the RAP Notice.

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



Dated: November 29, 2021

Élan Consuella Lambert
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE BY ELECTRONIC MAIL

Case: T21-0013

I, the undersigned, state that I am a citizen of the United States and am employed in the City of Oakland and County of Alameda; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612. My electronic service address is: blothlen@oaklandca.gov.

Today, I electronically served the following:

Hearing Decision

I electronically served the document(s) listed above to:

Muna Othman mlaith@hotmail.com

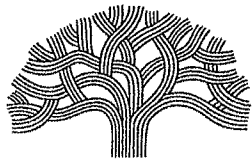
Anna Quinones anna.m.quinones.0@gmail.com

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

Date: December 6, 2021

Brittni Lothlen

Brittni Lothlen
Legal Administrative Assistant
Oakland Rent Adjustment Program



CITY OF OAKLAND

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

DEC 10 2021

RENT ADJUSTMENT PROGRAM
OAKLAND APPEAL

Appellant's Name MUNA Othman		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3251 Martin Luther King Jr Unit # 1			
Appellant's Mailing Address (For receipt of notices) 1911 Donner Ave San Bruno, CA 94066		Case Number T21-0013	
		Date of Decision appealed 12/8/2021	
Name of Representative (if any) MY self → I am looking for lawyer to hire		Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

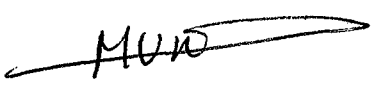
- f) ☐ I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may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

Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 8.

• 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 12/8/2021, 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	Anna Quinones
Address	3251 Martin Luther King Jr Apt #1
City, State Zip	OAKland CA 94609
Name	
Address	
City, State Zip	

	12/08/2021
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

To Rent adjustment program:

There is a math errors that require the hearing Decision to be updated

This is the rent I received from Anna from:

From	To	monthly rent paid by Anna	max Monthly rent	No of month	total
1 oct - 18	30-Sep-19	605.00	584.00	12	\$312
1 oct - 19	30-Sep 20	625	584.00	12	\$504
1-oct - 20	31-Dec 21	590	584.00	15	\$90
Total over paid rent by Anna					\$906

Attached proof of payment submitted by Anna

ALL this evidence it was in my petition respond, but the hearing Decision did not mention anything about it.

3

UnionBank PERSONAL MONEY ORDER

NOT GOOD FOR CASH AT ANY BANK

ANNA M QUINONES

626.00

From Oct/19
↓
Sep/20

ANNA MARIE QUINONES
3251 MARTIN LUTHER KING JR WAY #1
OAKLAND, CA 94609

DATE 5/14/2020

Payable to Order of Rosa Khalaf \$ 626.00

Five hundred and twenty six and 00/100 Dollars

UnionBank

250

UNITED STATES POSTAL SERVICE POSTAL MONEY ORDER

27208281971

Pay to Huna Othman

Address 1911 Donner Ave
San Bruno, CA 94066

Date April sent Apr 1

590.00

Five Hundred Ninety Dollars and 00/100

UNITED STATES POSTAL SERVICE

27208281971

Oct/2020
↓
Dec/2021

\$ 590

4

000132

CITY OF OAKLAND
Rent Adjustment Program



MEMORANDUM

Date: April 11, 2022
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Oliver Luby, Deputy City Attorney
Re: Appeal Summary in T19-0159 & T19-0160, Gaona v. Fong & Pelayo v. Fong
Appeal Hearing Date: April 14, 2021

Property Address: 1354 81st Ave. #D & E, Oakland, CA
Appellants/Tenants: Rosa Gaona & Maria Pelayo
Respondent/Owner: May Fong

BACKGROUND

In 2016, the owner filed a petition (L16-0083) asserting that the units were exempt from the Rent Adjustment Ordinance as condominiums and seeking a Certificate of Exemption based on the Costa-Hawkins Rental Housing Act. Tenant Gaona filed a petition (T17-0015) contesting rent increases. The petitions were consolidated and a Hearing Decision was issued in 2017. The Decision denied the owner petition and granted the tenant petition, citing to an exception in Costa-Hawkins and finding that the units had not been sold separately by the subdivider to the owner. In 2018, the HRRRB affirmed the Decision. Subsequently, the owner petitioned the Superior Court (case RG18930130) to set aside the Board's decision. By order dated June 9, 2019, the court found that the units had been sold separately and granted the owner's petition.

