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HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD APPEAL PANEL

October 5, 2017 7:00 P.M. CITY HALL, HEARING ROOM #1 ONE FRANK H. OGAWA PLAZA OAKLAND, CA

AGENDA

- 1. CALL TO ORDER
- 2. ROLL CALL
- **3.** OPEN FORUM
- 4. NEW BUSINESS
 - i. Appeal in consolidated and related cases:
 - a. T15-0263 & T16-0524; Paniganiban v. Chang (related)
 - b. T16-0644 & T17-0046; Jones v. Guiton (consolidated) T17-0009; Jones v. Guiton (related)
- 5. SCHEDULING AND REPORTS
- **6.** ADJOURNMENT

Accessibility. The meeting is held in a wheelchair accessible facility. Contact the office of the City Clerk, City Hall, One Frank Ogawa Plaza, or call (510) 238–3611 (voice) or (510) 839–6451 (TTY) to arrange for the following services: 1) Sign interpreters; 2) Phone ear hearing device for the hearing impaired; 3) Large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to this event.

Foreign language interpreters may be available from the Equal Access Office (510) 239-2368. Contact them for availability. Please refrain from wearing **strongly scented products** to this meeting.

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

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

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

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

CHRONOLOGICAL CASE REPORT RELATED CASES

Case Nos:

T15-0263 & T16-0524

Case Names:

Paniganiban v. Chang

Property Address:

Owner Appeal filed

338 Lenox Ave., Apt. 2, Oakland, CA

Parties:

Kim Paniganiban (Tenant)

Symon Chang (Property Owner)

Activity	<u>Date</u>
T15-0263 – Tenant Appeal	
Tenant Petition filed	May 20, 2015
Owner Response filed	June 24, 2015
Hearing Decision issued	December 8, 2015
Tenant Appeal filed	December 28, 2015
Appeal Decision issued	May 2, 2017
Hearing Decision on Remand issued	May 19, 2017
Tenant Appeal of Remand filed	May 26, 2017
T16-0524 – Owner Appeal	
Tenant Petition filed	September 16, 2016
Owner Response filed	November 7, 2016
Hearing Decision issued	January 13, 2017

January 9, 2017



CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

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



MAY 26 2017

RENT ADJUSTMENT PROGRAM OAKLAND

APPEAL

Appellant's Name Kim Paniganiban	□ Owner 🗏 Tenant	
Property Address (Include Unit Number) 338 Lenox Ave., Apt. 2, Oakland, CA		
Appellant's Mailing Address (For receipt of notices) 1956 Webster Street, Ste. 275 Oakland, CA 94612	Case Number T15-0263 Date of Decision appealed May 18, 2017	
Name of Representative (if any) Gary Cloutier, Esq.	Representative's Mailing Address (For notices 1956 Webster Street, Ste. 275 Oakland, CA 94612	

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 Regu	ılations 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) \square 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)	when your u	ision denies the Owner a fair return on my investment. (You may appeal on this ground only nderlying petition was based on a fair return claim. You must specifically state why you have been r return and attach the calculations supporting your claim.)			
h)	☐ Other. (In your explanation, you must attach a detailed explanation of your grounds for appeal.)			
Number o	of pages attacl				
I dec	lare under pe 217, 20 ed it with a	copy of your appeal on the opposing party(ies) or your appeal may be dismissed nalty of perjury under the laws of the State of California that on, I placed a copy of this form, and all attached pages, in the United States mail or commercial carrier, using a service at least as expeditious as first class mail, with all ully prepaid, addressed to each opposing party as follows:			
Name		Symon Chang			
Addres	SS	1088 Doheny Terr			
City, S	tate Zip	Sunnyvale, CA 94085			
Name		Patty Chang			
Addres	SS	1088 Doheny Terr			
City, S	tate Zip	Sunnyvale, CA 94085			
		Ga-y Cr 5/2/2017			
SIGNA'	TURE of AP	PELLANT or DESIGNATED REPRESENTATIVE DATE //			

Kim Paniganiban 338 Lenox Ave #2 Oakland, CA 94610

Case No. T-15-0263

ATTACHMENT TO APPEAL

Ms. Kim Paniganiban ("Tenant") appeals the decision in the above mentioned case that was issued on or around May 18, 2017. A true and correct copy of the Hearing Decision issued May 18, 2017 is attached hereto as **Exhibit A**.

The decision as rendered is inconsistent with the principles of justice and is a violation of Tenant's due process rights. Within the decision, the Board acknowledges Tenant's right to bring a petition for decreased services after having reasonably relied on representations from the Landlord that the conditions complained of would be fixed in a timely manner. The board then refuses to permit Tenant to use this argument as support for the timeliness of her petition, stating that Tenant did not present evidence prior to her appeal of her reliance on Landlord's representations.

Prior to the filing of Tenant's initial appeal, Tenant was unaware of her right to bring a petition for decreased services after having reasonably relied on representations from the Landlord. The Rent Adjustment Program does not provide any information to petitioners or respondents about the existence of this right, nor any information about how to demonstrate compliance with its procedures in this area. Tenant was not aware of the procedure which the Program would expect her to follow, and had no way of making herself aware prior to the Program denying her appeal. Tenant could not therefore have followed it prior the Program's denial of her appeal. The Program's requirement that Tenant comply with a procedure only revealed in that denial is a violation of Tenant's state and federal Constitutional due process rights, and is therefore an arbitrary and capricious application of the law.

For the above referenced reason the Program should reconsider its decision as it is clear that Ms. Paniganiban's petition was not untimely filed because of neglect but instead because she justifiably relied on Mr. Chang's assertions that the repairs would be made.

EXHIBIT A



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

CITY OF OAKLAND

Department of Housing and Community Development Rent Adjustment Program

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

HEARING DECISION AFTER REMAND

CASE NUMBER:

T15-0263; Panganiban v. Chang

PROPERTY ADDRESS: 338 Lenox Ave, Apt 2, Oakland, CA

DATES OF HEARING: October 21, 2015; December 4, 2015

DATE OF DECISION:

May 18, 2017

APPEARANCES:

Kim Panganiban, Tenant

Gary Cloutier, Attorney for Tenant (10/21/15)

Symon Chang, Owner Patty Chang, Owner

SUMMARY OF DECISION

The tenant's petition is denied.

CONTENTIONS OF THE PARTIES

The tenant filed a petition which alleges that a current proposed rent increase from \$1,167 to \$1,232.52, effective June 1, 2015, exceeds the CPI Rent Adjustment and is unjustified and that her housing services have decreased due to having to move out of the unit for six months because of flooding in the unit; because the owner removed the garbage disposal and did not replace it; because of lack of weatherproofing; because the owner removed the shower doors and did not replace them; because the heater vent is filled with dust and is a hazard; because the owner replaced a brand new stove with a broken stove; because the front screen door doesn't lock; because the cable provider was unable to install cable because the jack was near the heater; and because the phone jack in the living room does not work. The tenant also alleged that she lost property due to the flooding in July of 2014.

The owner filed a response to the petition, which alleges that the contested rent increase is justified by banking that was approved in a prior Hearing Decision (L14-0062), and denies any decreased housing services.

PROCEDURE AFTER REMAND

The tenant appealed the underlying case denying her claims as untimely. On April 13, 2017, the case was heard on appeal by the Housing, Residential, Rent and Relocation Board. On May 2, 2017, an Appeal Decision was issued. The Appeal Decision states the following:

"E. Lai moved to remand the Hearing Decision on the basis that the Hearing Officer erred in the interpretation of the law because she did not consider evidence of reasonable reliance by the tenant upon the owner's assertion that he would make repairs when she determined that the decreased services claim was untimely. If a tenant reasonably relies on an owner's assertion that the owner will make the requested repairs, then the owner makes this assertion and the owner fails to make the repairs. This affects the tenant's decreased housing service claims regarding the garbage disposal, shower doors, cable jack and phone jack. The Hearing Officer is directed to limit the scope of the review to whether the evidence in the record in the underlying hearing showed reasonable reliance by the tenant."

The Hearing Officer reviewed the file and listened to the recordings of the Hearing. There is no evidence in the file of any document filed by the tenant on which she might have claimed reasonable reliance on some promise by the owner to make repairs at any time prior to the Appeal being filed. Attached to the Appeal was an email exchange between the attorney for the tenant and the owner about some repairs she was requesting before moving back into the property. This document had not been provided by the tenant before the Appeal.

At the Hearing, the tenant's attorney argued only that there was "excusable neglect" on behalf of the tenant in failing to timely file, and this "excusable neglect" should be considered. There was no discussion as to what the "excusable neglect" was and there was no testimony or offer of proof that said "excusable neglect" was based on justifiable reliance that the owner had promised to make repairs. The tenant did not argue at any point that there was justifiable reliance based on the owner's promise to make any repairs.

The Hearing Decision is unchanged.

ORDER

- 1. Petition T15-0263 is denied.
- 2. The rent, effective June 1, 2015, was \$1,233.52.
- 3. There is no information in the record as to how much rent the tenant has been paying, or if there have been subsequent rent increases. If there have been further underpayments or overpayments, the parties should meet and confer to resolve the restitution owed.

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

Dated: May 18, 2017

Barbara M. Cohen

Hearing Officer

Rent Adjustment Program

PROOF OF SERVICE

Case Number T15-0263

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

Tenant

Kim Panganiban 338 Lenox Ave. #2 Oakland, CA 94610

Owner

Patty Chang 1088 Doheny Terr Sunnyvale, CA 94085

Symon Chang 1088 Doheny Terr Sunnyvale, CA 94085

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 19, 2017 in Oakland, CA.

Maxine Visaya



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

CITY OF OAKLAND

Department of Housing and Community Development Rent Adjustment Program

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

HEARING DECISION AFTER REMAND

CASE NUMBER:

T15-0263; Panganiban v. Chang

PROPERTY ADDRESS: 338 Lenox Ave, Apt 2, Oakland, CA

DATES OF HEARING: October 21, 2015; December 4, 2015

DATE OF DECISION: M

May 18, 2017

APPEARANCES:

Kim Panganiban, Tenant

Gary Cloutier, Attorney for Tenant (10/21/15)

Symon Chang, Owner Patty Chang, Owner

SUMMARY OF DECISION

The tenant's petition is denied.

CONTENTIONS OF THE PARTIES

The tenant filed a petition which alleges that a current proposed rent increase from \$1,167 to \$1,232.52, effective June 1, 2015, exceeds the CPI Rent Adjustment and is unjustified and that her housing services have decreased due to having to move out of the unit for six months because of flooding in the unit; because the owner removed the garbage disposal and did not replace it; because of lack of weatherproofing; because the owner removed the shower doors and did not replace them; because the heater vent is filled with dust and is a hazard; because the owner replaced a brand new stove with a broken stove; because the front screen door doesn't lock; because the cable provider was unable to install cable because the jack was near the heater; and because the phone jack in the living room does not work. The tenant also alleged that she lost property due to the flooding in July of 2014.

