

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
APPEAL PANEL**

October 19, 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 Cases:
 - a. T16-0159; Manivong et al v. Huang
T16-0160; Brodsky v. Huang
T16-0169; Beierly v. Huang
 - b. T16-0310; Freire v. Wong
 - c. T16-0601; Ghanem v. Parker, et al.
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.

2017 OCT 11 PM 3:29

OFFICE OF THE CITY CLERK
OAKLAND

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

Case Nos.: T16-0159, T16-0160, T16-0169

Case Names: Manivong et al v. Huang
Brodsky v. Huang
Beierly v. Huang

Property Address: 1838 Fifth Avenue, Units 1,2 &3, Oakland, CA

Parties: Tenants:
Julie Manivong & Gary Wong
Galen Brodsky
Sean Beierly

Property Owner:
Yong E. Huang

PROPERTY OWNER AND TENANT APPEAL

<u>Activity</u>	<u>Date</u>
Tenant Petitions filed	March 22 & 30, 2016
Owner Responses filed	April 27, 2016
Hearing Decision issued	December 14, 2016
Owner Appeal filed	December 27, 2016
Tenant Appeal filed in case T16-0159	December 27, 2016
Tenant Response to Appeals filed (for cases T16-0159 & T16-0160)	February 2, 2017

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City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721	RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM APPEAL 2016 DEC 27 PM 1:22
Appellant's Name Julie Manivong & Gary Wong	Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/>
Property Address (Include Unit Number) 1838 Fifth Ave., Unit#3, Oakland, CA 94606	
Appellant's Mailing Address (For receipt of notices) 1838 Fifth Ave., Unit#3, Oakland, CA 94606	Case Number T16-0159 Date of Decision appealed 12/8/2016
Name of Representative (if any) Leah Hess	Representative's Mailing Address (For notices) Law Office of Leah Hess 1736 Franklin Street, 10th Floor Oakland, CA 94612

I appeal the decision issued in the case and on the date written above on the following grounds:

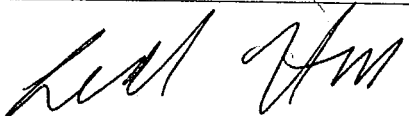
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

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. SEE ATTACHED.
5. 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 Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively. SEE ATTACHED

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on December 22, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Yong E. Huang (Landlord)
<u>Address</u>	17050 Rolando Avenue
<u>City, State Zip</u>	Castro Valley, CA 94546
<u>Name</u>	Yan Ling (Elaine) Huang (Landlord's Agent)
<u>Address</u>	18448 Carlton Ave.
<u>City, State Zip</u>	Castro Valley, CA 94546

	12/21/2016
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all 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.

4. **Decision not supported by the evidence:**

There is a clerical error in the findings of fact and conclusions of law. As a result, the findings/conclusions are inconsistent with the evidence presented. Moreover, the findings do not support the conclusions. Since the issue arises from a clerical/typographical error, Tenant requests that it be remedied through an Administrative Appeal Decision and spare the parties and the RAP Program the inconvenience and expense of another hearing.

Page 2 of the Hearing Decision correctly describes the final rent increase, effective May 1, 2016 as "from \$1,100 to \$1,200, effective May 1, 2016." This is the amount of rent raised and paid. The Decision describes the evidence admitted which supports the statement: "The tenants paid all of the rent increases and submitted copies of receipts showing the payments made."

Page 4: However, under "FINDINGS OF FACT AND CONCLUSIONS OF LAW", the chart entitled "**OVERPAID RENT**", contains an apparent typo. It states that the tenant paid \$1,100 per month after May 1, 2016, not \$1,200, as described on page 2. For that reason, the total rent overpayment up through October 2016 was \$600 more than reflected in the "**TOTAL OVERPAID RENT**" summary on page 4. The total should have been \$13,600 (not \$13,000)

In addition, the Tenant has continued to pay the amount of \$1,200 during November and December 2016. She asks that the Decision be amended to reflect the two additional months of \$550 overpayments. This \$1,100 should be added to the "**TOTAL RENT OVERPAID**" summary, making a total of \$14,700.

7. **Other**

Page 6: Paragraph 5 of the **ORDER** are nearly incomprehensible and do not offer the guidance needed by the parties in implementing the Decision.

Paragraph 5 states that "Upon restoring the decreased service identified in this decision, the owner may increase the monthly rent by \$13.00 in accordance with the notice requirements of California Civil Code §827."

The landlord has yet to provide the tenants with the required notice of the existence of the RAP program. May the \$13.00 increase be imposed without complying with the notice requirements of the Ordinance? Or must the owner provide the appropriate RAP notices prior to imposing the increase? As it stands, the owner may be led to believe that she need not provide other required notices, so long as she has provided the RAP notice and has complied with Civil Code §827. Tenant requests that the Board amend the Decision to address this issue.

Paragraph 6 also suffers from ambiguity. It would be more informative to state that rent may be raised six months after proper service of the Notice of existence of the RAP program, in accordance with *all other notice requirements of the Ordinance*, and in accordance with California Civil Code §827.

2016 DEC 27 PM 3:01

APPEAL

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721			
Appellant's Name Yong E Huang		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 1838 5TH AVE unit #3 Oakland, CA 94606			
Appellant's Mailing Address (For receipt of notices) 17050 Rolando AVE Castro Valley, CA 94546		Case Number T16-0159 Date of Decision appealed 12/26/2016	
Name of Representative (if any) Yan Ling Huang		Representative's Mailing Address (For notices) 18448 Carlton Ave, Castro Valley CA 94546	

Appeal 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.
5. 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.

To whom it may concern,

I am the owner of 1838 5th Ave located in oakland. I am writing an appeal to the rent board of Oakland. The reason I couldn't attend the last hearing was because I was on my honeymoon. I had my wedding on 9/10/16 and two weeks later my husband and I went on our honeymoon. Due to the hearing being set up a few month before, and I have been busy with my wedding and forgot about the hearing.

Sincerely ,

Yong E Huang

A handwritten signature in black ink, appearing to read 'Yong E Huang', written in a cursive style.

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Visa Signature®

4400 6661 8091 6641
 August 22 - September 21, 2016
 Page 3 of 6

Transactions Summary

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount
Purchases and Adjustments					
08/24	08/26	COMFORT INN CASTRO VALLEYCA	9447	6641	114.40
		ARRIVAL DATE 08/23/16			
08/24	08/26	COMFORT INN CASTRO VALLEYCA	9454	6641	114.40
		ARRIVAL DATE 08/23/16			
08/28	08/29	GAP OUTLET US 1050 LIVERMORE CA	1710	6641	24.63
08/28	08/29	U.S. POLO ASSN. OUTLET LIVERMORE CA	2379	6641	93.05
08/28	08/30	GHIRARDELLI #137 - LIV LIVERMORE CA	0691	6641	83.95
09/03	09/05	WAL-MART #2648 SAN LEANDRO CA	9752	6641	95.21
09/03	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	9255	6641	301.06
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	1281	6641	5.49
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	0564	6641	179.98
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	0572	6641	3.94
09/09	09/10	WAL-MART #2648 SAN LEANDRO CA	6869	6641	29.02
09/10	09/12	HONG KONG EAST OCEAN SEAFEMERVILLE CA	4310	6641	9,158.45
09/19	09/20	WAL-MART #2648 SAN LEANDRO CA	1607	6641	27.96
					WEDPI COST
					9,158.45
					\$10.45

2016 Totals Year-to-Date	
Total fees charged in 2016	\$0.00
Total interest charged in 2016	\$0.00

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謹訂于

公历二〇一六年九月十日 星期六晚

女 莫泳斌

为爱

举行结婚典礼敬备喜筵

婿 莫加明

假座 香港东海海鲜酒家

恭候

光临

五时

恭候

六时

入席

莫齐均

敬约

莫秀英

喜结良缘

will be with you in

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2017 FEB -2 AM 11:28

Leah Hess, SBN 126800
Law Office of Leah Hess
1736 Franklin Street, 10th Floor
Oakland, CA 94612
Telephone: (510) 451-3103
Facsimile: (510) 444-1704
email: leahhess2@sbcglobal.net

Attorney for Tenants, Julie Manivong and Gary Wong

TENANTS' RESPONSE TO OWNER'S APPEAL

Case Name: *Manivong et al v. Huang*
Case Number: T16-0159
Property Address: 1838 Fifth Avenue, Unit#3, Oakland, CA 94606

TO THE CITY OF OAKLAND RENT ADJUSTMENT PROGRAM AND TO
PROPERTY OWNER YONG E. HUANG AND HER REPRESENTATIVE YAN LING
HUANG:

Tenants, Julie Manivong and Gary Wong respond to Owner Yong E. Huang's Appeal of
the Hearing Decision in the above case as follows:

I. THE HEARING EXAMINER'S DECISION IN AWARDING A RENT REBATE WAS CORRECT.

On March 22, 2016, tenants Julie Manivong and Gary Wong filed a Petition alleging
unjustified rent increases by Owner Yong E. Huang. They subsequently filed documents and
photographs supporting their Petition. On April 27, 2016, owner Yong E. Huang filed a
Response to the Petition alleging capital improvements as justification for the 2016 rent increase.
The owner did not submit any documents in support of her Response.

On March 22, 2016, a Notice of Hearing was sent to all parties listing the Hearing Date as
July 12, 2016. The owner filed a Request to Change Date of Hearing on June 10, 2016 because
she would be traveling out of the country. The Rent Board issued an Order continuing the
Hearing until October 3, 2016.

The tenants testified at the October 3, 2016 hearing about the facts supporting their
claims of unjustified rent increases. Owner Yong E. Huang did not appear at the hearing, nor did
her Representative, Yan Ling Huang.

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The owner did not state any facts in support of her claims of capital improvements. She did not submit any documents in support of her claims and did not attend the hearing.

The Hearing Examiner properly awarded a rent rebate to the tenants in a Hearing Decision issued on December 8, 2016.

II.
THE OWNER DID NOT SHOW GOOD CAUSE FOR
HER FAILURE TO APPEAR AT THE HEARING

On or about December 27, 2016, Owner Yong E. Huang filed an Appeal of the Hearing Decision. As grounds for her appeal, she stated:

"The reason I couldn't attend the last hearing was because I was on my honeymoon. I had my wedding on 9/10/16 and two weeks later my husband and I went on our honeymoon. Due to the hearing being set up a few months before, and I have been busy with my wedding and forgot about the hearing."

Ms Huang requested a continuance of the hearing date, which was granted. She received notice of the new hearing date, but did not appear. She did not state any good cause for her failure to appear.

Under the City of Oakland Rent Adjustment Program Regulations,

"Good cause" shall include but is not limited to:

- a. Verified illness of a party an attorney or other authorized representative of a party or material witness of the party;
- b. Verified travel plans scheduled before the receipt of notice of hearing;
- c. Any other reason that makes it impractical to appear at the scheduled date due to unforeseen circumstances or verified prearranged plans that cannot be changed.

Mere inconvenience or difficulty in appearing shall not constitute "good cause". (OMC 8.22.110)

Planning a wedding or simply forgetting a noticed hearing date is not good cause for failure to appear.

III.

THERE ARE FOUR (4) OWNERS OF THE PROPERTY, AS WELL AS A PROPERTY MANAGER. NONE OF THEM APPEARED AT THE HEARING

There are four owners of the property: Yong E. Huang, Wei Xiong Huang, Fan Jie Li, and Wei Dong Xu. There is also a property manager, Yan Ling Huang, who is also the owner's representative in this case.

None of the owners appeared at the hearing, nor did the manager, the owner's representative in this case.

IV.

THE OWNER FAILED TO SERVE A COPY OF THE APPEAL ON THE TENANTS' REPRESENTATIVE

The Appeal form states:


"You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed."
[emphasis in original].

The tenants filed a Notice of Designation of Tenant Representative on June 27, 2016, stating that all notices regarding this case are to be mailed to the tenants and their Representative, Leah Hess. The Notice of Designation was served on the owner, Yong E. Huang and her Representative, Yan Ling Huang.

Owner, Yong E. Huang failed to serve a copy of her Appeal on the tenants' Representative.

For all the reasons stated above, the Appeal of Yong E. Huang should be denied.

Dated: January 19, 2017


Leah Hess, Attorney for Tenants

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PROOF OF SERVICE BY MAIL

I am over the age of eighteen (18) and not a party to the within case. My business address is 1736 Franklin Street, 10th Floor, Oakland, CA 94612

On January 23 2017, I served the following documents:

TENANTS' RESPONSE TO OWNER'S APPEAL

By First Class Mail to the following addresses:

Yong E. Huang
17050 Rolando Avenue
Castro Valley, CA 94546

Yan Ling Huang
18448 Carlton Ave.
Castro Valley, CA 94546

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Oakland, California on January 23 2017.


SUSAN DOYLE

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

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: T16-0159, Manivong, et al. v. Huang (Unit #3)

PROPERTY ADDRESS: 1838 5th Ave., Oakland, CA

DATE OF HEARING: October 3, 2016

DATE OF DECISION: December 8, 2016

APPEARANCES: Julie Manivong, Tenant (Unit #3)
Gary Wong, Tenant (Unit #3)
Galen Brodsky, Tenant (Unit #1)
Kathryn Buckler, Tenant's Witness
Sean Beierly, Tenant (Unit #2)
Leah Hess, Attorney for Tenants
No Appearance by Owner

SUMMARY OF DECISION

The tenant petition is granted in part.

CONTENTIONS OF THE PARTIES

On March 22, 2016, the tenants Julie Manivong and Gary Wong filed a tenant petition alleging (1) unjustified rent increases in excess of the CPI Adjustment and/or greater than 10%; (2) no notice of Rent Program was provided to the tenant together with the notice of increase and at least six months before the effective date of the contested rent increase; (3) decreased housing services; (4) the contested rent increase is the second rent increase in a 12-month period; (5) the notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements; and (6) the proposed rent increase would exceed an overall increase of 30% in 5 years.

