(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.

(1) and (4) O.M.C. Ord 8.22.070.C.4, Ord 8.22.070.H.1.c.ii, Ord 8.22.070.H.3 and Ord 8.22.090.A.1.a.i. The hearing officer unilaterally decided that those sections need not apply.

The following was submitted 7 days before the petition hearing **[#3]**, the hearing officer reviewed it beforehand, and I read the following into the record while the hearing officer followed along with the submitted copy.

> On the April 28, 2016, I mailed via a Certificate of Mailing a summary of justification letter per **O.M.C. Ord 8.22.070.C.4, Ord 8.22.070.H.1.c.ii, Ord 8.22.070.H.3** and **Ord 8.22.090.A.1.a.i.** I attached a check for the current May 2016 rent ($882) wrapped within the letter so Black Oak Properties would see the letter. **[#5]**
>
> The response time allows for the 5 days in mailing (per **CA Code of Civil Procedure §1013 & O.M.C. Ord 8.22.160**) + 15 days for the owner-manager to respond by serving me (per **O.M.C. Ord 8.22.070.H.1.c.ii**). NO response letter was ever served. Therefore, per **Ord 8.22.070.H.3** "the amount of the rent increase in excess of the CPI Rent Adjustment is invalid."

The hearing officer contends that the owner's request for a rent increase met the "spirit of the requirements". I provided a Summary of Justification letter **[#5]** that specifically listed 4 items. The owner may have been able to provide the proof that I delineated **[#3-4]** and read into the record but chose NOT to. Outside of requirements for capital improvement pass-thru requests, the ordinance lists specifics:

> **Ord. 8.22.070.H.1.c.** For all rent increases other than one solely based on capital improvements when an owner notices a rent increase in excess of the CPI Rent Adjustment, the notice must include a statement that the owner must provide the tenant with a summary of the justification for the amount of the rent increase in excess of the CPI Rent Adjustment if the tenant makes a written request for such summary.

And then immediately provides for some vagueness knowing how important a response to a summary of justification letter is:

> **Ord. 8.22.070.H.3.** 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. If the owner fails to timely give the tenant a written summary of the basis for a rent increase in excess of the CPI Rent Adjustment, as required by Subsection 8.22.070H.1.c., the amount of the rent increase in excess of the CPI Rent Adjustment is invalid.* [emphasis mine]

The Appeals Board has allowed the hearing officer leeway to "judge" situations that are not delineated in the ordinance & regulations. These include situations such as whether or not a certain issue may or may not be a decrease in services or whether or not a certain deferred maintenance issue can be claimed as a capital improvement. Those items are not defined. What I demanded *is specifically delineated in the ordinance.*

I specifically listed 4 items. The owner could have simply provided a response stating they do not acknowledge my concerns and that I have the option to petition to the Rent Adjustment Program. The owner choose NOT to. Per Ord. 8.22.070.H.1.c. the requested rent increase is INVALID. This is the **3rd reason** for invalidating the Hearing Decision.

(e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.

(1) and (4) O.M.C. Ord 8.22.090.B.1.c "*Evidence of service* of written notice of the existence and scope of the Rent Adjustment Program on the tenant ..." [emphasis mine] The hearing officer unilaterally decided that this section need not apply.

The following was submitted 7 days before the petition hearing **[#3]**, the hearing officer reviewed it beforehand, and I read the following into the record while the hearing officer followed along with the submitted copy.

> The owner must prove per **O.M.C. Ord 8.22.090.B.1.c** "*Evidence of service* of written notice of the existence and scope of the Rent Adjustment Program on the tenant in each affected covered unit in the building prior to the petition being filed;" ... [emphasis mine]

The owner must prove the existence of this service *if* proof is demanded. I did demand proof – none was offered. They *could* have provided a receipt of Certificate of Mailing or Certified Mailing. CA Code of Civil Procedure §1162 requires postal mailing if not proof of acceptance in person. Contrary to the ordinance, the hearing officer wants to believe this is not necessary. The Hearing Officer then began to create his own case. He suggested that since he noticed there were prior petitions with the RAP that there must have been notice given as some prior time. I stated that the ordinance does not recognize a prior owner's possible noticing. He

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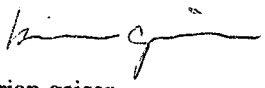
should be after page 98 in packet

Regarding **Item 2-E**: appealing because the "decision is not supported by substantial evidence.". This member of the public states "ignores Geiser's testimony" and "fails to address or decide other items listed in the original petition(s) forcing the parties to file additional paperwork." There was NO petition hearing. Chandler Properties chose NOT to contest my petition. Anything Chandler Properties may have requested is now long defunct and irrelevant. There was NO further testimony or "additional paperwork" which was asked to be filed. The administrative decision was offered before the cut-off time before the scheduled hearing so I did not submit any evidence as consideration for acceptance as an exhibit. The hearing officer stated an incorrect amount as to my current rent. Since there was no petition hearing, I submitted a Request for Correction highlighting that nowhere on the petition form is my current rent asked to be stated. With my letter, I provided evidence as to my current rent. All of this was addressed in the July 25, 2016 appeal and the Board made an appropriate decision.

All of this is nonsense. This person does not have standing and this appeal by a member of the public must be dismissed by the RAP staff and the Assistant City Attorney assigned to review these issues. A representative of Chandler Properties appeared at all of the appeal hearings associated with T15-0428 even though those hearings were after the sale of the building. Chandler Properties was aware of the issue of standing in the two appeal hearings they attended. If Chandler Properties had wanted to appeal this case, they could have within the 20 days of service of the Hearing Decision on Remand.



brian geiser
1906 Jackson St. #16
Oakland, CA 94612
telephone: none

cc: to file
attachment: December 4, 2016 letter of change of title from Chandler Properties