The owner filed a response to the petition, which alleges that the contested rent increase is justified by banking that was approved in a prior Hearing Decision (L14-0062), and denies any decreased housing services.

PROCEDURE AFTER REMAND

The tenant appealed the underlying case denying her claims as untimely. On April 13, 2017, the case was heard on appeal by the Housing, Residential, Rent and Relocation Board. On May 2, 2017, an *Appeal Decision* was issued. The *Appeal Decision* states the following:

"E. Lai moved to remand the Hearing Decision on the basis that the Hearing Officer erred in the interpretation of the law because she did not consider evidence of reasonable reliance by the tenant upon the owner's assertion that he would make repairs when she determined that the decreased services claim was untimely. If a tenant reasonably relies on an owner's assertion that the owner will make the requested repairs, then the owner makes this assertion and the owner fails to make the repairs. This affects the tenant's decreased housing service claims regarding the garbage disposal, shower doors, cable jack and phone jack. The Hearing Officer is directed to limit the scope of the review to whether the evidence in the record in the underlying hearing showed reasonable reliance by the tenant."

The Hearing Officer reviewed the file and listened to the recordings of the Hearing. There is no evidence in the file of any document filed by the tenant on which she might have claimed reasonable reliance on some promise by the owner to make repairs at any time prior to the Appeal being filed. Attached to the Appeal was an email exchange between the attorney for the tenant and the owner about some repairs she was requesting before moving back into the property. This document had not been provided by the tenant before the Appeal.

At the Hearing, the tenant's attorney argued only that there was "excusable neglect" on behalf of the tenant in failing to timely file, and this "excusable neglect" should be considered. There was no discussion as to what the "excusable neglect" was and there was no testimony or offer of proof that said "excusable neglect" was based on justifiable reliance that the owner had promised to make repairs. The tenant did not argue at any point that there was justifiable reliance based on the owner's promise to make any repairs.

The Hearing Decision is unchanged.

<u>ORDER</u>

- 1. Petition T15-0263 is denied.
- 2. The rent, effective June 1, 2015, was \$1,233.52.
- 3. There is no information in the record as to how much rent the tenant has been paying, or if there have been subsequent rent increases. If there have been further underpayments or overpayments, the parties should meet and confer to resolve the restitution owed.

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

Dated: May 18, 2017

Barbara M. Cohen Hearing Officer

Rent Adjustment Program

PROOF OF SERVICE

Case Number T15-0263

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.

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r	Γe	n	я	n	ť

Kim Panganiban 338 Lenox Ave. #2 Oakland, CA 94610

Owner

Patty Chang 1088 Doheny Terr Sunnyvale, CA 94085

Symon Chang 1088 Doheny Terr Sunnyvale, CA 94085

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 19, 2017 in Oakland, CA.

Maxine Visaya



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

HOUSING RESIDENTIAL RENT AND RELOCATION BOARD APPEAL DECISION

Case Number:

T15-0263 Panganiban v. Chang

Property Address:

338 Lenox Avenue, Apt. 2

Oakland, CA

Date of Appeal Hearing: April 13, 2017

Appearances:

Gary Cloutier, Esq. Tenant Appellant Representative

Symon Chang Owner Appellee

Tenant Panganiban filed a petition on May 20, 2015, which contested a rent increase from \$1,167 to \$1,232.52, on the ground that the increase was greater than the CPI adjustment and is unjustified or greater than 10%. She also alleged the following decreased housing services:

- Flooding which caused her to move out for 6 months;
- Removal of garbage disposal;
- Lack of weather proofing;
- Removal of shower doors:
- Heater vent is full of dust;
- Stove replaced with broken stove;
- Front screen door doesn't lock;
- Cable provider unable to install cable;
- Phone jack in living room doesn't work.
- Loss of property due to flood in July 2014.

The Hearing Decision

- The Hearing Officer denied the tenant's petition on the following grounds:
- The rent increase to \$ 1,232.52 was granted in a prior hearing decision which is a final decision and may not be re-litigated;

- The decreased housing service claim regarding the garbage disposal, shower doors, cable jack and phone jack was untimely filed because the tenant received the RAP notice at least by July 2014 and her alleged claims arose in December 2014 and March 1, 2015, and her petition was filed more than 60 days after receipt of the RAP notice.
- The two remaining claims regarding the front screen door and heating vent did not constitute decreased housing services; the front screen door is not a habitability issue; the tenant did not notify the owner of the heating vent problem.
- The RAP does not have jurisdiction over property damage claims.

Grounds for Appeal

The tenant filed an appeal on December 28, 2016, on the following grounds:

- The decision raises a new policy issue that has not been decided by the Board.
- The decision is not supported by substantial evidence;
- The tenant claims that she gave the owner notice of the various complaints and they told her that they would make repairs. She relied on their representation that repairs would be made and did not file the petition with the Rent Adjustment Program within the 60 day time limit.

Appeal Hearing and Decision

The Board heard from both parties and discussed the appeal. E. Lai moved to remand the Hearing Decision on the basis that the Hearing Office erred in the interpretation of the law because she did not consider evidence of reasonable reliance by the tenant upon the owner's assertion that he would make repairs when she determined that the decreased services claim was untimely. If a tenant reasonably relies on an owner's assertion that the owner will make the requested repairs, then the 60-day filing period does not start to run until a reasonable period has passed after the owner makes this assertion and the owner fails to make the repairs. This affects the tenant's decreased housing service claims regarding the garbage disposal, shower doors, cable jack and phone jack. The Hearing Officer is directed to limit the scope of the review to whether the evidence in the record in the underlying hearing showed reasonable reliance by the tenant. J. Warner seconded.

The Board voted as follows;

Aye: U. Fernandez, E. Lai, R. Chang, J. Warner.

Nay: 0 Abstain: 0

The motion was approved unanimously.

NOTICE TO PARTIES

This decision is the final decision of the City of Oakland.

Pursuant to Ordinances No. 9510 C.M.S. of 1977 and 10449 C.M.S. of 1984, modified in Article 5 of Chapter 1 of the Municipal Code, the City of Oakland has adopted the ninety (90) day statute of limitations period of Civil Procedure, Section 1094.6.

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF MAILING OF THIS DECISION WITHIN WHICH TO SEEK JUDICIAL REVIEW OF THE DECISION OF THIS BOARD IN YOUR CASE.

CONNIE TAYLOR

BOARD DESIGNEE

CITY OF OAKLAND

HOUSING, RESIDENTIAL RENT AND

RELOCATION BOARD

PROOF OF SERVICE

Case Number T15-0263

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.

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Maxine Visaya



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

CITY OF OAKLAND

Department of Housing and Community Development Rent Adjustment Program TEL (510) 238-3721 FAX (510) 238-6181 TDD (510) 238-3254

HEARING DECISION

CASE NUMBER:

T15-0263; Panganiban v. Chang

PROPERTY ADDRESS: 338 Lenox Ave, Apt 2, Oakland, CA

DATES OF HEARING: October 21, 2015; December 4, 2015

DATE OF DECISION:

December 8, 2015

APPEARANCES:

Kim Panganiban, Tenant

Gary Cloutier, Attorney for Tenant (10/21/15)

Symon Chang, Owner Patty Chang, Owner

SUMMARY OF DECISION

The tenant's petition is denied.

CONTENTIONS OF THE PARTIES

The tenant filed a petition which alleges that a current proposed rent increase from \$1,167 to \$1,232.52, effective June 1, 2015, exceeds the CPI Rent Adjustment and is unjustified and that her housing services have decreased due to having to move out of the unit for six months because of flooding in the unit; because the owner removed the garbage disposal and did not replace it; because of lack of weatherproofing; because the owner removed the shower doors and did not replace them; because the heater vent is filled with dust and is a hazard; because the owner replaced a brand new stove with a broken stove; because the front screen door doesn't lock; because the cable provider was unable to install cable because the jack was near the heater; and because the phone jack in the living room does not work. The tenant also alleged that she lost property due to the flooding in July of 2014.

The owner filed a response to the petition, which alleges that the contested rent increase is justified by banking that was approved in a prior Hearing Decision (L14-0062), and denies any decreased housing services.

THE ISSUES

- 1. Was the rent increase approved in a prior case?
- 2. Were the tenant's claims for decreased housing services timely filed?
- 3. For those claims that were timely filed, did the tenant experience a decrease in housing services?
- 4. Does the Rent Adjustment Program have jurisdiction of the tenant's claims of having to move out of the unit and damage to her property due to flooding?
- 5. If restitution is owed, what is the tenant's rent?

EVIDENCE

History: The tenant testified that she moved into the subject unit in November of 2003 at an initial rent of \$875 a month. On July 2, 2014, there was a leak in the upstairs unit that caused substantial flooding in her unit. The tenant was required to move out of her unit so that repairs could be made. She moved out of the unit while the work was being done. The work was completed in December of 2014. The tenant was given the keys to move back in sometime in late December of 2014 and began paying rent in January of 2015. The tenant further testified that because of a health condition at the time, she did not move back in to the unit right away. While she did start coming to the unit in January and February, she didn't move her things back in or start spending the night in the unit until approximately March 1, 2015.

On March 3, 2014, the owners filed a Petition in case L14-0062, in which they sought a rent increase based on banking. That case was consolidated with several tenant petitions (cases T14-0551, T14-0540 and T15-0046). A Hearing Decision was issued on April 17, 2015. In that decision the owner petition was granted and the Order allowed the owner to increase the tenant's combined rent (for her apartment and parking) to a maximum of \$1,233.52 based on banking.

The owner, Symon Chang, testified that on April 23, 2015, he served a *Notice of Change of Terms of Tenancy*¹ on the tenant purporting to increase the rent to \$1,233.52 per month, effective June 1, 2015. The owner testified that this rent increase was served pursuant to the Order in the prior case. The tenant testified that when she moved back into the unit she signed a new lease which specified that the rent was \$1,167.00.

On January 23, 2015, the tenant filed a civil complaint in Superior Court against the owner for damages arising from the condition of her rental unit. The tenant claimed that the owners breached the implied warranty of habitability by:

"failing to properly maintain the property, by failing and refusing to make repairs, and by delaying in making necessary repairs to the Subject Premises after

¹ Exhibit 1. This Exhibit and all other Exhibits referred to in this Hearing Decision other than Exhibit 7, was admitted into evidence without objection.

obtaining knowledge and/or being notified of the conditions of the subject Premises."²

The tenant alleged in the lawsuit that the failure to make repairs caused the flooding (see First Cause of Action and Sixth Cause of Action.)

On her petition, which the tenant filled out under penalty of perjury, the tenant stated that she first received the RAP Notice from the owner on July 3, 2014. The owners stated on their response, that they first gave the tenant the RAP Notice in December of 2012.

The tenant testified that she has been paying rent in the amount of \$1,167 since June 1, 2015. The owner agreed with this testimony.