On April 27, 2016, the owner filed a timely response, alleging capital improvements justification to the 2016 rent increase. The owner did not submit any documents in support of capital improvements and did not appear at the hearing.

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THE ISSUES

- (1) Are the rent increases valid?
- (2) Have the tenants' housing services been decreased, and if so, by what amount?

EVIDENCE

Background and Rent Increases

The tenants moved into the subject unit on April 15, 2010, at an initial monthly rent of \$650.00. The subject unit is located in a residential building consisting of four (4) residential units.

The tenants contest the following rent increases:

- From \$650.00 to \$800.00, effective June 1, 2013;
- from \$800.00 to \$900.00, effective December 1, 2013;
- from \$900.00 to \$1,100.00, effective March 1, 2015; and
- from \$1,100.00 to \$1,200.00, effective May 1, 2016.

The rent increases were given in the form of new lease agreements that the tenants and the owner entered into during the tenancy. The copies of the lease agreements were submitted and admitted into evidence.¹ The tenants paid all of the rent increases and submitted copies of receipts showing the payments made. The receipts were admitted into evidence.²

RAP Notices

The tenants testified and stated on their petition that they never received a notice of the existence of the Rent Adjustment Program (RAP Notice). They testified that the RAP Notice was not provided when they first moved into the subject unit or with any of the rent increases. The owner response stated that the owner did not know if the RAP Notice was provided to the tenants.

No Appearance by Owner at the Hearing

On March 23, 2016, a Notice of Hearing and a notice of the tenant petitions were mailed to the owner's address with a proof of service. The mail was not returned as non-delivered. The owner filed Owner Response to the tenant petition and provided the same address on the owner response as the one the Rent Adjustment Office used to mail correspondence and the Notice of Hearing to the owner. No mail was returned as non-delivered.

¹ Exhibit C

² Exhibit D

The Notice of Hearing was properly served and the hearing came on regularly on October 3, 2016, at 10:00 a.m. as scheduled without the appearance of the owner. The hearing officer waited until 10:15 a.m. for the owner to appear.

Decreased Housing Services

With their petitions, the tenants submitted a list of items identified as decreased housing services. The lists and photographs were admitted into evidence.³ The tenants testified at the hearing that the owner repaired some of the items but some of them are still outstanding even after the owner received the notice. The tenants limited the items identified as decreased housing services to those discussed below.

On October 3, 2016, the Hearing Officer conducted a site inspection and inspected the items identified by the tenants at the hearing. The issues and repairs are described as follows:

No Heater: There is no working heater in the tenants' unit. The tenants testified that they did not notify the owner about the broken furnace. The tenants did not submit any notice to the owner relating to the broken heater.

No outside lights and insufficient inside lighting in the common areas: The tenants testified that the lighting in the common areas is not adequate as it does not light the hallways sufficiently. In addition, the outside lights by the entrance do not work properly as they do not turn on when it gets dark and off during daylight hours. There is no lighting at side yard and the tenants walk along the side of the building to get to the common laundry room. The owner was notified of the lights via text messages in October of 2015. The copies of text messages were submitted and admitted into evidence.⁴

Side gate cannot be closed: The side gate cannot be closed because of overgrown shrubs and weeds along the fence and the gate and anyone can enter through that side gate and walk along the side of the property to the laundry room and back yard area. There is no evidence of notice to the owner; the submitted text messages do not address this issue.

Mailboxes were not functional: The tenants testified that the mailman could not use the key to insert the mail into individual mailboxes because the entire box could not slide open. The owner was notified in October of 2015. The tenants testified that the mailboxes were fixed in July of 2016.

Pest Control: The tenants testified that there are holes on the outside perimeter of the building where pests can get inside. The tenants did not express any pest problems at this time. There is no evidence of notice to the owner regarding this issue.

³ Exhibits A and B

⁴ Exhibit H (T16-0160)

The hearing officer did not observe any holes on the outside walls during the inspection or any evidence of rodent infestation, such as rodent droppings.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increase - No RAP Notice

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁵ and together with any notice of rent increase.⁶

Because the owner never provided the RAP notice to any of the tenants, the contested rent increases are not valid and the monthly rent will be rolled back to \$650.00, the rent amount prior to the first contested rent increase. The tenant paid all of the rent increases and is entitled to restitution, which is limited to three (3) years prior to the hearing.⁷ Therefore, the tenant will receive a credit for rent overpayments for 36 months, from November 1, 2013 to October 1, 2016, as follows:

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Nov-13	1-Feb-15	\$900	\$650	\$ 250.00	16	\$ 4,000.00
1-Mar-15	1-Apr-16	\$1,100	\$650	\$ 450.00	14	\$ 6,300.00
1-May-16	1-Oct-16	\$1,100	\$650	\$ 450.00	6	\$ 2,700.00
				\$ -		-
TOTAL OVERPAID RENT						\$ 13,000.00

RESTITUTION

	MONTHLY RENT	\$650
	TOTAL TO BE REPAID TO TENANT	\$ 13,000.00
	TOTAL AS PERCENT OF MONTHLY RENT	2000%
AMORTIZED OVER	MO. BY REG. IS	
OR OVER	36 MONTHS BY HRG. OFFICER IS	\$ 361.11

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁸ and may be corrected by a rent adjustment.⁹ However, in order to justify a decrease in rent, a decrease in housing services must be

⁵ O.M.C. §8.22.060(A)

⁶ O.M.C. §8.22.070(H)(1)(A)

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

⁸ O.M.C. §8.22.070(F)

⁹ O.M.C. §8.22.110(E)

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.

In a decreased services case, the tenant must establish she has given the owner notice of the problems and the opportunity to fix the problems before she is entitled to relief.

No Heater: The tenants did not notify the owner prior to the filing of the tenant petition. Therefore, this claim is denied. However, the owner is now on notice to address this item.

No outside lights and insufficient inside lighting in the common areas (all units): The proper lighting affects safety of the occupants. This claim represents a loss of service and reduced the package of housing services by 2% (\$13.00 per month) from January of 2016 through October of 2016. The tenant will receive a credit of \$130.00 (\$13.00 x 10 months).

Side gate cannot be closed: While this is a security concern and a potential fire hazard due to overgrown weeds and shrubs, there was no notice to the owner. Therefore, this claim is denied. However, the owner is now on notice to address this item.

Mailboxes were not functional: This condition did not seriously affect habitability of the subject units and it has been corrected. Therefore, this claim is denied.

Pest Control: The tenants testified that there are holes on the outside perimeter of the building where pests can get inside. There is no evidence of notice to the owner regarding this issue. Therefore, this claim is denied.

ORDER

1. Tenant Petition T16-0159 is granted in part.
2. The rent increases are not valid. The monthly base rent is \$650.00.
3. The tenants are entitled to a credit of \$130.00, due to passed decreased housing services. This amount may be adjusted by a rent decrease for the next four (4) months in the amount of \$32.50 per month as follows:

Base Rent	\$ 650.00
Rent overpayments amortized over 36 months	- 361.11
Tenant rent from January 1, 2017, to December 1, 2020 (36 months)	\$288.89
- tenant rent overpayments for past decreased housing services (\$130.00 divided by 4 months)	-32.50
- rent to be paid from January through April 2017 (4 months)	\$256.39
- current decreased housing services (2% of \$650.00)	-13.00
Net current monthly rent	\$ 243.39

4. On May 1, 2017, the rent will increase by \$32.50 as the credit for passed decreased services expires per chart above. This is not a rent increase.

5. The tenant's base rent is further reduced by \$13.00 (2%), to \$243.39 (as shown on the chart above), due to the current decreased services for as long as the decreased housing services continue. Upon restoring the decreased service identified in this decision, the owner may increase the monthly rent by \$13.00 in accordance with the notice requirements of California Civil Code §827.

6. The owner is otherwise entitled to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program and in accordance with California Civil Code §827.

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

Dated: December 8, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

13.00
550
3300
377.77

PROOF OF SERVICE

Case Number T16-0159

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

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

Tenants

Gary Wong
1838 5th Ave # 3
Oakland, CA 94606

Julie Manivong
1838 5th Ave # 3
Oakland, CA 94606

Owner

Yong E. Huang
17050 Rolando Ave
Castro Valley, CA 94546

Tenant Representative

Leah Hess, Law Office of Leah Hess
1814 Franklin St Ste 506
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 13, 2016 in Oakland, CA.



Esther K. Rush

000021

Base Rent	\$ 650.00
Rent overpayments amortized over 36 months	- 361.11
Tenant rent from January 1, 2017, to December 1, 2020 (36 months)	\$288.89
- tenant rent overpayments for past decreased housing services (\$130.00 divided by 4 months)	-32.50
- rent to be paid from January through April 2017 (4 months)	\$256.39
- current decreased housing services (2% of \$650.00)	-13.00
Net current monthly rent	\$ 243.39


4. On May 1, 2017, the rent will increase by \$32.50 as the credit for passed decreased services expires per chart above. This is not a rent increase.

5. The tenant's base rent is further reduced by \$13.00 (2%), to \$243.39 (as shown on the chart above), due to the current decreased services for as long as the decreased housing services continue. Upon restoring the decreased service identified in this decision, the owner may increase the monthly rent by \$13.00 in accordance with the notice requirements of California Civil Code §827.

6. The owner is otherwise entitled to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program and in accordance with California Civil Code §827.

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

Dated: December 8, 2016



Linda M. Moroz
 Hearing Officer
 Rent Adjustment Program

2016 DEC 27 PM 3:02

APPEAL

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

Appellant's Name
Yong E Huang

Landlord Tenant

Property Address (Include Unit Number)
1838 5th Ave unit #1
Oakland, CA 94606

Appellant's Mailing Address (For receipt of notices)
17050 Rolando Ave
Castro Valley, CA 94546

Case Number
116-0160

Date of Decision appealed
12/26/2016

Name of Representative (if any)
Yan Ling Huang

Representative's Mailing Address (For notices)
18448 Carlton Ave
Castro Valley, CA 94546

appeal the decision issued in the case and on the date written above on the following grounds:

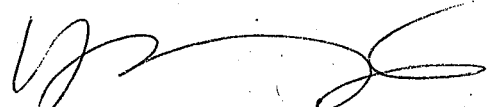
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

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.*
5. **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 Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on _____, 200____, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	12/26/16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

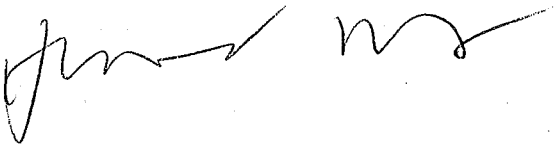
- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal 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.

To whom it may concern,

I am the owner of 1838 5th Ave located in oakland. I am writing an appeal to the rent board of Oakland. The reason I couldn't attend the last hearing was because I was on my honeymoon. I had my wedding on 9/10/16 and two weeks later my husband and I went on our honeymoon. Due to the hearing being set up a few month before, and I have been busy with my wedding and forgot about the hearing.

Sincerely ,

Yong E Huang

A handwritten signature in black ink, appearing to read 'Yong E Huang', written in a cursive style.

000025



Visa Signature

August 22 - September 21, 2016
Page 3 of 6

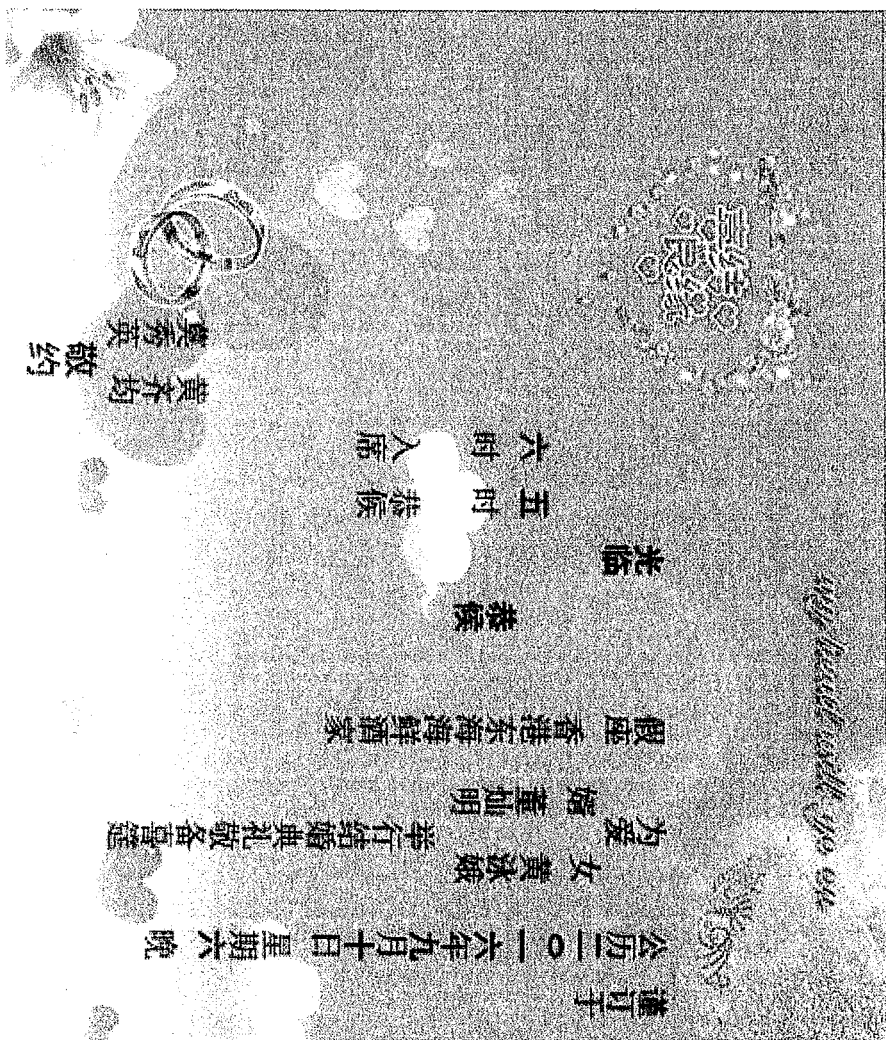
Interest Charge Calculation

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount
Purchases and Adjustments					
08/24	08/26	COMFORT INN CASTRO VALLEY CA	9447	6641	114.40
08/24	08/26	ARRIVAL DATE 08/23/16 COMFORT INN CASTRO VALLEY CA	9454	6641	114.40
08/28	08/29	GAP OUTLET US 1050 LIVERMORE CA	1710	6641	24.63
08/28	08/30	U.S. POLO ASSN. OUTLET LIVERMORE CA	2379	6641	93.05
08/28	08/30	GHIRARDELLI #137-LIV LIVERMORE CA	0691	6641	83.95
09/03	09/05	WAL-MART #2648 SAN LEANDRO CA	9752	6641	95.21
09/03	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	9255	6641	301.06
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	1281	6641	6.49
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	0564	6641	179.98
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	0572	6641	3.94
09/09	09/10	WAL-MART #2648 SAN LEANDRO CA	6859	6641	29.02
09/10	09/12	HONG KONG EAST OCEAN SEAFEMERVILLE CA	4310	6641	9158.45
09/19	09/20	WAL-MART #2648 SAN LEANDRO CA	1607	6641	27.96