On January 23, 2019, tenant Rosa Gaona filed a petition regarding Unit #D (T19-0159), contesting a monthly rent increase from \$1,000 to \$2,750, effective February 1, 2019, and alleging decreased housing services and tenant Maria Pelayo filed a petition regarding Unit #E (T19-0160) contesting a monthly rent increase from \$1,000 to \$2,300, effective February 1, 2019, and alleging decreased housing services. The owner filed a

response, claiming the subject property was exempt as a condominium, based on Costa-Hawkins. The petitions were consolidated.

On August 9, 2019, the tenants' representative submitted a letter to the Rent Adjustment Program (RAP) regarding the Superior Court's June 9, 2019, decision in case RG18930130, requesting a hearing on the two petitions and other petitions between the parties and stating that any Certificate of Exemption issued would be the result of fraud or mistake based on recently discovered information.

RULING ON THE CASE

The Hearing Officer issued an Administrative Decision on August 13, 2019, which was mailed to the parties on August 14, 2019, stating that the Superior Court had ruled in case RG18930130 that the property was exempt from the Rent Adjustment Ordinance under Costa-Hawkins and, as a result of that exemption, RAP has no jurisdiction over the subject property. The Decision dismissed the petitions.

GROUND FOR APPEAL

On August 30, 2019, the tenants timely appealed on the following grounds:

- The decision is inconsistent with O.M.C. Chapter 8.22, Rent Board Regulations, or prior decisions of the Board;
- The decision is inconsistent with decisions issued by other hearing officers;
- The decision raises a new policy issue that has not been decided by the Board;
- The decision violates federal, state or local law;
- The decision is not supported by substantial evidence;
- Denial of sufficient opportunity to present claims;
- Other.

The tenants contend that (1) Court's decision in RG18930130 was limited to whether the units were sold separately and the owner was a bona fide purchaser for value, (2) the Administrative Decision is incorrect because the Court made no specific determination that property was exempt pursuant to Costa-Hawkins, and (3) the owner has not met their burden of proving that the units are alienable separate from the title of any other dwelling unit sufficient to qualify as exempt under Costa-Hawkins.

ISSUE

1. May tenants challenge on the basis of mistake or fraud a prior determination that their units are exempt when they were parties to that prior case?

APPLICABLE LAW AND PAST BOARD DECISIONS

1. Applicable Law

- a. O.M.C. Section 8.22.030.A (“Exemptions”) (in relevant part):

“Types of Dwelling Units Exempt. The following dwelling units are not covered units for purposes of this Chapter, Article I only (the Just Cause for Eviction Ordinance (Chapter 8.22, Article II) and the Ellis Act Ordinance (Chapter 8.22, Article II)) have different exemptions): ...

7. Dwelling units exempt pursuant to Costa-Hawkins (California Civil Code § 1954.52).”

- b. California Civil Code Section 1954.52(a) (1), (2) & (3)(A) (of the “Costa-Hawkins Rental Housing Act”):

“(a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true:

(1) It has a certificate of occupancy issued after February 1, 1995.

(2) It has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units.

(3) (A) It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code.”

2. Past Board Decisions

New Hearing Based on Fraud or Mistake After Previously Granted Exemption

T19-0384, Salvador v. Fong¹

After owner was granted a Certificate of Exemption in a prior case in which tenant was a party, tenant submitted new petition on the basis that Exemption was granted due to fraud or mistake. After administrative decision denied tenant petition because tenant may not relitigate exemption issue, Board remanded case for a limited scope hearing on the claim of fraud.

T16-0258, Sherman v. Michelsen

Owner was granted exemption on basis of new construction (L13-0054). Court of Appeal denied tenant appeal. Tenant filed new petition alleging fraud or mistake which was administratively denied, and a second writ. Court remanded case to Board for hearing on fraud claim. Board vacated administrative appeal decision

¹ The subject address in this case was 1354 81st Ave. #A. The Board’s Decision on the appeal occurred at its meeting on December 9, 2021.

and ordered a hearing. Hearing decision (1) determined that the RAP had the authority to determine whether that earlier decision was based on fraudulent testimony and was not precluded by res judicata or collateral estoppel and (2) found fraud and evidence of prior residential use. Owner appealed. Board affirmed hearing decision and rescinded certificate of exemption.