Decreased Housing Services:

<u>Displaced for 6 months and Damaged Property</u>: The tenant was not permitted to testify about these things because of lack of jurisdiction (See below.)

Garbage Disposal: The tenant testified that prior to the flood there was a garbage disposal in her kitchen. After the work was done in her unit after the flood there was no longer a disposal. She discovered this in December of 2014 when she, her attorney, Andrew Wolff, and the owner did a "walk through" of the premises and she complained about the loss of the disposal in that meeting and she informed the owner that she wanted him to replace it. A "Move-In/Move-Out Check List" was completed at that walk through and the lack of a garbage disposal is listed.³

The owner testified that he did see that the lack of a garbage disposal was on the "Move-In/Move-Out Checklist" but he was told by the tenant's attorney that the list was just to document the conditions and was not necessarily requesting a garbage disposal. Other than this list, the owner never received a complaint from the tenant about the lack of a garbage disposal.

Shower Doors: The tenant testified that before the flood there were shower doors in her bathroom shower. When she moved back in there were no longer shower doors. On the day of the pre-move in inspection (and on the first visit she made to the apartment earlier in December of 2014), she complained about the lack of shower doors. The owner said he was not going to replace the shower doors.

The owners testified that the tenant actually came to view the apartment on more than one occasion in December of 2014. On the first occasion, the tenant complained about

² Exhibit 7. The owner objected to the introduction of the *Complaint for Damages* into evidence as it had not been provided by either side 7 days prior to the Hearing. The Hearing Officer requested a copy of the complaint. Since both parties knew about the pending lawsuit, no one was harmed by the introduction of the document into evidence. It was requested by the Hearing Officer to determine whether or not she still had jurisdiction over the tenant's claims.

³ Exhibit 2, page 1

the lack of a shower door. On the second occasion, which is when the tenant filled out the checklist, she did not complain about the lack of a shower door.

<u>Heating Vent</u>: The tenant testified that because of the construction in her unit the heating vents were very dirty when she moved back in. There is one heating vent on the floor of her unit, which she vacuumed. However, there are two other vents high up on the walls, and she was unable to reach them herself.

Because of how dirty the vent was, she did not turn on the heat at all in the winter of 2015. The tenant testified that she was not cold. She does not know if the temperature in her apartment was ever below 68°.

Mr. Chang testified that the tenant never complained to him about the condition of the heater vent. He did, however, send someone to the unit to respond to the list of problems on the tenant's petition. A handyman was sent to the unit in September of 2015. He was not able to confirm that there were any problems with the heating vent4.

Lack of weatherproofing: The tenant testified that when she did her walk through of the premises before moving back in, there was water on the window sill. However, since that day, she has not seen any other water entry. She complained about the moisture on the day of the inspection, but not at any other time.

The owner testified that there was moisture on the window sill on the date of the inspection by the tenant, and he called the contractor who caulked the window before the tenant moved back in.

Additionally, the tenant complained that her living room windows did not close properly beginning from the time she moved into the unit. This condition continued to get worse during the time she was living there. Occasionally, in order to close the window she would have to go outside. To deal with the problem she wouldn't open these windows. About a month ago the owner sent someone to install new handles on the living room windows and they now operate properly.

The tenant testified that she has no problems relating to the security of her windows nor are there any gaps in the windows. 5

Stove problems: The tenant testified that before the flood she had a working stove. When she returned after the flood there was a different stove in her unit which had been painted over and she was concerned about the paint. She consulted an appliance store and was told that stoves should not be painted and could cause toxins to be released. The tenant complained to the owner about this stove at the walk through and again after she moved in. The owner replaced the stove with a different stove within a few weeks after she complained. This occurred likely in January of 2015.

⁴ See Exhibit 3.

⁵ The tenant testified that she did not prepare the list of decreased services that was provided with her Tenant Petition, but that it was prepared by her attorney's office.

The tenant further testified that there was something wrong with this new stove that was provided by the owner in that whenever she tried to "bake" something the stove would operate on "broil". She complained to the owner who ordered a part for the stove. It was only a few weeks that she had this non-functioning stove. The tenant testified that it was by approximately February of 2015 that the owner had fixed the stove and it has been working correctly ever since.

Mr. and Mrs. Chang testified that the tenant did complain to them about the stove in December of 2014. They replaced the stove in mid-January. Then she complained again about the new stove in March of 2015 and Lapham, who took over management, handled the problem.

Front Screen Door: The tenant testified that she has had a problem with the front door screen not locking since she moved into the unit. The door would swing back and forth and slam. She complained to the owner about this problem in December of 2014, before she moved back into the unit. No action has been taken by the owner.

The tenant testified that she did something to fix this door and it now doesn't swing back and forth. It is no longer a problem for her.

The owner testified that the tenant never complained to him about the front door screen. The owner also produced a "Maintenance Request" from Lapham Company (the current managers of the property) which shows that on May 13, 2015, the tenant filed a request to fix her outside door from slamming.⁶ On September 15, 2015, a repair person reviewed problems in the tenant's unit and found that the front door screen does lock.⁷ A report from APT Maintenance, who performed the repairs, states that "Tech confirmed that screen door latches and locks, tech found latch functional when closed properly."⁸

<u>Cable Jack</u>: The tenant testified that before she moved out of the unit because of the flood, there were two cable jacks in her unit, one in the living room on the side of her living room opposite the heater and the other in her bedroom. After she moved back in, the cable jack in the living room was adjacent to the heater and the one in the bedroom had been removed. She noticed this change when she moved back into the unit on approximately March 1, 2015. She further testified that at one of the inspections in December she noticed that the cable jack had moved and she complained to Mr. Chang about it and asked him to move it.

The owner testified that the tenant never complained to him about the cable jack.

⁶ Exhibit 4

⁷ Exhibit 3

⁸ Exhibit 6

<u>Phone Jack</u>: The tenant testified that when she moved back into the unit on approximately March 1, 2015, she noticed that her phone jack in the living room, which had worked previously, was no longer working.

The owner testified that the tenant never complained about the phone jack.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Was the rent increase approved in a prior case?

On April 17, 2015, a *Hearing Decision* was issued by the *RAP*, in cases L14-0062, T25-0540, T14-0051 and T15-0046. In those combined cases the Hearing Officer ordered that the rent remained \$1,167 per month and that "The owner may increase the combined rent to a maximum of \$1,233.52 per month after giving the tenant notice pursuant to Civil Code § 827 and providing the tenant with the required form Notice to Tenants." The tenant did not appeal this decision and it became final.

On April 23, 2015, the owner sent a rent increase notice pursuant to the Order in the prior case.

The tenant contends that this rent increase is not valid because she had just signed a new lease in December of 2014, and hence, the rent increase was a second increase within a year. However, the Rent Adjustment Ordinance provides that "A rent increase following an owner's petition is operative on the date the decision is final and following a valid rent increase notice based on the final decision." O.M.C. § 8.22.070(D)(6). If the tenant believed that the rent increase approved in L14-0062 was a violation of the Ordinance, she needed to appeal that decision.

Allowing a tenant to contest a rent increase after a *Landlord Petition* is granted would in effect give the tenant a second bite of the apple. The Hearing Decision in the prior case is final. The rent increase is valid.

The tenant's rent, effective June 1, 2015, is \$1,233.52 per month.

When did the tenant first receive the "RAP Notice"?

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy¹⁰ and together with an y notice of rent increase or change in the terms of a tenancy.¹¹ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.¹²

⁹ See Hearing Decision in combined cases L14-0062 (Chang v. Panganiban), and T14-0540, T14-0051 and T15-0046 (Panganiban v. Chang)

¹⁰ O.M.C. § 8.22.060(A)

¹¹ O.M.C. § 8.22.070(H)(1)(A)

¹² O.M.C. § 8.22.060 (C)

While there was no testimony regarding when the tenant first received the *RAP Notice*, the tenant declared under penalty of perjury in her petition that she received it by July 2014. The owner declared under penalty of perjury that it was served in December of 2012.

As long as the *RAP Notice* was first served at least 6 months prior to the rent increase in question, then the exact date it was served is not necessary to this decision. It is found that the tenant received the *RAP Notice* as least as early as July of 2014.

Are the tenant's claims of decreased housing services timely filed?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹³ and may be corrected by a rent adjustment.¹⁴ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

Since a decreased service is, in effect, a rent increase, the general filing limit for RAP Petitions applies: a Petition must be filed within 60 days after receipt of the RAP Notice or the knowledge of the existence of a decreased housing service, whichever is later¹⁵. While there is an exception for those conditions of property which get worse over time (like a roof leak), for discrete losses, the time limit applies.

As noted above, the tenant rec3eived the RAP Notice at least as early as July 2014.

The tenant was notified that she no longer had a garbage disposal or shower doors when she saw the unit in December of 2014. She learned about the loss of the cable jack and the broken phone jack by the time she moved back to the unit on March 1, 2015. The tenant petition was filed on May 20, 2015, longer than 60 days after March 1, 2015 (and obviously far longer than 60 days after the December 2014 inspection). Therefore, the tenant's claims about the garbage disposal, shower doors, cable jack and phone jack are denied as untimely.

Additionally, the tenant testified that the water entry into her windows occurred only on the day she inspected the property in December of 2014. The owners testified that when they saw the water entry they called the contractor and had him repair the windows. A tenant petition must be filed within 60 days after the last date that there was a decrease in housing services. The tenant testified that by the time she moved into the unit on March 1, 2015, there was no more entry of water. Since there was no ongoing problem in the time period after March 21, 2015 (60 days before she filed her petition), her claim is denied.

¹³ O.M.C. § 8.22.070(F)

¹⁴ O.M.C. § 8.22.110(E)

¹⁵ Board Decision in Case No. T09-0086, Lindsey v. Grimsley, et al.

¹⁶ O.M.C. Section 8.22.090(A)(2)

The same is true with respect to the condition of the stove. While at first there was a problem with the stove, the owners corrected the problem by replacing the first stove and then fixing the second stove. The repairs were done before March 21, 2015. Since there was no time in the applicable period during which the tenant had an inoperable stove, this claim is also denied.

The tenant's contention that her failure to timely file should be excused because of "excusable neglect" is not a correct assertion of the law. There is no excusable neglect for failing to bring a timely Tenant Petition.

For those issues that are not untimely, have the tenant's housing services been decreased?

The two remaining issues claimed by the tenant in her petition relate to her front screen door and the heating vent. Neither of these items rise to the level of a decreased housing service. With respect to the front screen door, the tenant testified that it has been a problem since she moved into the unit. However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided. The broken screen door is not a habitability problem and is not a condition different from the beginning of the tenancy.

Additionally, the tenant must give the owner notice of the problems and the opportunity to repair before she is entitled to relief. With respect to the tenant's heating vent, the owner credibly testified that he was never notified about this problem.

The tenant's claims of decreased services are denied.

Does the RAP have jurisdiction over claims of loss of property or damages for having to move out?