9158.45
29.02
27.96
WEDDING COST
\$10,493

2016 Totals Year-to-Date

Total fees charged in 2016	\$0.00
Total interest charged in 2016	\$0.00



敬定于

公历二〇一六年九月十日 星期六晚

女 黄泳娥

婿 董加明

为爱 举行结婚典礼敬备喜筵

假座 香港东海海鲜酒家

恭候

光臨

五时

恭候

六时

入席

莫齐均 莫秀英 敬约

My heart will go on

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2017 FEB -2 AM 11:28

Leah Hess, SBN 126800
Law Office of Leah Hess
1736 Franklin Street, 10th Floor
Oakland, CA 94612
Telephone: (510) 451-3103
Facsimile: (510) 444-1704
email: leahhess2@sbcglobal.net

Attorney for Tenant, Galen Brodsky

TENANTS' RESPONSE TO OWNER'S APPEAL

Case Name: *Brodsky v. Huang*
Case Number: T16-0160
Property Address: 1838 Fifth Avenue, Unit#1, Oakland, CA 94606

TO THE CITY OF OAKLAND RENT ADJUSTMENT PROGRAM AND TO
PROPERTY OWNER YONG E. HUANG AND HER REPRESENTATIVE YAN LING
HUANG:

Tenant, Galen Brodsky responds to Owner Yong E. Huang's Appeal of the Hearing
Decision in the above case as follows:

I. THE HEARING EXAMINER'S DECISION IN AWARDING A RENT REBATE WAS CORRECT.

On March 22, 2016, tenant Galen Brodsky filed a Petition alleging unjustified rent increases by Owner Yong E. Huang. He subsequently filed documents and photographs supporting his Petition. On April 27, 2016, owner Yong E. Huang filed a Response to the Petition. She failed to state any justifications for the rent increases and did not submit any documents in support of her Response.

On March 22, 2016, a Notice of Hearing was sent to all parties listing the Hearing Date as July 12, 2016. The owner filed a Request to Change Date of Hearing on June 10, 2016 because she would be traveling out of the country. The Rent Board issued an Order continuing the Hearing until October 3, 2016.

Tenant Galen Brodsky testified at the October 3, 2016 hearing about the facts supporting his claims of unjustified rent increases. Owner Yong E. Huang did not appear at the hearing, nor did her Representative, Yan Ling Huang.

000028

The owner did not state any facts to justify the rent increases. She did not submit any documents in support of her response to the petition and did not attend the hearing.

The Hearing Examiner properly awarded a rent rebate to the tenant in a Hearing Decision issued on December 8, 2016.

II.
THE OWNER DID NOT SHOW GOOD CAUSE FOR
HER FAILURE TO APPEAR AT THE HEARING

On or about December 27, 2016, Owner Yong E. Huang filed an Appeal of the Hearing Decision. As grounds for her appeal, she stated:

"The reason I couldn't attend the last hearing was because I was on my honeymoon. I had my wedding on 9/10/16 and two weeks later my husband and I went on our honeymoon. Due to the hearing being set up a few months before, and I have been busy with my wedding and forgot about the hearing."

Ms. Huang requested a continuance of the hearing date, which was granted. She received notice of the new hearing date, but did not appear. She did not state any good cause for her failure to appear.

Under the City of Oakland Rent Adjustment Program Regulations,

"Good cause" shall include but is not limited to:

- a. Verified illness of a party an attorney or other authorized representative of a party or material witness of the party;
- b. Verified travel plans scheduled before the receipt of notice of hearing;
- c. Any other reason that makes it impractical to appear at the scheduled date due to unforeseen circumstances or verified prearranged plans that cannot be changed.

Mere inconvenience or difficulty in appearing shall not constitute "good cause". (OMC 8.22.110)

Planning a wedding or simply forgetting a noticed hearing date is not good cause for failure to appear.

000029

III.

THERE ARE FOUR (4) OWNERS OF THE PROPERTY, AS WELL AS A PROPERTY MANAGER. NONE OF THEM APPEARED AT THE HEARING

There are four owners of the property: Yong E. Huang, Wei Xiong Huang, Fan Jie Li, and Wei Dong Xu. There is also a property manager, Yan Ling Huang, who is also the owner's representative in this case.

None of the owners appeared at the hearing, nor did the manager, the owner's representative in this case.

IV.

THE OWNER FAILED TO SERVE A COPY OF THE APPEAL ON THE TENANT'S REPRESENTATIVE

The Appeal form states:

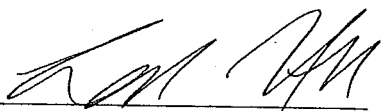
"You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed."
[emphasis in original].

Tenant Galen Brodsky filed a Notice of Designation of Tenant Representative on June 27, 2016, stating that all notices regarding this case are to be mailed to the tenant and his Representative, Leah Hess. The Notice of Designation was served on the owner, Yong E. Huang and her Representative, Yan Ling Huang.

Owner, Yong E. Huang failed to serve a copy of her Appeal on the tenant's Representative.

For all the reasons stated above, the Appeal of Yong E. Huang should be denied.

Dated: January 19, 2017



Leah Hess, Attorney for Tenant

PROOF OF SERVICE BY MAIL

I am over the age of eighteen (18) and not a party to the within case. My business address is 1736 Franklin Street, 10th Floor, Oakland, CA 94612

On January 20, 2017, I served the following documents:

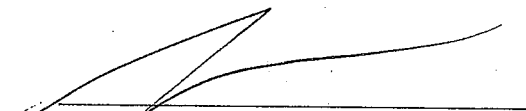
TENANT'S RESPONSE TO OWNER'S APPEAL

By First Class Mail to the following addresses:

Yong E. Huang
17050 Rolando Avenue
Castro Valley, CA 94546

Yan Ling Huang
18448 Carlton Ave.
Castro Valley, CA 94546

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Oakland, California on January 20, 2017.



SUSAN DOYLE

000031



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

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 NUMBERS: T16-0160, Brodsky v. Huang (Unit #1)

PROPERTY ADDRESS: 1838 5th Ave., Oakland, CA

DATE OF HEARING: October 3, 2016

DATE OF DECISION: December 8, 2016

APPEARANCES: Julie Manivong, Tenant (Unit #3)
Gary Wong, Tenant (Unit #3)
Galen Brodsky, Tenant (Unit #1)
Kathryn Buckler, Tenant's Witness
Sean Beierly, Tenant (Unit #2)
Leah Hess, Attorney for Tenants
No Appearance by Owner

SUMMARY OF DECISION

The tenant petition is granted in part.

CONTENTIONS OF THE PARTIES

On March 22, 2016, tenant Galen Brodsky filed a tenant petition alleging (1) unjustified rent increases in excess of the CPI Adjustment and/or greater than 10%; (2) no notice of Rent Program was provided to the tenant together with the notice of increase and at least six months before the effective date of the contested rent increase; (3) decreased housing services; and (4) a health, safety, fire or building code violation.

On April 27, 2016, the owner filed a timely response to the tenant petition. The Owner Response did not allege any justification to the contested rent increases. The owner did not appear at the hearing.

000032

THE ISSUES

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

EVIDENCE

Background and Rent Increases

The tenant moved into the subject unit on June 1, 2013, at an initial monthly rent of \$1,500.00. The subject unit is located in a residential building consisting of four (4) residential units.

The tenant contests the following rent increases:

- From \$1,500.00 to \$1,650.00, effective May 1, 2015; and
- from \$1,650.00 to \$1,850.00, effective May 1, 2016.

The rent increases were reflected in the new lease agreements the tenant and the owner entered into during the tenancy. The copies of the lease agreements were submitted and admitted into evidence.¹ The tenant testified that she paid the first rent increase of \$1,650.00, and kept paying the rent of \$1,650.00 from May 1, 2015, through October of 2016, the hearing date.

RAP Notices

The tenant testified and stated on the petition that he never received a notice of the existence of the Rent Adjustment Program (RAP Notice). The RAP Notice was not provided when the tenant first moved into the unit or with any of the rent increases. The owner response stated that the owner did not provide the RAP Notice to the tenant.

No Appearance by Owner at the Hearing

On March 23, 2016, a Notice of Hearing and a notice of tenant petition were mailed to the owner's address with a proof of service. The owner filed Owner Response to the tenant petition and provided the same address on the owner response as the one the Rent Adjustment Program office used to mail correspondence and the Notice of hearing to the owner. No mail was returned as non-delivered.

The Notice of Hearing was properly served and the hearing came on regularly on October 3, 2016, at 10:00 a.m. as scheduled without the appearance of the owner. The hearing officer waited until 10:15 a.m. for the owner to appear.

Health, Safety, Fire or Building Code Violation

No Notice of Violation or citation was submitted. Therefore, this item is dismissed.

¹ Exhibit G

Decreased Housing Services

With the petition, the tenant submitted a list of items identified as decreased housing services. The lists and photographs were admitted into evidence.² The tenant testified at the hearing that the owner repaired some of the items but some of them are still outstanding. The tenant limited the items identified as decreased housing services to those discussed below.

On October 3, 2016, the Hearing Officer conducted a site inspection and inspected the items identified by the tenants at the hearing. The issues and repairs are described as follows:

No duct over the stove: There is a hood above the stove but no duct leading out of the hood for ventilation. No evidence was submitted that the owner was notified.

No outside lights and insufficient inside lighting in the common areas (all units): The tenants testified that the lighting in the common areas is not adequate as it does not light the hallways sufficiently. In addition, the outside lights by the entrance do not work properly as they do not turn on when it gets dark and off during daylight hours. There is no lighting at side yard and the tenants walk along the side of the building to get to the common laundry room. The owner was notified of the lights via text messages in October of 2015. Copies of text messages were submitted and admitted into evidence.³

Side gate cannot be closed: The side gate cannot be closed because of overgrown shrubs and weeds along the fence and the gate and anyone can enter through that side gate and walk along the side of the property to the laundry room and back yard area. There is no evidence of notice to the owner; the submitted text messages do not address this issue.

Mailboxes were not functional: The tenants testified that the mailman could not use the key to insert the mail into individual mailboxes because the entire box could not slide open. The owner was notified of the mailboxes via text messages in October of 2015. The tenants testified that the mailboxes were fixed in July of 2016.

Pest Control: The tenants testified that there are holes on the outside perimeter of the building where pests can get inside. The tenants did not express any rodents/pets problems at this time. There is no evidence of notice to the owner regarding this issue. The hearing officer did not observe any holes on the outside walls during the inspection or any evidence of rodent/pest infestation.

² Exhibit E and F

³ Exhibit H

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increase - No RAP Notice

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁴ and together with any notice of rent increase.⁵

Because the owner never provided the RAP notice to any of the tenants, the contested rent increases are not valid and the monthly rent will be rolled back to \$1,500.00, the rent amount prior to the first contested rent increase. Because the tenant paid the rent increase of \$1,650.00, he is entitled to a credit in the amount of \$2,700.00, for rent overpayments from May 1, 2015, through October 1, 2016, as follows:

T16-0160 - OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-May-15	1-Oct-16	\$1,650	\$1,500	\$ 150.00	18	\$ 2,700.00
				\$ -		-
TOTAL OVERPAID RENT						\$ 2,700.00

RESTITUTION

	MONTHLY RENT	\$1,500
	TOTAL TO BE REPAYED TO TENANT	\$ 2,700.00
	TOTAL AS PERCENT OF MONTHLY RENT	180%
AMORTIZED OVER	MO. BY REG. IS	
OR		
OVER 12	MONTHS BY HRG. OFFICER IS	\$ 225.00

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁶ and may be corrected by a rent adjustment.⁷ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that is required to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

⁴ O.M.C. §8.22.060(A)

⁵ O.M.C. §8.22.070(H)(1)(A)

⁶ O.M.C. §8.22.070(F)

⁷ O.M.C. §8.22.110(E)

In a decreased services case, the tenant must establish he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to relief.

No duct to vent the hood over the stove: There is no requirement under the building code that the stove must have a hood with ventilation. In addition, the owner did not receive the notice of this issue. Therefore, this claim is denied.

No outside lights and insufficient inside lighting in the common areas (all units): The proper lighting affects safety of the occupants. This claim represents a loss of service and reduced the package of housing services by 2% (\$30.00 per month) from January of 2016 through October of 2016. The tenant will receive a credit of \$300.00 (\$30.00 x 10 months).

Side gate cannot be closed: While this is a security concern and a potential fire hazard due to overgrown weeds and shrubs, there is no notice to the owner. Therefore, this claim is denied. However, the owner is now on notice to address this item.

Mailboxes were not functional: This condition did not seriously affect habitability of the subject units and it has been corrected. Therefore, this claim is denied.

Pest Control: The tenants testified that there are holes on the outside perimeter of the building where pests can get inside. There is no evidence of notice to the owner regarding this issue. Therefore, this claim is denied.