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CITY OF OAKLAND
Rent Adjustment Program



MEMORANDUM

Date: April 11, 2022
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Oliver Luby, Deputy City Attorney
Re: Appeal Summary in T20-0219, Laws v. Green Sage, LLC
Appeal Hearing Date: April 14, 2022

Property Address: 5707 San Leandro St., Unit B, Oakland, CA
Appellants/Tenant: Matthew Laws
Respondent/Owner: Green Sage, LLC

BACKGROUND

On October 20, 2020, the tenant filed a petition contesting monthly rent increases from \$1,618.86 to \$1,779, effective March 1, 2019, and from \$1,779 to \$1,992.09, effective September 1, 2020, and alleging decreased housing services. The owner did not file a response.

RULING ON THE CASE

The hearing officer issued an Administrative Decision on July 2, 2021, which was mailed to the parties on that date. The Decision stated that a prior Hearing Decision pertaining to consolidated cases regarding several units at the same subject property, T18-0372 et al., had found the subject property to be exempt from the Rent Ordinance as new construction. As a result, the Decision found that the Rent Adjustment Program lacked jurisdiction over T20-0219.

GROUND FOR APPEAL

On July 16, 2021, the tenant timely appealed the hearing officer's decision on the grounds that the denial of the petition in this case was based on a prior decision

regarding related consolidated cases¹, the tenant was concurrently appealing the decision regarding the consolidated cases, and the appeal of T20-0219 depended entirely on the outcome of the other appeal.

ISSUE

1. Should the administrative decision in T20-0219 be reconsidered after the HRRRB's decision made at its February 24, 2022, meeting regarding the same subject property in T18-0372, Amory et al. v. Green Sage, LLC?

APPLICABLE LAW AND PAST BOARD DECISIONS

Applicable Law

a. New Construction Exemption

O.M.C. § 8.22.030.A:

"Types of Dwelling Units Exempt. The following dwelling units are not covered units for purposes of this Chapter, Article I only (the Just Cause for Eviction Ordinance (Chapter 8.22, Article II) and the Ellis Act Ordinance (Chapter 8.22, Article II)) have different exemptions):"

Subsection (5):

"Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. This exemption does not apply to any newly constructed dwelling units that replace covered units withdrawn from the rental market in accordance with O.M.C. 8.22.400, et seq. (Ellis Act Ordinance). To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential."

b. New Construction Exemption Regulation

Regulation Section 8.22.030.B. ("Types of Dwelling Units Exempt"), subsection 2 ("Newly constructed dwelling units (receiving a certificate of occupancy after January 1, 1983)."):

"a. Newly constructed units include legal conversions of uninhabited spaces not used by Tenants, such as:

- i. Garages
- ii. Attics;
- iii. Basements;

¹ The consolidated case was T18-0372 et al. and included T19-0218 filed by the tenant.

- iv. Spaces that were formerly entirely commercial.”
- b. Any dwelling unit that is exempt as newly constructed under applicable interpretations of the new construction exemption pursuant to Costa-Hawkins (California Civil Code Section 1954.52).
- c. Dwelling units not eligible for the new construction exemption include:
 - i. Live/workspace where the work portion of the space was converted into a separate dwelling unit;
 - ii. Common area converted to a separate dwelling unit.”

Past Board Decisions

a. New construction exemption

T18-0372, T19-0032, T19-0218, T19-0220, & T19-0251, Amory et al. v. Green Sage, LLC

Regarding a Hearing Decision that found units created from conversion of existing building space were exempt as new construction due to no evidence of prior residential use before January 1, 1983, Board remanded the Decision for reevaluation (1) in light of live/work exception (Rent Adjustment Program Regulation 8.22.030.B.2.c.i), (2) in light of the lack of any temporal cutoff for the requirement of no prior residential use in order for units created by conversion to qualify as new construction, and (3) to determine whether the owner met by preponderance of the evidence the burden of proof for establishing no prior residential use.