The tenant's list of decreased housing services raises concerns about having to move out because of the flood and because of the loss of property from the flood. In the case of *Larson v. City and County of San Francisco*,(2011) 192 Cal.App.4th 1263, the court examined the authority of San Francisco's Rent Board. The court held that the jurisdiction of administrative agencies is limited to those claims that are quantifiable in nature.

The RAP does not have jurisdiction over the tenant's claims for decreased housing services as they relate to the flood and to her loss of property. These are not claims that can be made under the Rent Adjustment Ordinance. While these acts may or may not constitute civil wrongs, these claims must be made in a court of competent jurisdiction.

Additionally, the tenant has already filed a claim about these matters in Superior Court. The *Complaint for Damages* filed against the owners in court raise claims that the owner's failure to maintain the property caused the flooding. The plaintiff seeks unspecified damages for breach of the implied warranty of habitability, breach of quiet

enjoyment, private nuisance, and premises liability amongst other claims. The tenant has ceded these matters to the jurisdiction of the Superior Court. They cannot be litigated in two places. Therefore, the tenant's claims for decreased housing services as they relate to having to move out and related to loss of her property are dismissed.

If restitution is owed, what is the tenant's rent?

The tenant's rent is \$1,233.52, effective June 1, 2015. The tenant has underpaid rent since June of 2015 in the amount of \$66.52 a month for a period of 7 months, for a total underpayment of \$465.64. An underpayment of this amount is repaid over a six month period of 50 the rent increase is \$77.60 a month. For now this \$77.60 a month is added to the current legal rent of \$1,233.52 for a total of \$1,311.13 a month. From January of 2016 through June of 2016 the rent will be \$1,311.13 a month. The rent will revert to the current rent of \$1,233.52 in July of 2016.

ORDER

- 1. Petition T15-0263 is denied.
- 2. The current rent, effective June 1, 2015, is \$1,233.52.
- 3. The tenant has underpaid rent in the amount of \$465.64.
- 4. The tenant's rent is increased by \$77.60 a month, from January 2016-June 2016, to \$1,311.13 a month. The tenant's rent reverts to \$1,233.52 in July of 2016.
- 5. Nothing in this Order prevents the owner from increasing the rent according to the rules of the Rent Adjustment Program, at any time on or after June 1, 2016, providing the rent increase notices are served pursuant to the Civil Code § 827 and the Rent Adjustment Ordinance.
- 6. Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: December 8, 2015

Barbara M. Cohen

Hearing Officer

Rent Adjustment Program

¹⁷ Regulations, Section 8.22.110(F)

PROOF OF SERVICE

Case Number(s): T15-0263

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 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:

Kim Panganiban 338 Lenox Ave, Apt 2 Oakland, CA 94610 Symon Chang Patty Chang 1088 Doheny Terrace Sunnyvale, CA 94085 Gary Cloutier Law Office of Andrew Wolff 1970 Broadway, Suite 210 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 December 8, 2015, in Oakland, California.

Barbara M. Cohen

Oakland Rent Adjustment Program

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721 For filing stamp.

2015 JUN 24 PM 3: 18

INT AND THATTON PRUBERS

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

CASE NUMBER TIS- 0263

LANDLORD RESPONSE

Your Name	Complete Address (with zip code)	Die Ho 790 170
Symon Chang	1088 Doheny Terrace	Phone: 510 -798-1712
Paty Chang	Sunnyvale CA 94085	Email: Symon chang @gmail. c
Your Representative's Name (if any)	Complete Address (with zip code)	Phone:Fax:
		Email:
Tenant(s) name(s) Kim Pangani bam	Complete Address (with zip code) 338 LenoxAve, Apt #2	
	Oakland CA 94610	
Have you paid for your Oakland	Business License? Yes No 🗆 1	Number <u>28036474</u>
	Service Fee? (\$30 per unit) Yes	
There are 15 residential u	units in the subject building. I acquir	red the building on 04/10/2012
Is there more than one street add	ress on the parcel? Yes ✓ No ☐	•

L. 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 on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

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.

Rev. 7/9/08

Date of Increase	Banking (deferred annual increases <u>)</u>	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Debt Service	Fair Return
06/01/15	×	П			Б	
		. 🗆				
* Note:	Bondling incre	ases are now He	Parina Decision a	lited 4/17/2015	of case 1 111	anta arda

II. RENTAL HISTORY If you contest the Rental History stated on the Tenant Petition, state the correct information in this section.

The tenant moved into the rental unit on 1/01/2003	 *
The tenant's initial rent including all services provided was: \$ 895	/ month.
Have you (or a previous Owner) given the City of Oakland's form entity TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM petitioning tenants? Yes X No I don't know	led "NOTICE TO I" to all of the
If yes, on what date was the Notice first given? 12/3//2012	

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

Date Notice Given	Date Increase Effective	Rent Increased		Did you provi TO TENANT	
(mo./day/year)		From	To	notice of rent	
4/23/2015	06/01/2015	\$ 1,167.00	\$ 1,233.52	XYes	□ No L14-000
12/31/2012	05/01/2013	\$ 1,105,00	\$1,167.00	⊠Yes	□ No 713-002
02/28/2012	04/01/2012	\$ 1,050,00	\$ 1,105,00	☐ Yes	□ No
unknown	64/01/2007	\$ 995.00	\$ 1,050,00	☐ Yes	□No
NA	63/01/2006	\$ 895,00	\$ 885.00	☐ Yes	□No
N/A	11/01/2003	\$	\$ 895.00	☐ Yes	□ No
		\$	\$	□Yes	□No

(See attach Exhibit 4 for more details for rent + parking) Rev. 7/9/08

III. EXEMPTION

		claim that your property is exempt from Rent Adjustment (Oakland Municipal Code or 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. 2. 3. 4. 5. 6.	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? Are there any outstanding violations of building housing, fire or safety codes in the unit or building? Is the unit a single family dwelling or condominium that can be sold separately? 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.
		The unit was newly constructed and a certificate of occupancy was issued for it on or after January 1, 1983.
417 A. J.	-	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.

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.

continuously as his or her principal residence and has done so for at least one year.

The unit is located in a building with three or fewer units. The owner occupies one of the units

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.

Rev. 7/9/08

IMPORTANT INFORMATION:

Time to File

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

File Review

You should have received a copy of the petition filed by your tenant with this letter. Copies of **documents** attached to the petition form will not be provided to you. You may review these in the RAP office by appointment. For an appointment to review a file call (510) 238-3721.

Mediation Program

Your tenant may have offered to mediate his/her complaints. If the tenant signed the mediation section in the copy of the petition mailed to you, they requested mediation. 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 the needs of the parties involved. If you agree to mediation before an RAP staff member trained in mediation, a mediation session will be scheduled before the hearing begins.

If you and the tenant 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. 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.

It is required that both parties agree to mediation in order to have a case mediated. The tenant must have already signed the request for mediation on their petition so be sure to review their signature page of the copy that was provided within your notification package.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign and return this form along with your Landlord Response. I agree to have my case mediated by a Rent Adjustment Program Staff member (no charge).

Landlord's Signature

Date

6/23/2015

Response to Case T15-0263

By: Symon Chang and Patty Chang

Date: June 23rd, 2015

Errors on Tenant Petition Application Form

The application form for Tenant Petition by Kim Panganiban for 338 Lenox Ave #2, dated 05/20/2015, (Case T15-0263), contains numerous errors and false information that needs to be clarified.

On Page 2, II. Rental History:

Incorrect: Initial Rent: \$875

The truth: The initial Rent is \$895.00, see Lease Agreement between Wayne Lazarus and Kim Panganiban, dated 11/01/2003 (EXHIBIT 3).

Incorrect: When did the owner first provide you with a written RAP Notice? Date: July 3, 2014.

The truth: The owner Symon Chang and Patty Chang first provided the tenant with a written RAP Notice is on 12/31/2012. See the copy the RAP Notice signed by the tenant on 01/01/2013 (EXHIBIT 5-1).

Note that the tenant has used this RAP Notice as the reason for contesting rent increase on Case T14-0100. The information she has provided for Case T14-0100 Petition (EXHIBIT 5-2), Case L14-0062 Response on 11/10/2014 (EXHIBIT 5-3), Case T14-0540, Case T14-0551, Case T15-0046 and this Case T15-0263 have conflict and inconsistence information on the RAP Notice. This information has demonstrated the tenant's doubtful creditability and the repudiation history. The log of RAP Notice given to this tenant and the copies of the RAP Notice signed by the tenant is attached this response (EXHIBIT 5).

Incorrect: Amount Rent Increased to \$1232.52

The truth: Amount Rent Increase To \$1,233.52

Incorrect: List case number(s) of all Petition(s) you have ever filed for this rental unit. <u>T14-0540</u>, <u>T14-0051</u>, <u>T15-0046</u>, <u>and T14-0100</u>.

The truth: There is also a case T13-0027 that the tenant filed for the same rental unit.

On Page 2, III. Description of Decreased or Inadequate Housing Services:

Those 3 boxes are all checked. However, this rent increase is based on the Hearing Decision, dated 04/17/2015, for the case of L14-0062, T14-0540, T14-0051 and T15-0046, Order #3. On Order #5, the tenant's claims of decreased housing services are denied. The tenant should not reclaim those decreased housing services again. The following are detailed explanations for why the tenant claim of "Lost Housing Services and Serious Problems" on the tenant petition case T15-0263 are invalid.

T15-0263 KM LM

EDOSTATA SETT OF WAREARD REIT ARBITEATION PROGRAM

CITY OF OAKLAND

RENT ADJUSTMENT PROGRAM

Mail To: P. O. Box 70243

Oakland, California 94612-0243

(510) 238-3721

For date stamp2015 MAY 20 AM 11: 29

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

TENANT PETITION

Your Name KIM PANGANIBAN	Rental Address (with zip code) 336 LENOX MIE # Z OAYLAND, CA CHELO	Telephone 510 · 915 · 0868
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) SYMON CHENG AND PATTY CHANG	Mailing Address (with zip code) 1088 POHENY TERRACE SUNNY VALE, CA 94085	Telephone

Number of units on the property:

Type of unit you rent (circle one)	House	Condominium	Apartment Room, or Live-Work
Are you current on your rent? (circle one)	Yes	No	Legally Withholding Rent. You must attach an explanation and citation of code violation.