ORDER

1. Tenant Petition T16-0160 is granted in part.
2. The rent increases are not valid. The monthly base rent is \$1,500.00.
3. The tenant is entitled to a total credit of \$300.00, due to past decreased housing services. This amount may be adjusted by a rent decrease for the next five (5) months in the amount of \$60.00 per month as follows:

Base Rent	\$ 1,500.00
Rent overpayments amortized over 24 months	- 225.00
Tent rent from January 1, 2017, to December 1, 2018 (24 months)	\$1,275.00
- tenant rent overpayments for past decreased housing services (\$300.00 divided by 5 months)	-60.00
- rent to be paid in January through May of 2017 (5 months)	\$1,215.00
- current decreased housing services (2% of \$1,500.00)	-30.00
Net current monthly rent	\$1,185.00

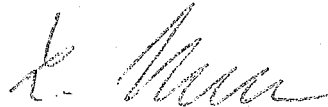
4. On June 1, 2017, the rent will increase by \$60.00 as the credit for past decreased housing services expires per chart above. This is not a rent increase.

5. The tenant's base rent will be further reduced by \$30.00 (2%), as shown on the chart above, due to the current decreased services for as long as the decreased housing services continue. Upon restoring the decreased service identified in this decision, the owner may increase the monthly rent by \$30.00 in accordance with the notice requirements of California Civil Code §827.

6. The owner is otherwise entitled to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program and in accordance with California Civil Code §827.

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

Dated: December 8, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0160

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

Today, I served the attached 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

Galen Brodsky
1838 5th Ave # 1
Oakland, CA 94606

Owner

Yong E. Huang
17050 Roland Ave
Castro Valley, CA 94546

Tenant Representative

Leah Hess, Law Office of Leah Hess
1814 Franklin St Ste. 506
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 14, 2016 in Oakland, CA.


Deborah Griffin

000038

2016 DEC 27 PM 3:01

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name Yong E Huang		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 1838 5TH AVE unit #2 Oakland, CA 94606			
Appellant's Mailing Address (For receipt of notices) 17050 Rolando AVE Castro Valley, CA 94546		Case Number 716-0169 Date of Decision appealed 12/26/2016	
Name of Representative (if any) Yan Ling Huang		Representative's Mailing Address (For notices) 18448 carlton AVE Castro valley CA 94546	

appeal the decision issued in the case and on the date written above on the following grounds:

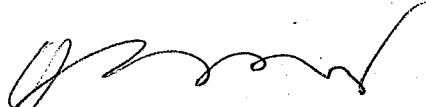
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

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.*
5. **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 Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on _____, 200__, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	12/26/16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

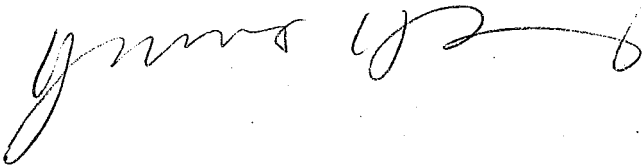
- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal 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.

To whom it may concern,

I am the owner of 1838 5th Ave located in oakland. I am writing an appeal to the rent board of Oakland. The reason I couldn't attend the last hearing was because I was on my honeymoon. I had my wedding on 9/10/16 and two weeks later my husband and I went on our honeymoon. Due to the hearing being set up a few month before, and I have been busy with my wedding and forgot about the hearing.

Sincerely ,

Yong E Huang

A handwritten signature in black ink, appearing to read 'Yong E Huang', written in a cursive style.

000041

Visa Signature®

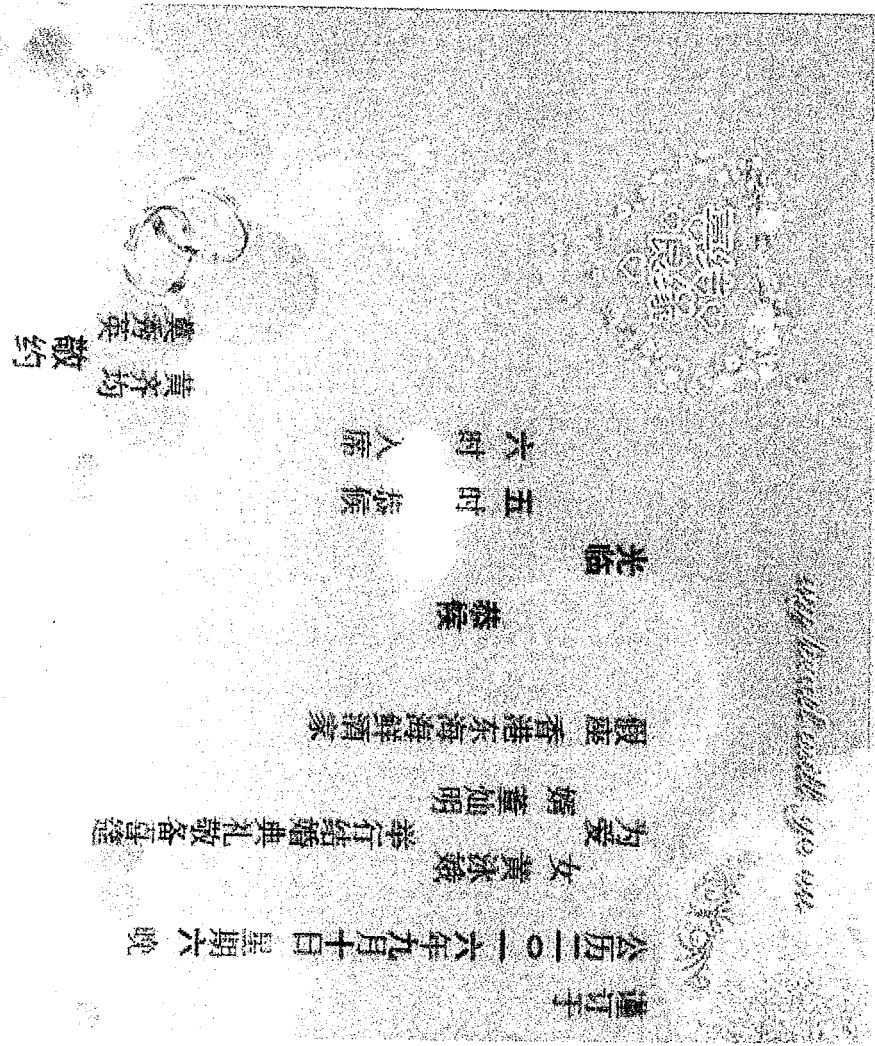
August 22 - September 21, 2016
 Page 3 of 6

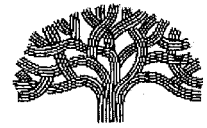
Transactions Continued

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount
08/24	08/26	Purchases and Adjustments			
		COMFORT INN CASTRO VALLEYCA	9447	6641	114.40
08/24	08/26	ARRIVAL DATE 08/23/16	9454	6641	114.40
08/28	08/29	COMFORT INN CASTRO VALLEYCA	1710	6641	24.63
08/28	08/29	ARRIVAL DATE 08/23/16	2379	6641	93.05
08/28	08/30	GAP OUTLET US 1050 LIVERMORE CA	0691	6641	83.95
09/03	09/05	U.S. POLO ASSN. OUTLET LIVERMORE CA	9752	6641	95.21
09/03	09/05	GHIRARDELLI #137 - LIV LIVERMORE CA	9255	6641	301.06
09/04	09/05	WAL-MART #2648 SAN LEANDRO CA	1281	6641	5.49
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	0564	6641	179.98
09/04	09/05	COSTCO WHSE #0118 SAN LEANDRO CA	0572	6641	3.94
09/09	09/10	COSTCO WHSE #0118 SAN LEANDRO CA	6869	6641	29.02
09/10	09/12	WAL-MART #2648 SAN LEANDRO CA	4910	6641	9.158.45
09/19	09/20	HONG KONG EAST OCEAN SEAFEMERVILLE CA	1607	6641	27.96
		WAL-MART #2648 SAN LEANDRO CA			WEDDING COST
					9.158.45
					27.96
					\$10.49

2016 Totals Year-to-Date	
Total fees charged in 2016	\$0.00
Total interest charged in 2016	\$0.00

000042





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

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 NUMBERS: T16-0169, Beierly v. Huang (Unit #2)
PROPERTY ADDRESS: 1838 5th Ave., Oakland, CA
DATE OF HEARING: October 3, 2016
DATE OF DECISION: December 8, 2016
APPEARANCES: Julie Manivong, Tenant (Unit #3)
Gary Wong, Tenant (Unit #3)
Galen Brodsky, Tenant (Unit #1)
Kathryn Buckler, Tenant's Witness
Sean Beierly, Tenant (Unit #2)
Leah Hess, Attorney for Tenants
No Appearance by Owner

SUMMARY OF DECISION

The tenant petition is granted in part.

CONTENTIONS OF THE PARTIES

On March 30, 2016, tenant Sean Beierly filed a tenant petition alleging (1) an unjustified rent increase in excess of the CPI Adjustment and/or greater than 10%; (2) no notice of Rent Program was provided to the tenant together with the notice of increase and at least six months before the effective date of the contested rent increase; (3) decreased housing services; and (4) a health, safety, fire or building code violation.

On April 27, 2016, the owner filed a timely response to the tenant petition. The Owner Response did not allege any justification to the contested rent increases. The owner did not appear at the hearing.

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THE ISSUES

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

EVIDENCE

Background and Rent Increase

The tenant moved into the subject unit on April 30, 2015, at an initial monthly rent of \$780.00. The subject unit is located in a residential building consisting of four (4) residential units. The tenant contest a single rent increase which proposed to increase the monthly rent from \$780.00 to \$880.00, effective May 1, 2016.

The rent increase was reflected in the new lease agreement the tenant and the owner entered into. A copy of the lease agreement was submitted and admitted into evidence.¹ The tenant testified that he paid the rent increase amount of \$880.00 and kept paying the monthly rent of \$880.00 from May 1, 2016, through the hearing date.

RAP Notices

The tenant testified and stated on the petition that he never received a notice of the existence of the Rent Adjustment Program (RAP Notice). The RAP Notice was not provided when the tenant first moved into the unit or with any of the rent increases. The owner response stated that the owner did not provide the RAP Notice to the tenant.

No Appearance by Owner at the Hearing

On March 31, 2016, a Notice of Hearing and a notice of tenant petition were mailed to the owner's address with a proof of service. The owner filed Owner Response to the tenant petition and provided the same address on the owner response as the one the Rent Adjustment Program office used to mail correspondence and the Notice of Hearing to the owner. No mail was returned as non-delivered.

The Notice of Hearing was properly served and the hearing came on regularly on October 3, 2016, at 10:00 a.m. as scheduled without the appearance of the owner. The hearing officer waited until 10:15 a.m. for the owner to appear.

Health, Safety, Fire or Building Code Violation

No Notice of Violation or citation was submitted. Therefore, this item is dismissed.

¹ Exhibit J

Decreased Housing Services

The tenant submitted a list of items identified as decreased housing services. The list was admitted into evidence.² The tenant testified at the hearing that the owner repaired some of the items but some of them are still outstanding after the owner received the notice of the conditions.

On October 3, 2016, the Hearing Officer conducted a site inspection and inspected the items identified by the tenants at the hearing. The issues and repairs are described as follows:

Flea Infestation: The tenant testified that his apartment was infested with fleas when he was supposed to move into the unit on April 1, 2015. He paid rent and signed the lease beginning on April 1, 2015, but could not move into the unit until April 30, 2015, due to the heavy flea infestation and the treatment that had to be applied. The tenant testified that the owner continued the pest service for about one year and then discontinued it when the problem was completely eliminated. There are no longer any fleas in the apartment.

No outside lights and insufficient inside lighting in the common areas (all units): The tenants testified that the lighting in the common areas is not adequate as it does not light the hallways sufficiently. In addition, the outside lights by the entrance do not work properly as they do not turn on when it gets dark and off during daylight hours. There is no lighting at side yard and the tenants walk along the side of the building to get to the common laundry room. The owner was notified of the lights via text messages in October of 2015. Copies of text messages were submitted and admitted into evidence.³

Side gate cannot be closed: The side gate cannot be closed because of overgrown shrubs and weeds along the fence and the gate and anyone can enter through that side gate and walk along the side of the property to the laundry room and back yard area. There is no evidence of notice to the owner; the submitted text messages do not address this issue.

Mailboxes were not functional: The tenant testified that the mailman could not use the key to insert the mail into individual mailboxes because the entire box could not slide open. The owner was notified of the mailboxes via text messages in October of 2015. The tenants testified that the mailboxes were fixed in July of 2016.

Pest Control: The tenant testified that there are holes on the outside perimeter of the building where pests can get inside. The tenants did not express any rodents/pets problems at this time. There is no evidence of notice to the owner regarding this issue. The hearing officer did not observe any holes on the outside walls during the inspection or any evidence of rodent/pest infestation.

² Exhibit I

³ Exhibit K

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increase - No RAP Notice

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁴ and together with any notice of rent increase.⁵

Because the owner never provided the RAP notice to any of the tenants, the contested rent increases are not valid and the monthly rent will be rolled back to \$780.00, the rent amount prior to the first contested rent increase. Because the tenant paid the rent increase of \$880.00, he is entitled to a credit in the amount of \$600.00, for rent overpayments from May 1, 2016, through October 1, 2016, as follows:

T16-0169 - OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-May-16	1-Oct-16	\$880	\$780	\$ 100.00	6	\$600.00
TOTAL OVERPAID RENT						\$600.00

RESTITUTION

	MONTHLY RENT	\$780
	TOTAL TO BE REPAYED TO TENANT	\$600.00
	TOTAL AS PERCENT OF MONTHLY RENT	77%
AMORTIZED OVER	MO. BY REG. IS	
OR		
OVER 12	MONTHS BY HRG. OFFICER IS	\$ 50.00

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁶ and may be corrected by a rent adjustment.⁷ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that is required to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

In a decreased services case, the tenant must establish he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to relief.