T00-0425, Johnson v. Obando

Board remanded Administrative Decision (which had dismissed tenant petition on the grounds that the RAP program did not have jurisdiction due to new construction) for remand hearing on owner’s exemption claim because certificate of occupancy for alteration and repairs (and not for new construction) was insufficient to establish exemption. [This Appeal Decision was made prior to the addition of the conversion portion of the new construction exemption added in 2002.]

CITY OF OAKLAND
Rent Adjustment Program



MEMORANDUM

Date: April 11, 2022
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Oliver Luby, Deputy City Attorney
Re: Appeal Summary in T21-0013, Quinones v. Othman
Appeal Hearing Date: April 14, 2022

Property Address: 3251 Martin Luther King Jr. Way, Unit 1
Appellant/Owner: Muna Othman
Respondent/Tenant: Anna Quinones

BACKGROUND

On July 28, 2021, the tenant filed a petition contesting monthly rent increases from \$1,650 to \$1,815, effective October 1, 2018, from \$1,815 to \$1,878, effective October 1, 2019, and from \$1,878 to \$1,928, effective October 1, 2020. The owner filed a response in March of 2021. The hearing for the case was heard on May 25, 2021.

RULING ON THE CASE

The hearing officer issued a Hearing Decision on November 29, 2021, which was mailed to the parties on December 6, 2021. The Decision found that the tenant had first been given the RAP Notice on October 21, 2020, invalidated the contested rent increases, which restored the rent to \$1,650 monthly, and awarded 39 months of restitution for overpaid rent from October 1, 2018, to December 31, 2021, in the total amount of \$8,886, amortized over 18 months for a rent reduction of \$493.67 per month from January 2022 to June 2023.

GROUND FOR APPEAL

On December 10, 2021, the owner timely filed an appeal on the ground that the decision was not supported by substantial evidence. The appeal also stated that there

were math errors that require the Hearing Decision to be updated. Specifically, the owner asserted that the tenant paid only a portion of the monthly rent, including \$584 out of \$1,650 prior to October 1, 2018, \$605 beginning October 1, 2018, \$625 beginning October 1, 2019, and \$590 beginning October 1, 2020, and noted that the records of the payments received were attached to her response to the petition. Given a base rent of \$584 and the periods of payment at \$605, 625, and \$590 rates, the owner asserted that the total restitution amount for overpaid rent across 39 months is \$906.

ISSUE

1. Are there errors in the restitution award based on smaller rent payments made by the tenant?

APPLICABLE LAW AND PAST BOARD DECISIONS

1. Applicable Law

a. RAP notice

Oakland Municipal Code Section 8.22.070.H ("Notice Required to Increase Rent or Change Terms of Tenancy"), subsections 1, 4, and 6:

"1. All Rent Increase Notices. As part of any notice to increase rent or change any terms of tenancy, an owner must include:

a. Notice of the existence of this Chapter; and

b. The tenant's right to petition against any rent increase in excess of the CPI Rent Adjustment unless such rent increase is pursuant to an approved Petition.

...

4. A notice to increase rent must include the information required by Subsection 8.22.070H.1. using the language and in a form prescribed by the Rent Adjustment Program.

...

6. A rent increase is not permitted unless the notice required by this section is provided to the tenant. An owner's failure to provide the notice required by this section invalidates the rent increase or change of terms of tenancy. This remedy is not the exclusive remedy for a violation of this provision."

2. Past Board Decisions

a. Substantial Evidence

T00-0340, -0367, & -0368, Knox v. Progeny Properties

Board will not overturn factual findings made by Hearing Officer if there is substantial evidence to support the hearing decision.

b. Failure to provide RAP notice

T19-0202, Pacheco v. Newsome

Board affirmed Hearing Decision that invalidated a series of rent increases tenant had received based on lack of RAP Notice for all but the most recent rent increase, and setting rent back to tenant's initial rent level, plus granting of rent restitution for the three years prior to petition filing date.

97-11, Brown v. Rudman

Board determined that failure to provide RAP Notice with rent increase resulted in an invalid rent increase. Tenant was granted restitution and the rent was set properly pursuant to law at time decision was reached.

c. Calculation Error

T02-040, Santiago v. Vega

Board affirmed hearing decision with corrections for calculation errors.

T16-0313, Novela v. Lee

Board remanded hearing decision for staff recalculation and correction of clerical error.