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. I (We) contest one or more rent increases on one or more of the following grounds:

- 10	Mowing grounds:
X	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(c) The rent was raised illegally after the unit was vacated (Costa-Hawkins violation).
	(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) 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.
X	(f) The housing services I am being provided have decreased. (Complete Section III on following page)
	(g) At present, there exists a health, safety, fire, or building code violation in the unit. If the owner has been
1	cited in an inspection report, please attach a copy of the citation or report.
	(h) The contested increase is the second rent increase in a 12-month period.
	(i) The notice of rent increase based upon capital improvement costs does not contain the "enhanced
	notice" requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment
	Program (effective August 1, 2014).
	(j) My rent has not been reduced after the expiration period of the rent increase based on capital
	improvements.
	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period
1	hading with rent increased naticed on or offer August 1, 2014)

H DENETAL U	<u>IISTORY</u> : (You	. must sompl	oto this soctic	(n)			
II. KENTAL II	into the Unit: N	nust compr MGMb02 l	2863	 ,	915		/
Date you moved	into the Unit:	DACHIDELI	Initia	Il Rent: \$	019		_/month
When did the ow Adjustment Prog	ner first provide yo ram (RAP NOTIC	ou with a writte E)? Date: <u>Ju</u>	n NOTICE TO	TENANTS If neve	of the exister provided,	tence of the F enter "Never	Rent ."
	subsidized or contr		•				ė
List all rent inco you need addition	reases that you wa onal space, please ging.	ant to challeng attach anothe	e. Begin with r sheet. You	the most re must check '	cent and w "Yes" next	ork backwar to each incr	rds. If ease that
Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*		Did You Receive a Rent Program Notice With the Notice Of	
		From	То		,	Increa	se?
4/23/15	6/1/15	\$ 1,167	\$ 1232.5	Z ⊕Yes	□ No	₽¥es	□No
		\$	\$	□Yes	□No	□ Yes	□No
		\$.	\$	□ Yes	□ No	□ Yes	□No
		,\$	\$	□ Yes	□No	□ Yes	□No
		\$	\$	□ Yes	□No	□Yes	□No
		\$	\$	□ Yes	□No	□Yes	□No
existence of the Ist you never got to List case number III. DESCRIP Decreased or in	nys from the date of Rent Adjustment protect the RAP Notice you or (s) of all Petition (PTION OF DEC) adequate housing reservice problems,	ogram (whicher can contest all set) s) you have ever created of the contest are contest and contest are contest and contest are contest.	ver is later) to copast increases. er filed for this R INADEQUE considered an	ontest a rent rental unit: ATE HOU increase in	increase. (CTI4 OF CWG T SING SEI	D.M.C. 8.22.09 10% T 14 (114 , 0100 RVICES:	00 A 2) 50:51, T = 14
Have you lost so	harged for services ervices originally p ng any serious prob	rovided by the	owner or have	the conditio		? Yes	□ No □ No □ No
reduced service service(s) or so service(s); and	ed "Yes" to any o e(s) and problem(erious problem(s) 3) how you cald vidence if availab	(s). Be sure to ; 2) the date culate the doll	include at lea the loss(es) b	st the follow egan or the	ving: 1) a l date you	list of the los began payin	st housing ng for the
	nspected and code a Plaza, 2 nd Floor, (ompliance Ui	nit, 250

Tenant Petition, effective 8-1-14

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.
Keni Pegel 05-/48/2015 Tenant's Signature Date
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 Rent Adjustment Program Hearing Officer the same day.
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:
<u>Time to File</u> This form must be <u>received</u> 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 The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file 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 Other (describe):

Tenant Petition, effective 8-1-14

Kim Paniganiban 338 Lenox Ave #2 Oakland, CA 94610

Rent Board Petition

Lost Housing Services and Serious Problems

- 1. Displaced for approximately six (6) months (July 2014 to December 2014) due to flooding in unit.
- 2. Lost property due to flooding in the unit (see blow)
- 3. Owner took out garbage disposal and it was never replaced
- 4. Lack of weatherproofing
 - a. windows leak when raining
 - b. need to go outside to shut windows
 - c. windows not secure
 - d. gaps in windows
- 5. Owner took out shower doors and they were never replaced.
- 6. Heater vent is filled with dust and therefore hazard when turned on.
- 7. Owner replaced brand new stove (that was not broken) with a broken stove.
- 8. Front screen door doesn't lock
- 9. Cable provider was unable to install cable because cable jack was near heater.
- 10. Phone jack in living room doesn't work.

Lost Property due to flooding in July 2014

- 1. Bathroom Shelving and toiletries (approximate value \$50)
- 2. Mattress and box spring (approximate value \$750)
- 3. Headboard and night stands (approximate value \$500)
- 4. Clothes and shoes (approximate value \$200)
- 5. Drapes (approximate value \$100)
- 6. Lamps (approximate value \$50)
- 7. Towels (approximate value \$40)

City of Oakland 2011 JAN -9 AM 10: 26					
Residential Rent Adjustment Program					
250 Frank Ogawa Plaza, Suite 5313		APPEAL			
Oakland, California 94612					
(510) 238-3721					
Appellant's Name					
Symon Chang & Patty Chang Property Address (Include Unit Number)		Landlord X Tenant □			
338 Lenox Ave. Apt#2					
Oakland CA 94610	0	N			
Appellant's Mailing Address (For receipt of notices)	Case	Number 716-0524			
1088 Doheny Terrace	Date	of Decision appealed			
Sunnyvale CA 94085 Name of Representative (if any)		N/A			
Name of Representative (if any)	epresentativ	e's Mailing Address (For notices)			
I appeal the decision issued in the case and on a (Check the applicable ground(s). Additional exadditional pages to this form.) 1. □ The decision is inconsistent with OMC of decisions of the Board. You must identify the Ord specify the inconsistency.	planation is . Chapter 8.22,	required (see below). Please attach Rent Board Regulations or prior			
2. □ The decision is inconsistent with decision the prior inconsistent decision and explain how the					
3. ☐ The decision raises a new policy issue to provide a detailed statement of the issue and why to					
4. The decision is not supported by substate supported by substantial evidence found in the case but sections of audio recordings must be pre-designated.	e record. The	e entire case record is available to the Board,			
5. 🕱 I was denied a sufficient opportunity to You must explain how you were denied a sufficient presented. Note that a hearing is not required in e sufficient facts to make the decision are not in disp	opportunity a very case. Si	and what evidence you would have			
6. The decision denies me a fair return on been denied a fair return and attach the calculation					

7.	oust attach a detailed explanation of your grounds for appeal. Submissions to the Board
are limited to 25 page pages consecutively.	s from each party. Number of pages attached Please number attached
be dismissed. I de vi/01/2017, 200 mail or deposited it	erve a copy of your appeal on the opposing party(ies) or your appeal may eclare under penalty of perjury under the laws of the State of California that on o, I placed a copy of this form, and all attached pages, in the United States with a commercial carrier, using a service at least as expeditious as first class e or charges fully prepaid, addressed to each opposing party as follows:
<u>Name</u>	Kim Panigarriban
Address	Kim Panigarriban 338 Lenox Ave Apt #2
City, State Zip	Oakland CA 94610
Name	
Address	
City, State Zip	
12	01/09/2017
SIGNATURE of APP	PELLANT OF DESIGNATED REPRESENTATIVE DATE

IMPORTANT INFORMATION:

This appeal must be <u>received</u> 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 <u>must</u> provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

01/09/2017

On November 7, 2016, I have submitted the landlord response along with a letter to request Administrative Decision on invalid Tenant Petition Case T16-0524. This is due to the facts that the tenant petition is filed over 60 days of receiving the rent increase notice and without any evidence on the housing services have been reduced or eliminated. The copy of this request letter is attached. Since then, I have not received any letter from the City regarding to this Case T16-0524. No letter on acceptance nor rejection to my request Administrative Decision been receive. Also, no notification of the hearing date been received. I don't know what is going on for the case and called the Rent Adjustment Program office on January 4th and 5th of this year, and then I have learned that the Hearing for the case was held on January 3rd.

This is to appeal for considering to reschedule a new hearing date. Please kindly give the Landlord an opportunity to present the evidences on the Landlord response, including the full Rent Increase Notification letter, the banking calculation, and others supporting documents for reconsideration.

From: Symon Chang & Patty Chang

1088 Doheny Terrace Sunnyvale, CA 94085 2016 NOV -7 PM 12: 54

Date: November 6, 2015

To: Rent Adjustment Program

250 Frank H. Ogawa Plaza, 5th Floor

Oakland, CA 94612

Subject: Request Administrative Decisions on Invalid Tenant Petition Case T16-0524

Pursuant to the Oakland Rent Adjustment Ordinance (OMC §8.22.110) subsection F [8.22.110 F], the owner is requesting an administrative decisions to tenant petition case T16-0524 which the petition forms have not been properly completed, and the petition forms have not been filed in a timely manner, per OMC §8.22.110.E.1.a and b.

The rent increase notice sent on 7/7/2016 with the Rent Program (RAP) Notice sent together on the 07/07/2016. The tenant Kim Panganiban has confirmed received the rent increase notice and RAP Notice on 07/08/2016. The tenant petition is filed on 09/16/2016 which is over 60 days. Pursuant to OMC §8.22.090.A.2, this petition case is invalid. Pursuant to OMC §8.22.110.E.1.b, the Administrative Decisions should be issued.

In addition, the tenant is not contesting any rent increase in this petition on the application form. On page 2 of the tenant petition, "List all rent increases that you want to challenge", no box is checked on "Are you Contesting this Increase in this Petition?" column. Also, the tenant claimed the provided housing services have decreased, but there is no statement of the services that have been reduced or eliminated. This does not meet the requirement for filling the petition per OMC §8.22.090.A.3.c. This petition case is filling incomplete. Pursuant to OMC §8.22.110.E.1.a, the Administrative Decisions should be issued too.

The completed landlord response to case T16-0524 is enclosed which provide more evidences to show the errors and false information on the tenant petition. This addition information provided should be sufficient for the Hearing Officer to issue the Administrative Decision.

It is requested to have an administrative decision, instead of to have a hearing in January 2017 for Case T16-0524.

Best regards,

Symon & Patty Chang, Landlord of 338-340 Lenox Ave. Oakland CA 94610



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:

T16-0524, Paniganiban v. Chang

PROPERTY ADDRESS:

338 Lenox Ave., No. 2 Oakland, CA

DATE OF HEARING:

January 3, 2017

DATE OF DECISION:

January 12, 2017

APPEARANCES:

Andrew Wolf, Esq. Tenant Representative

No Appearance by owner

SUMMARY OF DECISION

The tenant petition is GRANTED IN PART.

INTRODUCTION

The tenant filed a petition on September 16, 2016, which contests a monthly rent increase from \$1,233.52 to \$1,257.37 effective August 15, 2016, and from \$1257.37 to \$1,281.22, effective September 1, 2016, on the grounds that it exceeds the CPI adjustment and is unjustified. She also claims decreased housing services.

The owner filed a timely response to the tenant petition and claims there is only rent increase from \$1,233.52 to \$1,281.22, effective August 15, 2016. is justified on the basis of Banking and denies any decreased housing services.

ISSUES

- 1. Is the rent increase valid?
- 2. Have the tenant's' housing services been decreased?

EVIDENCE

Rent History

The tenant petition states under penalty of perjury that she moved into her unit in November 2003, and that she received two rent increases notices: one from \$1,233.52 to \$1,257.37 and one from \$1,257.37 to \$1,281.22. Notice was given of this increase on July 7, 2016. She checked the box which stated that the increase(s) exceed the CPI adjustment and are unjustified or greater than 10%. However, she did not check the boxes on page two of the tenant petition which asks "Are you contesting this increase in this petition?"