⁴ O.M.C. §8.22.060(A)

⁵ O.M.C. §8.22.070(H)(1)(A)

⁶ O.M.C. §8.22.070(F)

⁷ O.M.C. §8.22.110(E)

Flea Infestation: This claim seriously affects habitability of the unit and reduces the package of housing services by 10% (\$78.00) for one month of April of 2015. The tenant is entitled to a credit of \$78.00 due to past decreased housing services.

No outside lights and insufficient inside lighting in the common areas (all units): The proper lighting affects safety of the occupants. This claim represents a loss of service and reduced the package of housing services by 2% (\$15.60 per month) from January of 2016 through October of 2016. The tenant will receive a credit of \$156.00 (\$15.60 x 10 months).

Side gate cannot be closed: While this is a security concern and a potential fire hazard due to overgrown weeds and shrubs, there is no notice to the owner. Therefore, this claim is denied. However, the owner is now on notice to address this item.

Mailboxes were not functional: This condition did not seriously affect habitability of the subject units and it has been corrected. Therefore, this claim is denied.

Pest Control: The tenants testified that there are holes on the outside perimeter of the building where pests can get inside. There is no evidence of notice to the owner regarding this issue. Therefore, this claim is denied.

ORDER

1. Tenant Petition T16-0169 is granted in part.
2. The rent increases are not valid. The monthly base rent is \$780.00.
3. The tenant is entitled to a total credit of \$234.00 (\$78.00 + \$156), due to past decreased housing services. This amount may be adjusted by a monthly rent decrease in the amount of \$39.00 for the next six (6) months, beginning in January of 2017 and ending with the rent payment in June of 2017 as follows:

Base Rent	\$ 780.00
Rent overpayments amortized over 12 months	- 60.00
Tent rent from January 1, 2017, to December 1, 2017 (12 months)	\$ 720.00
- tenant rent overpayments for past decreased housing services (\$156 + 78.00 divided by 6 months)	-39.00
- rent to be paid in January through June of 2017 (6 months)	\$ 681.00
- current decreased housing services (2% of \$780.00)	-15.60
Net current monthly rent	\$ 665.40

4. On July 1, 2017, the rent will increase by \$39.00 as the credit for past decreased housing services expires per chart above. This is not a rent increase.

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5. The tenant's base rent will be further reduced by \$15.60 (2%), as shown on the chart above, due to the current decreased services for as long as the decreased housing services continue. Upon restoring the decreased service identified in this decision, the owner may increase the monthly rent by \$15.60 in accordance with the notice requirements of California Civil Code §827.

6. The owner is otherwise entitled to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program and in accordance with California Civil Code §827.

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

Dated: December 8, 2016



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0169

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

Sean Beierly
1838 5th Ave #2
Oakland, CA 94606

Owner

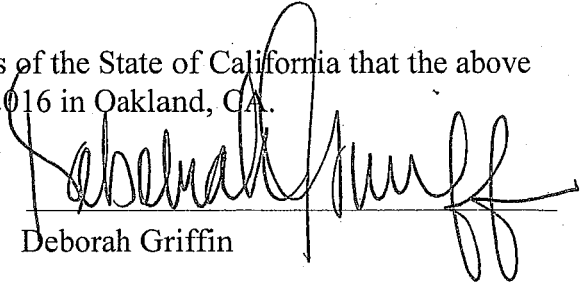
Yong E. Huang
17050 Rolando Ave
Castro Valley, CA 94546

Tenant Representative

Leah Hess, Law Office of Leah Hess
1814 Franklin St Ste. 506
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 14, 2016 in Oakland, CA.


Deborah Griffin

000050

CHRONOLOGICAL CASE REPORT

Case No.: T16-0310
Case Name: Freire v. Wong
Property Address: 673 31st Street, Unit A, Oakland, CA
Parties: Jie Wang (Owner)
Leydisvel (Tenant)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant filed Petition filed	June 14, 2016
Owner filed Response filed	July 1, 2016
Dismissal issued	September 29, 2016
Tenant Appeal filed	October 18, 2016

000051

2016 OCT 18 PM 1:45

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		APPEAL	
Appellant's Name Leydisvel Freyre Pena		Landlord <input type="checkbox"/>	Tenant <input checked="" type="checkbox"/>
Property Address (Include Unit Number) Jie Wang P.O. Box 632 El Cerrito, CA 94530			
Appellant's Mailing Address (For receipt of notices) 673 31st Oakland # A 94609		Case Number T16-0310	
		Date of Decision appealed	
Name of Representative (if any) In Process		Representative's Mailing Address (For notices) N/A	

appeal 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.
5. 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 Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on 10/18, 20010 I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Leydisul Freire Penna
Address	673 31st Oakland CA #A
City, State Zip	94609
Name	Jie Wang
Address	665 31st St
City, State Zip	0

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE
--	-------------

IMPORTANT INFORMATION:

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all 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.

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 OCT 18 PM 2:02

October 18, 2016

To: Rent Adjustment Program

Re: Rent Increase

Case # T16-0310

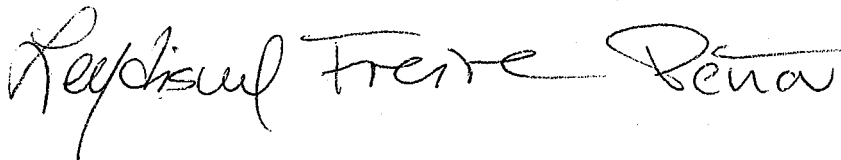
I would like to appeal the rent increase that my landlord, Jie Wang is trying to give my unit. I missed the hearing on September 27th, 2016. I got the times missed up and I was also 15 minutes late because of public transportation. Please, allow me to request another hearing. I cannot afford the rent and I believe it's an unfair increase.

I'm also requesting time to find legal representation; it's been brought to my attention that my neighbor is now representing the landlord.

Thank you and please grant my request. I do not want to be homeless.

Sincerely,

Leydisvel Freire Pena



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

DISMISSAL

CASE NUMBER: T16-0310, Freire v. Wang
PROPERTY ADDRESS: 673 31st St., Unit #A, Oakland, CA 94609
DATE OF HEARING: September 27, 2016
DATE OF DECISION: September 27, 2016

A Notice of Mediation and Hearing was mailed to all persons named in the Tenant Petition and Owner Response on July 19, 2016, with a proof of service. The mail was not returned. The Notice of Mediation and Hearing was properly served, and the mediation came on regularly on September 27, 2016, at 10:00 a.m., as scheduled without the appearance of the petitioner. The owner and owner's attorney promptly appeared.

DISMISSAL

The Hearing Officer waited until 10:20 a.m. for the petitioner to appear. The petitioner did not contact the office and did not submit any written request for postponement. The Tenant Petition is dismissed because the petitioner failed to appear.

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

Dated: September 27, 2016

Linda M. Moroz
Hearing Officer
Rent Adjustment Program

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PROOF OF SERVICE

Case Number T16-0310

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

Leydisvel Freire
673 31st St #A
Oakland, CA 94609

Owner

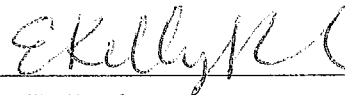
Jie Wang
P.O. Box 632
El Cerrito, CA 94530

Owner Representative

James Cook
665 31st St
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 September 29, 2016 in Oakland, CA.



Esther K. Rush

000056

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. 2016 JUL -1 PM 2:15
---	--

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

CASE NUMBER T16-0310

OWNER RESPONSE

Please print legibly.

Your Name <i>Jie Wang</i>	Complete Address (with zip code) <i>P.O. Box 632 EL Cerrito. CA 94530</i>	Phone: <i>510-323-6323</i> Email: <i>jiewang89@gmail.com</i>
Your Representative's Name (if any) <i>N/A</i>	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <i>Leydiavel Freire</i>	Complete Address (with zip code) <i>673 31st St #A oakland CA 94609</i>	

Have you paid for your Oakland Business License? Yes No Number 28042887
(Provide proof of payment.)

Have you paid the Rent Adjustment Program Service Fee? (\$30 per unit) Yes No
(Provide proof of payment.)

There are 6 residential units in the subject building. I acquired the building on / / 13.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on no lease agreement.

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

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? June 2013

Is the tenant current on the rent? Yes No

If you believe your unit is exempt from Rent Adjustment you may skip to **Section IV. EXEMPTION**.

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 5/18/16 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

Begin with the most recent rent increase and work backwards. Attach another sheet if needed.

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
5/18/16	7/1/2016	\$ 1580	\$ 1805.25	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

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 Increase</u>	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>7/1/16</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

IV. EXEMPTION

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds:

The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**

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

The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.

The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** 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 continuously as his or her principal residence and has done so for at least one year.

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.**

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.

File Review. 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

6/30/16

Date

VII. MEDIATION AVAILABLE

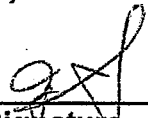
Your tenant may have signed the mediation section in the Tenant Petition to request mediation of the disputed issues. Mediation is an entirely voluntary process to assist the parties to reach an agreement on the disputed issues in lieu of a Rent Adjustment hearing.

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

6/30/16

Date

T16-0310 RC/LM

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>For date stamp. 2016 JUN 14 AM 11:33</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Leydisvel Freire	Rental Address (with zip code) 1673 - 31st Street, Apt. A, 94609	Telephone (786) 308-6205
Your Representative's Name N/A	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Jie Wang	Mailing Address (with zip code) P.O. Box 632 El Cerrito, CA 94530	Telephone (510) 323-6323

Number of units on the property: 6

Type of unit you rent (circle one)	House	Condominium	<u>Apartment</u> , Room, or Live-Work
Are you current on your rent? (circle one)	<u>Yes</u>	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 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input checked="" type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%. *
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) 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.
<input checked="" type="checkbox"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input checked="" type="checkbox"/>	(f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(g) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(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.
<input type="checkbox"/>	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input checked="" type="checkbox"/>	(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).
<input type="checkbox"/>	(k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

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.

Sophistic France
Tenant's Signature

6/14/2016
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).

Sophistic France
Tenant's Signature

6/17/2016
Date

VI. IMPORTANT INFORMATION:

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

File Review
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): _____

* The rent increase was also served in violation of Moratorium.

Decreased Housing Services

- 1) There is mold and water damage at bathroom walls. The condition has been ongoing since I moved in. The landlord attempted to repair the bathroom on or around May, 2015, however the repairs have not remedied the problem. The caulking is falling off, there is mold, and the paint is peeling/bubbling.

I have complaining to my landlord about the bathroom for years by text message and e-mail. On August 6, 2014, I filed a tenant complaint regarding, among other things, the mold in the bathroom with the City of Oakland Building Inspector. The landlord has known about the problem for years. She has come to my home and viewed the problem herself. I have informed her that her repairs were inadequate. She has told me to simply use vinegar to clean the mold.

I feel that my rent should be reduced by at least 5% because of this

CHRONOLOGICAL CASE REPORT

Case No.: T16-0601
Case Name: Ghanem v. Parker, et al.
Property Address: 3143 West Street, Oakland, CA
Parties: Adel Ghanem (Tenant)
Stephen Parker (Agent of Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	October 24, 2016
Owner Response filed	December 8, 2016
Hearing Decision issued	April 14, 2017
Tenant Appeal filed	May 4, 2017
Owner Response to Appeal filed	June 29, 2017

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

For date stamp 2017 MAY -4 AM 8:32



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

APPEAL

Appellant's Name Adel Ghanem		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3143 West Street, Oakland, CA 94608			
Appellant's Mailing Address (For receipt of notices) 3143 West Street, Oakland, CA 94608		Case Number T16-0601	
		Date of Decision appealed April 14, 2017	
Name of Representative (if any) NA		Representative's Mailing Address (For notices) NA	

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

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

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

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RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2017 MAY -1 AM 8:30

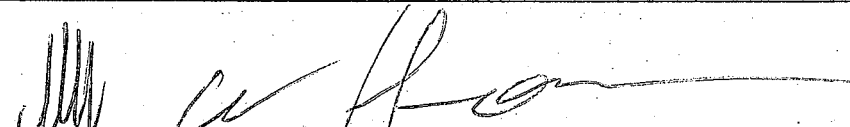
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
Number of pages attached: 1.

You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on May 1, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Bay Development Real Estate LLC/Stepha
Address	1128 Boranda Avenue
City, State Zip	Mountain View, CA 94040
Name	
Address	
City, State Zip	

	<u>5/1/2017</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

IMPORTANT INFORMATION:

2017 MAY -4 AM 8:32

This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file is a weekend or holiday, the time to file the document is extended to the next business day.

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- 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.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

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

Adel Ghanem
3143 West Street
Oakland, CA 94608

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2017 MAY -4 AM 8:32

City of Oakland
Rent Adjustment Program
250 Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612

RE: Explanation of Tenant Appeal in T16-0601

Tenant-Appellant (Adel Ghanem, hereinafter "Ghanem") files the instant appeal on multiple grounds. When Ghanem originally entered into the unit, he negotiated his written lease with the landlord in Arabic, accordingly, notice of the Rent Adjustment Program and changes to terms of tenancy should have been communicated to Ghanem in Arabic.

Ghanem first received notice of the Rent Adjustment Program ("RAP Notice") in or about April 2016. The RAP Notice was in English. In or around May 2016, Ghanem hired an attorney to represent him with respect to the landlord's petition for a certificate of exemption and with respect to other, prior, rent increases. Ghanem showed his attorney a copy of the April 2016 RAP Notice.

Ghanem received a notice of rent increase on or about August 9, 2016. Ghanem immediately informed his lawyer about the rent increase. Ghanem's attorney never instructed him to file a petition challenging the August 2016 rent increase. Ghanem's attorney never advised him regarding the 60 day statute of limitations to challenge the August 2016 rent increase.

Ghanem found out about the need to file a petition challenging the August 2016 rent increase through his neighbor, Darla Brown. In other words, not only was the RAP Notice provided in the wrong language, Ghanem relied on advice and counsel from an attorney regarding when to file the petition challenging the August 9th rent increase.

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TENANT ADEL GHANEM'S
APPEAL BRIEF

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
2017 MAY 17 PM 3:15

To: Rent Adjustment Program
Fr: Adel Ghanem
Case No: T16-0601
Case Title: Ghanem v. Parker, et al.
Property Address: 3143 West. St. Oakland, CA

FACTS AND PROCEDURAL HISTORY

Tenant is a limited English speaker, who required the use of an interpreter at the hearing in order to participate. When Tenant originally entered into the unit, he negotiated his written lease with the landlord in Arabic. Tenant first received notice of the Rent Adjustment Program (“RAP Notice”) in or about April 2016. The RAP Notice was in English. In other words, the RAP Notice was not in the language of the original lease, nor even a language Tenant can understand or read.

Owner filed a petition for a Certificate of Exemption and Tenant subsequently filed a petition on October 24, 2016 challenging a rent increase effective October 14, 2016. Notice of the rent increase was served in or around August 9, 2016.

The Hearing Officer did not ask Tenant the language in which his original lease was negotiated. The Hearing Officer did not ask Tenant the language in which the RAP notice was written.

Both petitions were denied. Tenant’s petition was denied on the grounds that the October 24, 2016 petition was untimely.

The Decision is Inconsistent with Prior Board Decisions

Previous decisions by the RAP Board have held that good cause exists for failure to file a timely petition where RAP Notice is not provided in the language in which lease negotiations took place, in compliance with Civil Code Section 1632(b)(3). See *Soriano et al. v. Western Mgt. Properties* T06-0154, -0155, -0156, -0157.

The Decision is Inconsistent with Decisions
Issued by Other Hearing Officers

Previous decisions by other Hearing Officers have held that RAP Notice in a language other than the one used to negotiate lease terms does not comply with notice requirements under the Ordinance (i.e. do not trigger the running of the statute of limitations). See e.g. *Garcia v. Lau* T14-0184.

000069

Case # L16-0082 Also T16-0601

JUN 29 2017

Re: Tenant Appeal of Ruling April 14, 2017
(Adel Ghannem)

RECEIVED
JUN 29 PM 3:05

Fr: Stephen Parker, Mgr BayDev RE, LLC

Su: Response to Appeal

Tenant claims in Appeal that Lease was negotiated in Arabic, but submitted no proof to substantiate. Furthermore, (1) the Tenant Signed Lease is in English, signed and dated by Tenant, (2) Arabic is not a language requiring Translation by City of Oakland (3) Tenant was several retail businesses which I frequently conduct all business transactions in English. (4) Tenant has sent several correspondences to landlord in English (5) Prior Property Owner was conducting Lease negotiations in Arabic with Tenant (6) Tenant has retained an English only speaking Attorney for all Business Matters.

Regards
Stephen Parker (510) 390-2631
cell

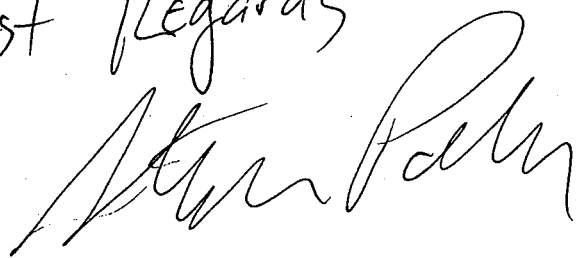
Fr: Stephan Parker on Behalf Bay View RE, LLC

Re: Tenant Appeal T16-0601

Tenant: Adel Ghanem

Tenant's Appeal states "Original Lease" 11/9/2010 was negotiated in Arabic, but did not provide evidence. Respondent Stephen Parker hereby submits copy of said "Original Lease" as Exhibit 1. Please review Exhibit 1. Attached, reference item 46; Interpreter/Translator is not checked. Additionally, item 47, does not require Agreement to be translated into Arabic. Adel Ghanem (Tenant)
Lastly item 49 Signed, dated by
11/9/2010

Best Regards



(510) 390-2031
cell

000071



CALIFORNIA
ASSOCIATION
OF REALTORS®

**RESIDENTIAL LEASE OR
MONTH-TO-MONTH RENTAL AGREEMENT**
(C.A.R. Form LR, Revised 11/08)

Date 11/09/2010, F.E. Forbes Company, Inc. ("Landlord") and Adel Ghanem, Eman Alwajeih ("Tenant") agree as follows:

1. PROPERTY:

- A. Landlord rents to Tenant and Tenant rents from Landlord, the real property and improvements described as: 3143 West Street, Oakland CA 94609 ("Premises").
- B. The Premises are for the sole use as a personal residence by the following named person(s) only: Adel Ghanem, Eman Alwajeih, Whaheed Ghanem, Muheeb Ghanem and Sultah Ghanem
- C. The following personal property, maintained pursuant to paragraph 11, is included: Stove and Refrigerator or (if checked) the personal property on the attached addendum.

2. TERM: The term begins on (date) November 10, 2010 ("Commencement Date"), (Check A or B):

- A. Month-to-Month:** and continues as a month-to-month tenancy. Tenant may terminate the tenancy by giving written notice at least 30 days prior to the intended termination date. Landlord may terminate the tenancy by giving written notice as provided by law. Such notices may be given on any date.
- B. Lease:** and shall terminate on (date) _____ at _____ AM PM. Tenant shall vacate the Premises upon termination of the Agreement, unless: (i) Landlord and Tenant have extended this agreement in writing or signed a new agreement; (ii) mandated by local rent control law; or (iii) Landlord accepts Rent from Tenant (other than past due Rent), in which case a month-to-month tenancy shall be created which either party may terminate as specified in paragraph 2A. Rent shall be at a rate agreed to by Landlord and Tenant, or as allowed by law. All other terms and conditions of this Agreement shall remain in full force and effect.

3. RENT: "Rent" shall mean all monetary obligations of Tenant to Landlord under the terms of the Agreement, except security deposit.

- A. Tenant agrees to pay \$ 1,000.00 per month for the term of the Agreement.
- B. Rent is payable in advance on the 1st (or _____) day of each calendar month, and is delinquent on the next day.
- C. If Commencement Date falls on any day other than the day Rent is payable under paragraph 3B, and Tenant has paid one full month's Rent in advance of Commencement Date, Rent for the second calendar month shall be prorated based on a 30-day period.
- D. PAYMENT: Rent shall be paid by personal check, money order, cashier's check, or other _____, to (name) F.E. Forbes Company, Inc. (phone) (510) 526-7933 at (address) 1795 Solano Avenue, Berkeley, CA 94707 (or at any other location subsequently specified by Landlord in writing to Tenant) (and if checked, rent may be paid personally between the hours of _____ and _____ on the following days _____). If any payments is returned for non-sufficient funds ("NSF") or because tenant stops payment, then, after that: (i) Landlord may, in writing, require Tenant to pay Rent in cash for three months and (ii) all future Rent shall be paid by money order, or cashier's check.

4. SECURITY DEPOSIT:

- A. Tenant agrees to pay \$ 1,000.00 as a security deposit. Security deposit will be transferred to and held by the Owner of the Premises, or held in Owner's Broker's trust account.
- B. All or any portion of the security deposit may be used, as reasonably necessary, to: (i) cure Tenant's default in payment of Rent (which includes Late Charges, NSF fees or other sums due); (ii) repair damage, excluding ordinary wear and tear, caused by Tenant or by a guest or licensee of Tenant; (iii) clean Premises, if necessary, upon termination of the tenancy; and (iv) replace or return personal property or appurtenances. **SECURITY DEPOSIT SHALL NOT BE USED BY TENANT IN LIEU OF PAYMENT OF LAST MONTH'S RENT.** If all or any portion of the security deposit is used during the tenancy, Tenant agrees to reinstate the total security deposit within five days after written notice is delivered to Tenant. Within 21 days after Tenant vacates the Premises, Landlord shall: (1) furnish Tenant an itemized statement indicating the amount of any security deposit received and the basis for its disposition and supporting documentation as required by California Civil Code § 1950.5(g); and (2) return any remaining portion of the security deposit to Tenant.
- C. Security deposit will not be returned until all Tenants have vacated the Premises and all keys returned. Any security deposit returned by check shall be made out to all Tenants named on this Agreement, or as subsequently modified.
- D. No interest will be paid on security deposit unless required by local law.
- E. If the security deposit is held by Owner, Tenant agrees not to hold Broker responsible for its return. If the security deposit is held in Owner's Broker's trust account, and Broker's authority is terminated before expiration of this Agreement, and security deposit is released to someone other than Tenant, then Broker shall notify Tenant, in writing, where and to whom security deposit has been released. Once Tenant has been provided such notice, Tenant agrees not to hold Broker responsible for the security deposit.

5. MOVE-IN COSTS RECEIVED/DUE: Move-in funds made payable to F.E. Forbes Company, Inc. shall be paid by personal check, money order, or cashier's check.

Category	Total Due	Payment Received	Balance Due	Date Due
Rent from <u>11/10/2010</u> to <u>12/01/2010</u> (date)	\$1,000.00		\$1,000.00	
*Security Deposit	\$1,000.00		\$1,000.00	
Other _____				
Other _____				
Total	\$2,000.00		\$2,000.00	

*The maximum amount Landlord may receive as security deposit, however designated, cannot exceed two months' Rent for unfurnished premises, or three months' Rent for furnished premises.

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LR REVISED 11/08 (PAGE 1 OF 6)

RESIDENTIAL LEASE OR MONTH-TO-MONTH RENTAL AGREEMENT (LR PAGE 1 OF 6)

Agent: Mark Forbes Phone: (510)526-7933 Fax: (510)526-7976 Prepared using zipForm® software
Broker: F.E. Forbes Company, Inc. 1795 Solano Ave. Berkeley, CA 94707

Reviewed by _____ Date _____



000072

6. LATE CHARGE; RETURNED CHECKS:

- A. Tenant acknowledges either late payment of Rent or issuance of a returned check may cause Landlord to incur costs and expenses, the exact amounts of which are extremely difficult and impractical to determine. These costs may include, but are not limited to, processing, enforcement and accounting expenses, and late charges imposed on Landlord. If any installment of Rent due from Tenant is not received by Landlord within 5 (or _____) calendar days after the date due, or if a check is returned, Tenant shall pay to Landlord, respectively, an additional sum of \$ _____ or _____ % of the Rent due as a Late Charge and \$25.00 as a NSF fee for the first returned check and \$35.00 as a NSF fee for each additional returned check, either or both of which shall be deemed additional Rent.
- B. Landlord and Tenant agree that these charges represent a fair and reasonable estimate of the costs Landlord may incur by reason of Tenant's late or NSF payment. Any Late Charge or NSF fee due shall be paid with the current installment of Rent. Landlord's acceptance of any Late Charge or NSF fee shall not constitute a waiver as to any default of Tenant. Landlord's right to collect a Late Charge or NSF fee shall not be deemed an extension of the date Rent is due under paragraph 3 or prevent Landlord from exercising any other rights and remedies under this Agreement and as provided by law.

7. PARKING: (Check A or B)

- A. Parking is permitted as follows: One off street parking place

The right to parking is is not included in the Rent charged pursuant to paragraph 3. If not included in the Rent, the parking rental fee shall be an additional \$ _____ per month. Parking space(s) are to be used for parking properly licensed and operable motor vehicles, except for trailers, boats, campers, buses or trucks (other than pick-up trucks). Tenant shall park in assigned space(s) only. Parking space(s) are to be kept clean. Vehicles leaking oil, gas or other motor vehicle fluids shall not be parked on the Premises. Mechanical work or storage of inoperable vehicles is not permitted in parking space(s) or elsewhere on the Premises.

- OR B. Parking is not permitted on the Premises.

8. STORAGE: (Check A or B)

- A. Storage is permitted as follows:

The right to storage space is, is not, included in the Rent charged pursuant to paragraph 3. If not included in the Rent, storage space fee shall be an additional \$ _____ per month. Tenant shall store only personal property Tenant owns, and shall not store property claimed by another or in which another has any right, title or interest. Tenant shall not store any improperly packaged food or perishable goods, flammable materials, explosives, hazardous waste or other inherently dangerous material, or illegal substances.

- OR B. Storage is not permitted on the Premises.

9. UTILITIES: Tenant agrees to pay for all utilities and services, and the following charges:

except _____, which shall be paid for by Landlord. If any utilities are not separately metered, Tenant shall pay Tenant's proportional share, as reasonably determined and directed by Landlord. If utilities are separately metered, Tenant shall place utilities in Tenant's name as of the Commencement Date. Landlord is only responsible for installing and maintaining one usable telephone jack and one telephone line to the Premises. Tenant shall pay any cost for conversion from existing utilities service provider.

10. CONDITION OF PREMISES: Tenant has examined Premises and, if any, all furniture, furnishings, appliances, landscaping and fixtures, including smoke detector(s).

(Check all that apply:)

- A. Tenant acknowledges these items are clean and in operable condition, with the following exceptions: _____
- B. Tenant's acknowledgment of the condition of these items is contained in an attached statement of condition (C.A.R. Form MIMO).
- C. Tenant will provide Landlord a list of items that are damaged or not in operable condition within 3 (or 5) days after Commencement Date, not as a contingency of this Agreement but rather as an acknowledgment of the condition of the Premises.
- D. Other: _____

11. MAINTENANCE:

A. Tenant shall properly use, operate and safeguard Premises, including if applicable, any landscaping, furniture, furnishings and appliances, and all mechanical, electrical, gas and plumbing fixtures, and keep them and the Premises clean, sanitary and well ventilated. Tenant shall be responsible for checking and maintaining all smoke detectors and any additional phone lines beyond the one line and jack that Landlord shall provide and maintain. Tenant shall immediately notify Landlord, in writing, of any problem, malfunction or damage. Tenant shall be charged for all repairs or replacements caused by Tenant, pets, guests or licensees of Tenant, excluding ordinary wear and tear. Tenant shall be charged for all damage to Premises as a result of failure to report a problem in a timely manner. Tenant shall be charged for repair of drain blockages or stoppages, unless caused by defective plumbing parts or tree roots invading sewer lines.