The owner response states under penalty of perjury that there is only one rent increase from \$1233.52 to \$1,281.22, effective September 1, 2016, and notice of this increase was given to the tenant on July 7, 2016.

At the Hearing the attorney for the tenant testified that there is only one increase, from \$1,233.57 to \$1,281.22.

<u>Decreased Housing Services</u>

The tenant claims decreased housing services but did not provide any description of the services claimed that were decreased. The tenant's attorney testified that the purpose of this petition was to preserve the tenant's appeal regarding decreased housing services which was decided in a prior hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Rent Increase

Although the tenant petition did not specify that she was contesting the two rent increases, based on the totality of the circumstances, she is contesting the rent increase from \$1,233.52 to \$1,281.22. She checked the box on page one of the petition which states that she was contesting a rent increase and her attorney testified that the rent increase in issue was the increase from \$1,233.52 to \$1,282.22.

The rent increase was properly noticed. However, the owner did not appear at the Hearing. Therefore, there is no evidence of justification provided for the rent increase and it is denied.

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.¹

¹ O.M.C. Section 8.22.070 (F)

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 claimed decreased housing services in her tenant petition. Therefore, the owner did not have notice of this claim and it is denied.

ORDER

- 1. Petition T16-0524 is granted in part. The rent increase is denied. The tenant's monthly rent remains \$1,233.52;
- 2. The decreased housing service claim is denied.
- 3. 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.

Date: January 12, 2017

Barbara Kong-Brown, Esq. Senior Hearing Officer Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0524

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

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

Tenant

Kim Paniganiban 338 Lenox Ave #2 Oakland, CA 94610

Owner

Symon & Patty Chang 1088 Doheny Terr Sunnyvale, CA 94085

Tenant Representative

Andrew Wolff, Esq. 1956 Webster St Suite 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 January 13, 2017 in Oakland, CA.

Deborah Griffin

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721 For filing stamp.

RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM

2016 NOV -7 PH 12: 54

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

CASE NUMBER	T16	-0524
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OWNER RESPONSE

CIASE I (CIABELL I	<u> </u>	WITER REDI ONDE
Please print legibly.	,	
Your Name Symon Chang	Complete Address (with zip code)	Phone: 510-798-1712
Patty Chang	Sumyvale CA 94085	Email: Symon Shang Qyma, 1: Com
Your Representative's Name (if any)	Complete Address (with zip code)	Phone:
		Fax:
		Email:
Tenant(s) name(s) Kim Paniganikan	Complete Address (with zip code)	
	338 Lenox Ave Apt #12 Oak land CA 94610	
(Provide proof of payment.) There are 15 residential unit	Program Service Fee? (\$30 per unit) Yes s in the subject building. I acquired the b	☑ No □
Is there more than one street address	s on the parcel? Yes \mathbb{A} No \square .	
I. RENTAL HISTORY		
The tenant moved into the rental un	it on $11/01/2003$.	•
The tenant's initial rent including al	l services provided was \$_895/	month.
RESIDENTIAL RENT ADJUSTI	ven the City of Oakland's form entitled NO MENT PROGRAM (" RAP Notice ") to a f yes, on what date was the Notice first given	all of the petitioning tenants?
Is the tenant current on the rent? You	es_ <u>X</u> No	,
If you believe your unit is exempt fi	om Rent Adjustment you may skip to Sec	tion IV. EXEMPTION.

Rev. 2/25/15

If a contested increase was based on Capital Improvem	nents, did	you provi	de an Enhar	iced Notice to
Tenants for Capital Improvements to the petitioning to	enant(s)?	Yes	No	. If yes, on what
date was the Enhanced Notice given?	Did yo	ou submit	a copy of the	Enhanced Notice
to the RAP office within 10 days of serving the tenant? no capital improvements increase.	Yes	No	Not app	licable: there was

Date Notice Given	Date Increase Effective	Amount Rent Increased		Did you provid	
(mo/day/year)	(mo/day/year)	From	То	notice of rent i	ncrease?
7/7/2016	08/15/2016	\$ 1,233,53	\$ 1,281,23	∜Yes	□ No
4/23/2015	06/01/2015	\$ 1.167.00	\$ 1,233,52	Yes	□No
12/31/2012	05/01/2013	\$ 1.105,00	\$ 1.167.00	Yes	□ No
02/28/2012	04/01/2012	\$ 1,050,00	\$ 1,105,00	□ Yes	y⊒ No
on Known	04/01/2007	\$ 995,00	\$ 1,050,00	Carporking Yes	⊠∶No
NA	11/01/2003	\$	\$ 895.66	Cro Paktri) Yes	₽ĴNo
	1	Caralastal.	And the second of	1 de la companya del companya de la companya del companya de la co	

* See Attached ExitiBIT3 for completed just increase history.

II. JUSTIFICATION FOR RENT INCREASE

You must prove that each contested rent increase greater than the Annual CPI Adjustment is justified and was correctly served. Use the following table and check the applicable justification(s) box for each increase contested by the tenant(s) petition. For a summary of these justifications, please refer to the "Justifications for Increases Greater than the Annual CPI Rate" section in the attached Owner's Guide to Rent Adjustment.

<u>Date of</u> <u>Increase</u>	Banking (deferred annual increases_)	Increased Housing Service Costs	Capital Improve- ments	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
08/15/2016	Ø					
		. 🗆				
			. 🗆			

For each justification checked, you must submit organized documents demonstrating your entitlement to the increase. Please see the "Justifications" section in the attached Owner's Guide for details on the type of documentation required. In the case of Capital Improvement increases, you must include a copy of the "Enhanced Notice to Tenants for Capital Improvements" that was given to tenants. Your supporting documents do not need to be attached here, but are due in the RAP office no later than seven (7) days before the first scheduled Hearing date.

III. DECREASED HOUSANG 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 on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. EXEMPTION	IV	7.	E	KE	MP	TI	\mathbf{O}	١
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If you c	laim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22),
please	check one or more of the grounds:
	The unit is a single family residence or condominium exempted by the Costa Hawkins Rental
	Housing Act (California Civil Code 1954.50, et seq.). If claiming exemption under Costa-
	Hawkins, please answer the following questions on a separate sheet:
1.	Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2.	Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
3.	Was the prior tenant evicted for cause?
4.	Are there any outstanding violations of building housing, fire or safety codes in the unit or building?
5.	Is the unit a single family dwelling or condominium that can be sold separately?
6.	Did the petitioning tenant have roommates when he/she moved in?
7.	If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?
	The rent for the unit is controlled , regulated or subsidized by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.
	The unit was newly constructed and a certificate of occupancy was issued for it on or after January 1, 1983.
	On the day the petition was filed, the tenant petitioner was a resident of a motel, hotel, or
	boarding house for 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

V. IMPORTANT INFORMATION

Time to File. This form must be received by the Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612-0243, within 35 days of the date that a copy of the Tenant Petition was mailed to you. (The date of mailing is shown on the Proof of Service attached to the Tenant Petition and other response documents mailed to you.) A postmark does not suffice. 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. If you wish to deliver your completed Owner Response to the Rent Adjustment Program office in person, go to the City of Oakland Housing Assistance Center, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland, where you can date-stamp and drop your Response in the Rent Adjustment drop box. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m. You cannot get an extension of time to file your Response by telephone.

continuously as his or her principal residence and has done so for at least one year.

NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.

<u>File Review.</u> You should have received a copy of the petition (and claim of decreased services) filed by your tenant with this packet. Other documents provided by the tenant will not be mailed to you. You may review additional documents in the RAP office by appointment. For an appointment to review a file or to request a copy of documents in the file call (510) 238-3721.

VI. VERIFICATION

Owner must sign here:

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.

Owner's Signature U/07/2016

Date

VII. MEDIATION AVAILABLE

Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

If the parties reach an agreement during the mediation, a written Agreement will be prepared immediately by the mediator and signed by the parties at that time. If the parties fail to settle the dispute, the case will go to a formal Rent Adjustment Program Hearing, usually the same day. A Rent Adjustment Program staff Hearing Officer serves as mediator unless the parties choose to have the mediation conducted by an outside mediator. If you and the tenant(s) agree to use an outside mediator, please notify the RAP office at (510) 238-3721. 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. (There is no charge for a RAP Hearing Officer to mediate a RAP case.)

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner 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).

Owner's Signature Date

TILE-0524 MG BKB

CITY OF OAKLAND

RENT ADJUSTMENT PROGRAM

Mail To: P. O. Box 70243

Oakland, California 94612-0243

(510) 238-3721

For date stamp.

RECEIVED

SEP 1 6 2016

OAKLAND RENT ADJUSTMENT

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

TENANT PETITION

Please print legibly

Your Name	Rental Address (with zip code)	Telephone
Kim Paniganiban	338 Lenox Avenue#2 Oakland, CA 94610	(510) 915-0868
Your Representative's Name Andrew Wolff, Esq.	Mailing Address (with zip code) 1956 Websterstreet STE 275	Telephone (510) 834-3300
Property Owner(s) name(s)	Mailing Address (with zip code)	Telephone
Symon Chang Patty Chang	1088 Doneny Terrace Sunnyvale, CA 94085	

Number of units on the property:

Type of unit you rent (circle one)	House	Condominium	Apartment, Room, or Live-Work
Are you current on your rent? (circle one)	Yes	No	Legally Withholding Rent. You must attach an explanation and citation of code violation.

<u>I. GROUNDS FOR PETITION</u>: 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 increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
 - (b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
 - (c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
 - (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) 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.
 - (f1) The housing services I am being provided have decreased. (Complete Section III on following page)
 - (f2) At present, there exists a health, safety, fire, or building code violation in the unit. If the owner has been cited in an inspection report, please attach a copy of the citation or report.
 - (g) The contested increase is the second rent increase in a 12-month period.
 - (h) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the enhanced notice was not filed with the RAP.
 - (i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
 - (j) 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).
 - (k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

I to Lest subject to defermination of my Applal

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 08/01/2016 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 Rent Adjustment Program Hearing Officer the same day.
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:
<u>Time to File</u> This form must be <u>received</u> 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 The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file 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

Other (describe): _

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

Date you moved into the Unit: November 11, 2003	Initial Rent: \$	_/month
When did the owner first provide you with a written NOTI Adjustment Program (RAP NOTICE)? Date: Jaiy 7, 2		

• 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. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Ren	t Increased To	Are you C this Increa Petiti	ise in this	Did You Receive a Rent Program Notice With the Notice Of Increase?		
07/07/16	08/15/14	\$ 1,233.52	\$ 1,257.37	□Yes	□No	□(Yes	□No	
08/15/14	09/01/14	\$ 1,257,37	\$ 1,281.22	□Yes	□No	□ Ø Yes	□ No	
		\$	\$	□ Yes	□No	□ Yes	□No	
		\$	\$	□ Yes	□ No	□ Yes	□ No	
		\$	\$	□ Yes	□ No	□ Yes	□No	
		\$	\$	□ Yes	□No	□ Yes	□No	

^{*} You have 60 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 never got the RAP Notice you can contest all past increases.