- B. Landlord Tenant shall water the garden, landscaping, trees and shrubs, except: _____
- C. Landlord Tenant shall maintain the garden, landscaping, trees and shrubs, except: _____
- D. Landlord Tenant shall maintain _____
- E. Tenant's failure to maintain any item for which Tenant is responsible shall give Landlord the right to hire someone to perform such maintenance and charge Tenant to cover the cost of such maintenance.
- F. The following items of personal property are included in the Premises without warranty and Landlord will not maintain, repair or replace them: _____

Tenant's Initials (MSK) (_____)

Landlord's Initials (MSK) (_____)

Reviewed by _____ Date _____



3143 West Street

Premises: Oakland, CA 94609

Date: November 9, 2010

12. **NEIGHBORHOOD CONDITIONS:** Tenant is advised to satisfy him or herself as to neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, proximity of registered felons or offenders, fire protection, other governmental services, availability, adequacy and cost of any wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, cemeteries, facilities and condition of common areas, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Tenant.

13. **PETS:** Unless otherwise provided in California Civil Code § 54.2, no animal or pet shall be kept on or about the Premises without Landlord's prior written consent, except: _____

14. (If checked) **NO SMOKING:** No smoking is allowed on the Premises. If smoking does occur on the Premises, (i) Tenant is responsible for all damage caused by the smoking including, but not limited to, stains, burns, odors and removal of debris; (ii) Tenant is in breach of this Agreement; (iii) Tenant, Authorized Guests, and all others may be required to leave the Premises; and (iv) Tenant acknowledges that in order to remove odor caused by smoking, Landlord may need to replace carpet and drapes and paint entire Premises regardless of when these items were last cleaned or replaced. Such actions and other necessary steps will impact the return of any security deposit.

15. **RULES/REGULATIONS:**

A. Tenant agrees to comply with all Landlord rules and regulations that are at any time posted on the Premises or delivered to Tenant. Tenant shall not, and shall ensure that guests and licensees of Tenant shall not, disturb, annoy, endanger or interfere with other tenants of the building or neighbors, or use the Premises for any unlawful purposes, including, but not limited to, using, manufacturing, selling, storing or transporting illicit drugs or other contraband, or violate any law or ordinance, or commit a waste or nuisance on or about the Premises.

B. (If applicable, check one)

1. Landlord shall provide Tenant with a copy of the rules and regulations within _____ days or _____
OR 2. Tenant has been provided with, and acknowledges receipt of, a copy of the rules and regulations.

16. (If checked) **CONDOMINIUM; PLANNED UNIT DEVELOPMENT:**

A. The Premises is a unit in a condominium, planned unit development, common interest subdivision or other development governed by a homeowners' association ("HOA"). The name of the HOA is _____
Tenant agrees to comply with all HOA covenants, conditions and restrictions, bylaws, rules and regulations and decisions. Landlord shall provide Tenant copies of rules and regulations, if any. Tenant shall reimburse Landlord for any fines or charges imposed by HOA or other authorities, due to any violation by Tenant, or the guests or licensees of Tenant.

B. (Check one)

1. Landlord shall provide Tenant with a copy of the HOA rules and regulations within _____ days or _____
OR 2. Tenant has been provided with, and acknowledges receipt of, a copy of the HOA rules and regulations.

17. **ALTERATIONS; REPAIRS:** Unless otherwise specified by law or paragraph 29C, without Landlord's prior written consent, (i) Tenant shall not make any repairs, alterations or improvements in or about the Premises including: painting, wallpapering, adding or changing locks, installing antenna or satellite dish(es), placing signs, displays or exhibits, or using screws, fastening devices, large nails or adhesive materials; (ii) Landlord shall not be responsible for the costs of alterations or repairs made by Tenant; (iii) Tenant shall not deduct from Rent the costs of any repairs, alterations or improvements; and (iv) any deduction made by Tenant shall be considered unpaid Rent.

18. **KEYS; LOCKS:**

A. Tenant acknowledges receipt of (or Tenant will receive prior to the Commencement Date, or _____):
 2 key(s) to Premises, _____ remote control device(s) for garage door/gate opener(s),
 _____ key(s) to mailbox, _____
 _____ key(s) to common area(s), _____

B. Tenant acknowledges that locks to the Premises have, have not, been re-keyed.

C. If Tenant re-keys existing locks or opening devices, Tenant shall immediately deliver copies of all keys to Landlord. Tenant shall pay all costs and charges related to loss of any keys or opening devices. Tenant may not remove locks, even if installed by Tenant.

19. **ENTRY:**

A. Tenant shall make Premises available to Landlord or Landlord's representative for the purpose of entering to make necessary or agreed repairs, decorations, alterations, or improvements, or to supply necessary or agreed services, or to show Premises to prospective or actual purchasers, tenants, mortgagees, lenders, appraisers, or contractors.

B. Landlord and Tenant agree that 24-hour written notice shall be reasonable and sufficient notice, except as follows: 48-hour written notice is required to conduct an inspection of the Premises prior to the Tenant moving out, unless the Tenant waives the right to such notice. Notice may be given orally to show the Premises to actual or prospective purchasers provided Tenant has been notified in writing within 120 days preceding the oral notice that the Premises are for sale and that oral notice may be given to show the Premises. No notice is required: (i) to enter in case of an emergency; (ii) if the Tenant is present and consents at the time of entry or (iii) if the Tenant has abandoned or surrendered the Premises. No written notice is required if Landlord and Tenant orally agree to an entry for agreed services or repairs if the date and time of entry are within one week of the oral agreement.

C. (If checked) Tenant authorizes the use of a keysafe/lockbox to allow entry into the Premises and agrees to sign a keysafe/lockbox addendum (C.A.R. Form KLA).

20. **SIGNS:** Tenant authorizes Landlord to place FOR SALE/LEASE signs on the Premises.

21. **ASSIGNMENT; SUBLETTING:** Tenant shall not sublet all or any part of Premises, or assign or transfer this Agreement or any interest in it, without Landlord's prior written consent. Unless such consent is obtained, any assignment, transfer or subletting of Premises or this Agreement or tenancy, by voluntary act of Tenant, operation of law or otherwise, shall, at the option of Landlord,

Tenant's Initials (AL) ()
Landlord's Initials () ()
Reviewed by _____ Date _____



terminate this Agreement. Any proposed assignee, transferee or sublessee shall submit to Landlord an application and credit information for Landlord's approval and, if approved, sign a separate written agreement with Landlord and Tenant. Landlord's consent to any one assignment, transfer or sublease, shall not be construed as consent to any subsequent assignment, transfer or sublease and does not release Tenant of Tenant's obligations under this Agreement.

22. **JOINT AND INDIVIDUAL OBLIGATIONS:** If there is more than one Tenant, each one shall be individually and completely responsible for the performance of all obligations of Tenant under this Agreement, jointly with every other Tenant, and individually, whether or not in possession.

23. **LEAD-BASED PAINT (if checked):** Premises was constructed prior to 1978. In accordance with federal law, Landlord gives and Tenant acknowledges receipt of the disclosures on the attached form (C.A.R. Form FLD) and a federally approved lead pamphlet.

24. **MILITARY ORDINANCE DISCLOSURE:** (If applicable and known to Landlord) Premises is located within one mile of an area once used for military training, and may contain potentially explosive munitions.

25. **PERIODIC PEST CONTROL:** Landlord has entered into a contract for periodic pest control treatment of the Premises and shall give Tenant a copy of the notice originally given to Landlord by the pest control company.

26. **METHAMPHETAMINE CONTAMINATION:** Prior to signing this Agreement, Landlord has given Tenant a notice that a health official has issued an order prohibiting occupancy of the property because of methamphetamine contamination. A copy of the notice and order are attached.

27. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Landlord nor Brokers, if any, are required to check this website. If Tenant wants further information, Tenant should obtain information directly from this website.)

28. **POSSESSION:**

A. Tenant is not in possession of the premises. If Landlord is unable to deliver possession of Premises on Commencement Date, such Date shall be extended to the date on which possession is made available to Tenant. If Landlord is unable to deliver possession within 5 (or _____) calendar days after agreed Commencement Date, Tenant may terminate this Agreement by giving written notice to Landlord, and shall be refunded all Rent and security deposit paid. Possession is deemed terminated when Tenant has returned all keys to the Premises to Landlord.

B. Tenant is already in possession of the Premises.

29. **TENANT'S OBLIGATIONS UPON VACATING PREMISES:**

A. Upon termination of this Agreement, Tenant shall: (i) give Landlord all copies of all keys or opening devices to Premises, including any common areas; (ii) vacate and surrender Premises to Landlord, empty of all persons; (iii) vacate any/all parking and/or storage space; (iv) clean and deliver Premises, as specified in paragraph C below, to Landlord in the same condition as referenced in paragraph 10; (v) remove all debris; (vi) give written notice to Landlord of Tenant's forwarding address; and (vii)

B. All alterations/improvements made by or caused to be made by Tenant, with or without Landlord's consent, become the property of Landlord upon termination. Landlord may charge Tenant for restoration of the Premises to the condition it was in prior to any alterations/improvements.

C. **Right to Pre-Move-Out Inspection and Repairs:** (i) After giving or receiving notice of termination of a tenancy (C.A.R. Form NTT), or before the end of a lease, Tenant has the right to request that an inspection of the Premises take place prior to termination of the lease or rental (C.A.R. Form NRI). If Tenant requests such an inspection, Tenant shall be given an opportunity to remedy identified deficiencies prior to termination, consistent with the terms of this Agreement. (ii) Any repairs or alterations made to the Premises as a result of this inspection (collectively, "Repairs") shall be made at Tenant's expense. Repairs may be performed by Tenant or through others, who have adequate insurance and licenses and are approved by Landlord. The work shall comply with applicable law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. (iii) Tenant shall: (a) obtain receipts for Repairs performed by others; (b) prepare a written statement indicating the Repairs performed by Tenant and the date of such Repairs; and (c) provide copies of receipts and statements to Landlord prior to termination. Paragraph 29C does not apply when the tenancy is terminated pursuant to California Code of Civil Procedure § 1161(2), (3) or (4).

30. **BREACH OF CONTRACT; EARLY TERMINATION:** In addition to any obligations established by paragraph 29, in the event of termination by Tenant prior to completion of the original term of the Agreement, Tenant shall also be responsible for lost Rent, rental commissions, advertising expenses and painting costs necessary to ready Premises for re-rental. Landlord may withhold any such amounts from Tenant's security deposit.

31. **TEMPORARY RELOCATION:** Subject to local law, Tenant agrees, upon demand of Landlord, to temporarily vacate Premises for a reasonable period, to allow for fumigation (or other methods) to control wood destroying pests or organisms, or other repairs to Premises. Tenant agrees to comply with all instructions and requirements necessary to prepare Premises to accommodate pest control, fumigation or other work, including bagging or storage of food and medicine, and removal of perishables and valuables. Tenant shall only be entitled to a credit of Rent equal to the per diem Rent for the period of time Tenant is required to vacate Premises.

32. **DAMAGE TO PREMISES:** If, by no fault of Tenant, Premises are totally or partially damaged or destroyed by fire, earthquake, accident or other casualty that render Premises totally or partially uninhabitable, either Landlord or Tenant may terminate this Agreement by giving the other written notice. Rent shall be abated as of the date Premises become totally or partially uninhabitable. The abated amount shall be the current monthly Rent prorated on a 30-day period. If the Agreement is not terminated, Landlord shall promptly repair the damage, and Rent shall be reduced based on the extent to which the damage interferes with Tenant's reasonable use of Premises. If damage occurs as a result of an act of Tenant or Tenant's guests, only Landlord shall have the right of termination, and no reduction in Rent shall be made.

33. **INSURANCE:** Tenant's or guest's personal property and vehicles are not insured by Landlord, manager or, if applicable, HOA, against loss or damage due to fire, theft, vandalism, rain, water, criminal or negligent acts of others, or any other cause. Tenant is

Tenant's Initials (AS) (_____)
Landlord's Initials (AS) (_____)

Reviewed by MSK Date _____



advised to carry Tenant's own insurance (renter's insurance) to protect Tenant from any such loss or damage. Tenant shall comply with any requirement imposed on Tenant by Landlord's insurer to avoid: (i) an increase in Landlord's insurance premium (or Tenant shall pay for the increase in premium); or (ii) loss of insurance.

34. **WATERBEDS:** Tenant shall not use or have waterbeds on the Premises unless: (i) Tenant obtains a valid waterbed insurance policy; (ii) Tenant increases the security deposit in an amount equal to one-half of one month's Rent; and (iii) the bed conforms to the floor load capacity of Premises.

35. **WAIVER:** The waiver of any breach shall not be construed as a continuing waiver of the same or any subsequent breach.

36. **NOTICE:** Notices may be served at the following address, or at any other location subsequently designated:

Landlord: F.E. Forbes Company, Inc.
1795 Solano Avenue
Berkeley, CA 94707
(510) 526-7933 / (510) 526-7976

Tenant: Adel Ghanem and Eman Alwajeih
3143 West Street
Oakland, CA 94609

37. **TENANT ESTOPPEL CERTIFICATE:** Tenant shall execute and return a tenant estoppel certificate delivered to Tenant by Landlord or Landlord's agent within 3 days after its receipt. Failure to comply with this requirement shall be deemed Tenant's acknowledgment that the tenant estoppel certificate is true and correct, and may be relied upon by a lender or purchaser.

38. **TENANT REPRESENTATIONS; CREDIT:** Tenant warrants that all statements in Tenant's rental application are accurate. Tenant authorizes Landlord and Broker(s) to obtain Tenant's credit report periodically during the tenancy in connection with the modification or enforcement of this Agreement. Landlord may cancel this Agreement: (i) before occupancy begins; (ii) upon disapproval of the credit report(s); or (iii) at any time, upon discovering that information in Tenant's application is false. A negative credit report reflecting on Tenant's record may be submitted to a credit reporting agency if Tenant fails to fulfill the terms of payment and other obligations under this Agreement.