List case number(s) of all Pet	A141	C. (1.1 1	ー・15-27/2	
List case hilmher(s) of all Pel	rition(s) voii nave ever tiled	tor this rental linit.	1-17-0245	
Dist ouse municol(s) of an i o	dition(b) you have ever fined	TOT THE TOTTER GITTE.	, , , , , , , , , , , , , , , , , , , ,	

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 service problems, you must complete this section.

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

If you answered "Yes" to any of the above, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include at least the following: 1) a list of the lost housing service(s) or serious problem(s); 2) the date the loss(es) began or the date you began paying for the service(s); and 3) how you calculate the dollar value of lost problem(s) or service(s). Please attach documentary evidence if available.

To have a unit inspected and code violations cited, contact the City of Oakland, Code Compliance Unit, 250 Frank H. Ogawa Plaza, 2nd Floor, Oakland, CA 94612. Phone: (510) 238-3381

Tenant Petition, effective 1-15-15

CHRONOLOGICAL CASE REPORT

Case No.:

T16-0644 & T17-0046

Case Name:

Jones v. Guiton

Property Address:

5418 Telegraph Avenue, Oakland, CA

Parties:

Arinthia Jones (Tenant)

Jessie Guiton (Property Owner)

TENANT APPEAL:

Activity

Date

Tenant Petition filed

November 14, 2016 &

January 26, 2017

Dismissal issued

March 16, 2017

Tenant Appeal filed

March 27, 2017

RENT ARBITRAL

RECEIVED
SITY OF STATE AND
RENT ARSTRATION OF GRAM

	JUL 7 Ad no	F (15. (3))	MAM SUITMAN AS AL
City of Oakland Residential Rent Adjustment Program	NAK 27	PH 3.5	2011 MAR 27 PH 3-57
250 Frank Ogawa Plaza, Suite 5313			APPEAL
Oakland, California 94612	•		
(510) 238-3721			
Appellant's Name			
_Arinthia Jones	ing di kacamatan di Kabupatèn Kabupatèn di Kabupatèn di Kabupat Kabupatèn di Kabupatèn di Kabupa		Landlord □ Tenant
Property Address (Include Unit Number)			alli aliku kanan da aliku da anan da aliku da anan da a Anan da anan d
5418 Telegraph: Oakland, CA 9	Avenu	e	
<u></u>			
Appellant's Mailing Address (For receipt of	notices)	Case Nu	umber
5419 Talparanh	Art inio	T160-	-0644, TI7-0046
5418 Telegraph / Oakland CA94	(100	Date of D	Decision appealed
	607	Mar	rch 6,2017
lame of Representative (if any)	Repres	sentative's	s Mailing Address (For notices)
	ta de la companya de	ym e 🕶 a e e	
NA			NA
		•	A STATE OF THE STA

ippeal the decision issued in the case and on the date written above on the following grounds: (Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

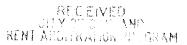
- 1.

 The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
- 2.
 ☐ The decision is inconsistent with decisions issued by other hearing officers. You must identify the prior inconsistent decision and explain how the decision is inconsistent.
- 3.

 ☐ The decision raises a new policy issue that has not been decided by the Board. You must provide a detailed statement of the issue and why the issue should be decided in your favor.
- **4.** □ The decision is not supported by substantial evidence. You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
- I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.

 You must explain how you were denied a sufficient opportunity 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.
- 6.

 The decision denies me a fair return on my investment. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.



7. 🗆 Other. You	must attach a detailed explanation of your grounds for appeal. Submissions to the Bo
are limited to 25 pag pages consecutively	ges from each party. Number of pages attached
March 27, 20 mail or deposited it	declare under penalty of perjury under the laws of the State of California that on 0.17 , I placed a copy of this form, and all attached pages, in the United States with a commercial carrier, using a service at least as expeditious as first class
Name	ge or charges fully prepaid, addressed to each opposing party as follows:
	Jessie Guiton
<u>Address</u>	682 Arimo Avenue
City, State Zip	Oakland, CA 94610
<u>Name</u>	
<u>Address</u>	
City, State Zip	
THA A	

IMPORTANT INFORMATION:

This appeal must be <u>received</u> 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 <u>must</u> provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment
 Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing:
 - The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

2017 MAR 27 PM 3:57

TO:

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

March 27, 2017

From: Arinthia Jones - Tenant 5418 Telegraph Avenue Oakland, CA 94609

RE: DISMISSAL

CASE NUMBER: T16-0644, JONES v. GUITON

T17-0046, JONES v. GUITON

I, Arinthia Jones, appeal the decision of DISMISSAL for the above reference case numbers. My appeal is based on the following facts for consideration:

- 1. The date of my hearing was changed several times within a short period of time. Enclosed are copies of three different notices mailed to my address.
- 2. I could not get into my mailbox. Enclosed are two letters (with the rent check(s) included) dated February 3 and March 2, mailed to the landlord, Guiton, requesting repair(s).

3. The mailbox was finally repaired on March 16, 2017.

3-27-2017

000057

PAGE ONE 3.27.17



250 FRANK H. OGAWA PLAZA, SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Department of Housing and Community Development Rent Adjustment Program

TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

AMENDED NOTICE OF HEARING

Case No.

T16-0644, L17-0009, Jones v. Guiton

Property Address: 5418 Telegraph Avenue

Oakland, CA

Background

This Hearing was scheduled for March 9, 2017. Due to staffing issues the Hearing on March 9, 2017, is cancelled and is now re-scheduled as follows:

DATE:

March 30, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the Hearing, the Notice of Hearing of January 9, 2017, is still in effect.

Date: February 21, 2017

BARBARA KONG-BROWN, ESQ.

Senior Hearing Officer Rent Adjustment Program

000058

PAGE TWO 3-27-17



250 FRANK H. OGAWA PLAZA, SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Department of Housing and Community Development Rent Adjustment Program TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

AMENDED NOTICE OF HEARING

Case No.

T16-0644, T17-0009, Jones v. Guiton

Property Address: 5418 Telegraph Avenue

Oakland, CA

Background

This Hearing was scheduled for March 9, 2017. Due to staffing issues the Hearing on March 9, 2017, is cancelled and is now re-scheduled as follows:

DATE:

March 10, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the Hearing, the Notice of Hearing of November 15, 2016, is still in effect.

Date: February 27, 2017

BARBARA KONG-BROWN. ESQ.

Senior Hearing Officer Rent Adjustment Program

000059

PAGE THREE
3-27-17



250 FRANK H. OGAWA PLAZA , SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Department of Housing and Community Development Department Rent Adjustment Program

TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

ORDER RE CONSOLIDATION OF HEARING

Case No. T17-0046, Jones v. Guiton

Property Address: 5418 Telegraph Avenue, Oakland, CA

<u>Background</u>

Cases No. T16-0644 and T17-0009, entitled "Jones v. Guiton" are scheduled for Hearing on March 10, 2017. The issues are identical to the current petition, T17-0046, filed by the tenant.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the Hearing for Case No T17-0046 shall be consolidated and is scheduled as follows:

DATE:

March 10, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the hearing, the original Notice of Hearing is still in effect.

Date: March 1, 2017

BARBARA KONG-BROWN. ESQ.

Senior Hearing Officer Rent Adjustment Program

000060

PAGE FOUR 3-27-17

Arinthic Jones 5418 Telegraph AV, Oakland 94609 Feb 3, 2017 Jessie, Ineedanew moultoox lock Key Lockcylinder, asapl The mailbox key does not work into The lock's cylinder. Thank you Arinthia FCV-3, 2017
DATE
11-7647/3210
27 ARINTHIA L JONES 5418 TELEGRAPH AVE PAGE PAY TO THE LESS LE GUSTON J\$ 943,20

Nine Hundred Jorth Hural & Wenty Carlo DOLLARS 60 Separation Delical Control Dollars 60 Delical Control Dollars 60 Delical Control Dollars 60 Delical Control Dollars 60 Delical Control FIVE 3-27-17

ZULT MAR 27 PM 3: 5

Jessie Guiton - Landlord 682 Arimo Ave Oakland, CA 94610

Repairs as discussed over the phone this week:

Bathroom sink has leak underneath.

Hairline earthquake crack has become a large area for repair (plaster loosen and fallen) under the front room window

I need new mailbox key lock / unit. The one there is rusted and difficult to put key into lock to open with key.

Arinthia Jones - tenant 5418 Telegraph Av Oakland, CA 94609

000062

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

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

DISMISSAL

CASE NUMBER:

T16-0644, Jones v. Guiton

T17-0046, Jones v. Guiton

PROPERTY ADDRESS:

5418 Telegraph Avenue

Oakland, CA

PARTIES:

Arinthia Jones

Tenant

Jessie Guiton

Owner

DATE OF HEARING:

March 10, 2017

APPEARANCES:

No Appearance by Tenant

SUMMARY OF DECISION

The tenant's petition is dismissed.

INTRODUCTION

The tenant filed a petitions on November 14, 2016, and January 26, 2017, which contested a rent increae and alleged decreased housing services. The Hearing was conducted on March 10, 2017 and the tenant did not appear.

The Notice of Hearing regarding T16-0644 was sent on November 15, 2016, with a proof of service and has not been returned to the Rent Adjustment program. An Order to consolidate both cases for hearing on March 10, 2017, was sent to the parties with a proof of service on March 1, 2017, and has not been returned to the Rent Adjustment Program. The Notice of Hearing and Order to consolidate the hearings was properly served and the tenant did not appear at the hearing. The tenant petition is dismissed.

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.	lf	the	Rent	Adjustn	nent	Office	is
closed	on	the last	day	to f	ile, the ap	peal m	ay	be filed o	n/	the r	next bu	usiness	day.		

Dated: March 10, 2017

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

PROOF OF SERVICE

Case Number T16-0644

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 16, 2017 in Oakland, CA.

Deborah Griffin

PROOF OF SERVICE

Case Number T16-0644

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 07, 2017 in Oakland, CA.

Esther K. Rush

Oakland Rent Adjustment Program

CITY of OAKLAND

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



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

NOTICE OF HEARING

File Name:

Jones v. Guiton

Property Address:

5418 Telegraph Avenue Oakland, CA 94609

Case Number:

T17-0009

The Hearing in your case will begin:

Date:

Thursday, March 09, 2017

Time:

10:00 a.m.

Place:

250 Frank H. Ogawa Plaza, Ste. #5313, Oakland, CA 94612

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

Order to Produce Evidence

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

Request to Change Date

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

Hearing Record

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

Inspections

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

Representatives

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

Interpreter

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

Failure to Appear for Hearing

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

Accommodations

Hearings are held in a wheelchair accessible facility. Contact the Office of the City Clerk, One Frank H. Ogawa Plaza, or call (510) 238-3611 (VOICE) or (510) 839-6451 (TTY) to arrange the following services: 1) Sign interpreter or Phonic Ear Hearing Device for the hearing impaired; 2) large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to the hearing. Please refrain from wearing strongly scented products to hearings.

Service Animals

The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use services animals or emotional support animals.

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

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

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

PROOF OF SERVICE

Case Number T17-0009

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 09, 2017 in Oakland, CA.

Deborah Griffin

Oakland Rent Adjustment Program

PROOF OF SERVICE

Case Number T17-0009

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 Notice of Hearing 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:

Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 09, 2017 in Oakland, CA.

Deborah Griffin

Oakland Rent Adjustment Program

250 FRANK H. OGAWA PLAZA , SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Department of Housing and Community Development Department Rent Adjustment Program

TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

ORDER RE CONSOLIDATION OF HEARING

Case No. T17-0046, Jones v. Guiton

Property Address: 5418 Telegraph Avenue, Oakland, CA

Background

Cases No. T16-0644 and T17-0009, entitled "Jones v. Guiton" are scheduled for Hearing on March 10, 2017. The issues are identical to the current petition, T17-0046, filed by the tenant.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the Hearing for Case No. T17-0046 shall be consolidated and is scheduled as follows:

DATE:

March 10, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the hearing, the original Notice of Hearing is still in effect.

Date: March 1, 2017

BARBARA KONG-BROWN. ESQ.

Senior Hearing Officer Rent Adjustment Program

PROOF OF SERVICE

Case Number T17-0046

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 01, 2017 in Oakland, CA.

Esther K. Rush

Case Number T17-0009

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 01, 2017 in Oakland, CA.

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Department of Housing and Community Development Rent Adjustment Program

TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

AMENDED NOTICE OF HEARING

Case No.

T16-0644, T17-0009, Jones v. Guiton

Property Address: 5418 Telegraph Avenue

Oakland, CA

Background

This Hearing was scheduled for March 9, 2017. Due to staffing issues the Hearing on March 9, 2017, is cancelled and is now re-scheduled as follows:

DATE:

March 10, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the Hearing, the Notice of Hearing of November 15, 2016, is still in effect.

Date: February 27, 2017

BARBARA KONG-BROWN. ESQ.

Case Number T17-0009

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.

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Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609 Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 28, 2017 in Oakland, CA.

Deborah Griffin

CHRONOLOGICAL CASE REPORT

Case No.:

T17-0009

Case Name:

Jones v. Guiton

Property Address:

5418 Telegraph Avenue, Oakland, CA

Parties:

Arinthia Jones (Tenant)

Jessie Guiton (Property Owner)

TENANT APPEAL:

Activity

Date

Tenant Petition filed

January 5, 2017

Dismissal issued

March 16, 2017

Tenant Appeal filed

April 6, 2017

RECEIVED CITY CONTROL OF THE RENT ARBITRATION PROGRAM

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250 Frank Ogawa Plaza, Suite 5313		** A DI	PÉAL
Oakland, California 94612		ALL.	. LIALI
(510) 238-3721			
Appellant's Name			
Arinthia Jones		Landlor	d □ Tenant x
Property Address (Include Unit Number)			
5418 Telegraph A	trenue		
Cakland, CA 90	1609		
Appellant's Mailing Address (For receipt of no	tices) Ca	se Number	
5418 Telegraph	Ave	T17-6	009
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appeal the decision issued in the case and	l on the date w	ritten above on the	following grounds:

ppeal the decision issued in the case and on the date written above on the following grounds (Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

- 1.

 The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board. You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
- 2.

 ☐ The decision is inconsistent with decisions issued by other hearing officers. You must identify the prior inconsistent decision and explain how the decision is inconsistent.
- 3.

 The decision raises a new policy issue that has not been decided by the Board. You must provide a detailed statement of the issue and why the issue should be decided in your favor.
- **4.** □ The decision is not supported by substantial evidence. You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
- 1 was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.

 You must explain how you were denied a sufficient opportunity 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.
- 6. ☐ The decision denies me a fair return on my investment. You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

be dismissed.	ges from each party. Number of pages attached 1 Also see appeals case no serve a copy of your appeal on the opposing party declare under penalty of perjury under the laws of the	(ies) or y	our appeal I	may
mail or deposited i mail, with all posta	00, I placed a copy of this form, and all attached part with a commercial carrier, using a service at least as ge or charges fully prepaid, addressed to each opposit	ages, in th	ie United Sta	toc
<u>Name</u>	Jessie Guiton		•	
<u>Address</u>	682 Arimo Avenue			
City, State Zip	Oakland, CA 946	10		ALKI WI
<u>Name</u>			<u> </u>	
\ddress				
City, State Zip			 57 N	
			2017	

IMPORTANT INFORMATION:

This appeal must be <u>received</u> 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 <u>must</u> provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment
 Program by 3:00 p.m. on the 8th day before the appeal hearing.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
 - The Board will not consider new evidence at the appeal hearing without specific approval.
 - You must sign and date this form or your appeal will not be processed.

Case Number: T17-000)
See attachments in appeal T16-0644
appeal T16-0644
and T17-0046

RENT ARBITRATION POTERAM

2017 MAR 27 PM 3: 57

TO:

April 6,2017 Department of Housing and Community Development

Rent Adjustment Program

P.O. BOX 70243

Oakland, CA 94612-2043

March 27, 2017

From: Arinthia Jones - Tenant

5418 Telegraph Avenue Oakland, CA 94609

RE:

DISMISSAL

CASE NUMBER:

T16-0644, JONES v. GUITON

T17-0046, JONES v. GUITON

I, Arinthia Jones, appeal the decision of DISMISSAL for the above reference case numbers. My appeal is based on the following facts for consideration:

- 1. The date of my hearing was changed several times within a short period of time. Enclosed are copies of three different notices mailed to my address.
- 2. I could not get into my mailbox. Enclosed are two letters (with the rent check(s) included) dated February 3 and March 2, mailed to the landlord, Guiton, requesting repair(s).
- 3. The mailbox was finally repaired on March 16, 2017.

27-20

000079



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

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

DISMISSAL

CASE NUMBER:

T17-0009, Jones v. Guiton

PROPERTY ADDRESS:

5418 Telegraph Avenue

Oakland, CA

PARTIES:

Arinthia Jones

Tenant

Jessie Guiton

Owner

DATE OF HEARING:

March 10, 2017

APPEARANCES:

No Appearance by Tenant

SUMMARY OF DECISION

The tenant's petition is dismissed.

INTRODUCTION

The tenant filed a petitions on November 14, 2016, and January 26, 2017, which contested a rent increase and alleged decreased housing services. The Hearing was conducted on March 10, 2017 and the tenant did not appear.

The Amended Notice of Hearing was sent on February 28, 2017, with a proof of service and has not been returned to the Rent Adjustment program. The Notice of Hearing was properly served and the tenant did not appear at the hearing. The tenant petition is dismissed.

<u>Right to Appeal</u>: 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: March 23, 2017

BARBARA KONG BROWN, ESQ.

Case Number T17-0009

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609 Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 24, 2017 in Oakland, CA.

Case Number T17-0009

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

Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 07, 2017 in Oakland, CA.

Esther K. Rush

Oakland Rent Adjustment Program

CITY of OAKLAND

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



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

NOTICE OF HEARING

File Name:

Jones v. Guiton

Property Address:

5418 Telegraph Avenue Oakland, CA 94609

Case Number:

T17-0009

The Hearing in your case will begin:

Date:

Thursday, March 09, 2017

Time:

10:00 a.m.

Place:

250 Frank H. Ogawa Plaza, Ste. #5313, Oakland, CA 94612

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

Order to Produce Evidence

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

Request to Change Date

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

Hearing Record

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

Inspections

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

Representatives

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

Interpreter

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

Failure to Appear for Hearing

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

Accommodations

Hearings are held in a wheelchair accessible facility. Contact the Office of the City Clerk, One Frank H. Ogawa Plaza, or call (510) 238-3611 (VOICE) or (510) 839-6451 (TTY) to arrange the following services: 1) Sign interpreter or Phonic Ear Hearing Device for the hearing impaired; 2) large print, Braille, or cassette tape text for the visually impaired. The City of Oakland complies with applicable City, State and Federal disability related laws and regulations protecting the civil rights of persons with environmental illness/multiple chemical sensitivities (EI/MCS). Auxiliary aids and services and alternative formats are available by calling (510) 238-3716 at least 72 hours prior to the hearing. Please refrain from wearing strongly scented products to hearings.

Service Animals

The City of Oakland Rent Adjustment Program is committed to providing full access to qualified persons with disabilities who use services animals or emotional support animals.

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

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

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

Case Number T17-0009

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.

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Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 09, 2017 in Oakland, CA.

Deborah Griffin

Oakland Rent Adjustment Program

Case Number T17-0009

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.

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Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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Deborah Griffin

Oakland Rent Adjustment Program

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA , SUITE 5313 P.O. BOX 70243 OAKLAND, CA 94612-2034

Department of Housing and Community Development Department Rent Adjustment Program

TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

ORDER RE CONSOLIDATION OF HEARING

Case No. T17-0046, Jones v. Guiton Property Address: 5418 Telegraph Avenue, Oakland, CA

Background

Cases No. T16-0644 and T17-0009, entitled "Jones v. Guiton" are scheduled for Hearing on March 10, 2017. The issues are identical to the current petition, T17-0046, filed by the tenant.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the Hearing for Case No. T17-0046 shall be consolidated and is scheduled as follows:

DATE:

March 10, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the hearing, the original Notice of Hearing is still in effect.

Date: March 1, 2017

BARBARA KONG-BROWN. ESQ.

Case Number T17-0046

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.

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Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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Case Number T17-0009

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Tenant

Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609

Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA , SUITE 5313 · P.O. BOX 70243 · OAKLAND, CA 94612-2034

Department of Housing and Community Development Rent Adjustment Program TEL (510) 238-3721 FAX (510) 238-6081 TDD (510) 238-7629

AMENDED NOTICE OF HEARING

Case No.

T16-0644, T17-0009, Jones v. Guiton

Property Address: 5418 Telegraph Avenue

Oakland, CA

Background

This Hearing was scheduled for March 9, 2017. Due to staffing issues the Hearing on March 9, 2017, is cancelled and is now re-scheduled as follows:

DATE:

March 10, 2017

TIME:

10:00 a.m.

PLACE:

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, California.

Other than the date of the Hearing, the Notice of Hearing of November 15, 2016, is still in effect.

Date: February 27, 2017

BARBARA KONG-BROWN. ESQ.

Case Number T17-0009

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.

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Arinthia Jones 5418 Telegraph Ave Oakland, CA 94609 Owner

Jessie Guiton 682 Arimo Ave Oakland, CA 94610

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 28, 2017 in Oakland, CA.

Deborah Griffin