39. **MEDIATION:**

A. Consistent with paragraphs B and C below, Landlord and Tenant agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.

B. The following matters are excluded from mediation: (i) an unlawful detainer action; (ii) the filing or enforcement of a mechanic's lien; and (iii) any matter within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation provision.

C. Landlord and Tenant agree to mediate disputes or claims involving Listing Agent, Leasing Agent or property manager ("Broker"), provided Broker shall have agreed to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to such Broker. Any election by Broker to participate in mediation shall not result in Broker being deemed a party to this Agreement.

40. **ATTORNEY FEES:** In any action or proceeding arising out of this Agreement, the prevailing party between Landlord and Tenant shall be entitled to reasonable attorney fees and costs, except as provided in paragraph 39A.

41. **C.A.R. FORM:** C.A.R. Form means the specific form referenced or another comparable form agreed to by the parties.

42. **OTHER TERMS AND CONDITIONS; SUPPLEMENTS:** Interpretor/Translator Agreement (C.A.R. Form ITA);
 Keysafe/Lockbox Addendum (C.A.R. Form KLA); Lead-Based Paint and Lead-Based Paint Hazards Disclosure (C.A.R. Form FLD)

The following ATTACHED supplements are incorporated in this Agreement: _____

43. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed except in writing. This Agreement is subject to California landlord-tenant law and shall incorporate all changes required by amendment or successors to such law. This Agreement and any supplement, addendum or modification, including any copy, may be signed in two or more counterparts, all of which shall constitute one and the same writing.

44. **AGENCY:**

A. **CONFIRMATION:** The following agency relationship(s) are hereby confirmed for this transaction:

Listing Agent: (Print firm name) N/A
is the agent of (check one): the Landlord exclusively; or both the Landlord and Tenant.
Leasing Agent: (Print firm name) N/A
(if not same as Listing Agent) is the agent of (check one): the Tenant exclusively; or the Landlord exclusively; or both the Tenant and Landlord.

B. **DISCLOSURE:** (If checked): The term of this lease exceeds one year. A disclosure regarding real estate agency relationships (C.A.R. Form AD) has been provided to Landlord and Tenant, who each acknowledge its receipt.

45. **TENANT COMPENSATION TO BROKER:** Upon execution of this Agreement, Tenant agrees to pay compensation to Broker as specified in a separate written agreement between Tenant and Broker.

Tenant's Initials (AV) (_____)
Landlord's Initials (AV) (_____)

Reviewed by AV Date _____



3143 West Street

Premises: Oakland, CA 94609

Date: November 9, 2010

46. **INTERPRETER/TRANSLATOR:** The terms of this Agreement have been interpreted for Tenant into the following language: _____ Landlord and Tenant acknowledge receipt of the attached interpreter/translator agreement (C.A.R. Form ITA).
47. **FOREIGN LANGUAGE NEGOTIATION:** If this Agreement has been negotiated by Landlord and Tenant primarily in Spanish, Chinese, Tagalog, Korean or Vietnamese, pursuant to the California Civil Code Tenant shall be provided a translation of this Agreement in the language used for the negotiation.
48. **OWNER COMPENSATION TO BROKER:** Upon execution of this Agreement, Owner agrees to pay compensation to Broker as specified in a separate written agreement between Owner and Broker (C.A.R. Form LCA).
49. **RECEIPT:** If specified in paragraph 5, Landlord or Broker, acknowledges receipt of move-in funds.

Landlord and Tenant acknowledge and agree Brokers: (a) do not guarantee the condition of the Premises; (b) cannot verify representations made by others; (c) cannot provide legal or tax advice; (d) will not provide other advice or information that exceeds the knowledge, education or experience required to obtain a real estate license. Furthermore, if Brokers are not also acting as Landlord in this Agreement, Brokers: (e) do not decide what rental rate a Tenant should pay or Landlord should accept; and (f) do not decide upon the length or other terms of tenancy. Landlord and Tenant agree that they will seek legal, tax, insurance and other desired assistance from appropriate professionals.

Tenant agrees to rent the Premises on the above terms and conditions.

Tenant [Signature] Adel Ghanem Date 11/10/10
 Address 3143 West Street City Oakland State CA Zip 94609
 Telephone (510) 390-3964 Fax _____ E-mail _____

Tenant [Signature] Eman Alwajeeh Date _____
 Address 3143 West Street City Oakland State CA Zip 94609
 Telephone (510) 390-3964 Fax _____ E-mail _____

- GUARANTEE:** In consideration of the execution of this Agreement by and between Landlord and Tenant and for valuable consideration, receipt of which is hereby acknowledged, the undersigned ("Guarantor") does hereby: (i) guarantee unconditionally to Landlord and Landlord's agents, successors and assigns, the prompt payment of Rent or other sums that become due pursuant to this Agreement, including any and all court costs and attorney fees included in enforcing the Agreement; (ii) consent to any changes, modifications or alterations of any term in this Agreement agreed to by Landlord and Tenant; and (iii) waive any right to require Landlord and/or Landlord's agents to proceed against Tenant for any default occurring under this Agreement before seeking to enforce this Guarantee.

Guarantor (Print Name) _____
 Guarantor _____ Date _____
 Address _____ City _____ State _____ Zip _____
 Telephone _____ Fax _____ E-mail _____

Landlord agrees to rent the Premises on the above terms and conditions.

Landlord [Signature] Landlord F.E. Forbes Company, Inc.
 Address 1795 Solano Avenue, Berkeley, CA 94707
 Telephone (510) 526-7933 Fax (510) 526-7976 E-mail mforbes@feforbes.com

REAL ESTATE BROKERS:

A. Real estate brokers who are not also Landlord under this Agreement are not parties to the Agreement between Landlord and Tenant.

B. Agency relationships are confirmed in paragraph 44.

C. **COOPERATING BROKER COMPENSATION:** Listing Broker agrees to pay Cooperating Broker (Leasing Firm) and Cooperating Broker agrees to accept: (i) the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS; or (ii) (if checked) the amount specified in a separate written agreement between Listing Broker and Cooperating Broker.

Real Estate Broker (Listing Firm) N/A DRE Lic. # _____
 By (Agent) _____ DRE Lic. # _____ Date _____
 Address _____ City _____ State _____ Zip _____
 Telephone _____ Fax _____ E-mail _____

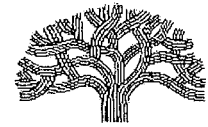
Real Estate Broker (Leasing Firm) N/A DRE Lic. # _____
 By (Agent) _____ DRE Lic. # _____ Date _____
 Address _____ City _____ State _____ Zip _____
 Telephone _____ Fax _____ E-mail _____

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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 NUMBERS: L16-0082, Bay Development Real Estate LLC v. Tenants & T16-0601, Ghanem v. Parker, et al.

PROPERTY ADDRESS: 3143 West St., Oakland, CA

DATES OF HEARING: February 22, 2017

DATE OF DECISION: April 14, 2017

APPEARANCES: Stephen Parker (Agent of Owner)
Adel Ghanem (Tenant)
Matthew Webb (Attorney for Tenant)
Ayad Kholafar (Interpreter)

SUMMARY OF DECISION

The owner's petition is denied. The tenant's petition is denied.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a Certificate of Exemption on a mixed commercial and residential building on the ground that it is a "substantially rehabilitated" building, pursuant to Oakland Municipal Code (O.M.C.) Section 8.22 and Rent Adjustment Program Regulations. The tenant filed a response to the owner's petition, contesting the claim of permanent exemption.

The tenant filed a petition on October 24, 2016, which alleges that a proposed rent increase from \$1,070 to \$2,350 per month, effective October 14, 2016, exceeds the CPI Adjustment and are unjustified or is greater than 10% and would exceed an overall increase of 30% in 5 years; that he first received the form Notice to Tenants (RAP Notice) in April 2016; that the notice of rent increase based upon capital improvement costs does not contain the "enhanced notice"

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requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment Program; and that their housing services have been decreased due to problems with the toilet and oven in his unit.

The owner filed a response to the tenant's petition, which does not state a justification for the challenged rent increase, but alleges that the subject rental unit is exempt from the Rent Adjustment Ordinance because it is has been "substantially rehabilitated."

THE ISSUES

- (1) Is the subject rental unit exempt from the Rent Adjustment Ordinance on the ground that the building in which it is located has been "substantially rehabilitated"?
- (2) If the rental unit in which the petitioning tenant lives has not been "substantially rehabilitated," when did the tenant first receive the RAP Notice?
- (3) If the rental unit in which the petitioning tenant lives has not been "substantially rehabilitated," did the tenant file his petition within the required time limit?
- (4) If the rental unit in which the petitioning tenant lives has not been "substantially rehabilitated," is there a justification for the challenged rent increase?
- (5) If the rental unit in which the petitioning tenant lives has not been "substantially rehabilitated," have the tenant's housing services been decreased?

OWNER'S EVIDENCE

Background: At the Hearing, the parties agreed that the subject 2-story building contains 2 residential units and 2 commercial units. The owner's agent testified that there was a major fire in the building in the year 2006, after which the building was re-built. The owner submitted 41 pages of documents, which were marked 1 through 41.

At the Hearing, the tenant objected to documents marked No. 1 and Nos. 5 through 15. Document number 1 is a letter to the owner's agent from the City of Oakland Principal Inspection Supervisor which states the building permit valuation at the subject property. Documents 5 through 15 are a trial brief from an Alameda County Superior Court case entitled Vanderbuilt Construction v. Fatima A Ghazi, et. al. These objections were sustained. The tenant also objected to documents marked Nos. 26 and 27, entitled "ConstructSure Fund Control – Disbursement Report," which objection was overruled. The rest of the marked documents were admitted into evidence without objection.

Nature of the Building: The owner testified that building plans prepared by the original architect state that the first floor of the building contains 2161 square feet, and the second floor contains 2180 square feet, a total of 4,341 square feet. The owner presented this testimony based upon what he read from his telephone. No other testimony or documentary evidence of the square footage was presented.

Costs: The owner submitted a document entitled "proposal and contract for rectifying fire damaged building" prepared by Pan Geo Builders, dated November 12, 2007, with regard to the

subject building.¹ The proposal was submitted to Fatima Ghazi and Khaled Abdorabihe, the former owners of the building. This document states a cost of \$398,000.

The owner also submitted an undated document entitled “ConstructSure Fund Control – Disbursement Report.”² The owner testified that this company was the intermediary (escrow agent) between the fire insurance company and the contractor, and released funds upon completion of the construction. This document references the subject property, states that the contractor is Pan Geo, and that ConstructSure received a check from an insurance company in the amount of \$462,000. The City of Oakland issued a Certificate of Occupancy for the subject building on April 11, 2016.

TENANT’S EVIDENCE

RAP Notice: At the Hearing, the tenant testified that he received the RAP Notice in April 2016. This testimony was consistent with the statement in the tenant’s sworn petition.

Filing Requirement: The petition and response both state that the tenant was served with the contested rent increase notice on August 9, 2016. The tenant’s petition was filed on October 24, 2016. The tenant testified that he cannot read or write English. He further testified that, when he received the contested rent increase notice, he did not understand what it was; he thought the notice concerned an earlier case involving the owner. The tenant also thought that the notice had been served on his attorney, who had represented him in that prior case. The tenant’s petition does not list any representative.

On questioning by the owner’s agent, the tenant testified that he hired an attorney when he received the rent increase notice. He also testified that the contents of his petition were written by a friend, who he told what to write, and that the petition was reviewed by an attorney before it was filed.

Rent History: The tenant testified that he has continued to pay rent of \$1,070 per month.

Decreased Housing Services:

Toilet: The tenant testified that the water in the toilet in his unit runs constantly. He has not informed the owner about this problem.

Oven: The tenant testified that there was a problem with the oven in his unit, and he notified the owner approximately 2 months ago. When the owner did not respond, he paid to have the oven repaired.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Substantial Rehabilitation: O.M.C. 8.22.030(A)(6) states that dwelling units located in “substantially rehabilitated buildings” are not “covered units” under the Rent Ordinance.

¹ Exhibit Nos. 24-25

² Exhibit No. 26

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.³

Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

In evaluating evidence, California Statutes are instructive. The Evidence Code states:

If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust.⁴

Further, the applicable rules of evidence in an administrative hearing are stated in Government Code Section 11513:⁵

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs . . .

The owner's evidence falls far short of the required standard. The owner did not present either reliable documentary evidence or testimony from an architect or other competent professional regarding the square footage of the building. Rather, he read from his telephone what was purported to be a statement from an architect.

Additionally, evidence of the cost of the construction project is quite confusing and apparently incomplete. The owner presented an unsigned proposal and contract from a building contractor which states a cost of \$398,000, as well as an undated statement from an escrow company which states a much higher figure. There is no evidence of when or to whom the money may have been paid by the escrow company.

The owner is seeking permanent exemption from the Rent Adjustment Ordinance, and has the burden of proving its case by a preponderance of the evidence. The owner did not present the strongest possible evidence regarding either the square footage of the building or the cost of construction, and the evidence that was presented is hardly the type of evidence upon which

³ O.M.C. Section 8.22.030(B)(2)

⁴ Evidence Code, Section 412

⁵ Regulations, Section 8.22.110(E)(4)

“responsible persons are accustomed to rely in the conduct of serious affairs.” Therefore, the owner’s petition is denied.

RAP Notice: It is found that the tenant received the RAP Notice in April 2016.

Tenant’s Filing Requirement: The rent increase notice was served upon the tenant on August 9, 2016; the tenant’s petition was filed on October 24, 2016. A tenant petition must be filed within 60 days of the date of service of a rent increase notice or the date the tenant first receives the RAP Notice, whichever is later.⁶ The tenant did not file his petition within the required time limit. Although this section of the Rent Adjustment Ordinance was changed, effective September 20, 2016, to extend the filing period from 60 to 90 days, the 60-day filing requirement was in effect when the rent increase notice was served. Therefore, the 60-day limit applies in this case.

Neither the Ordinance nor the Regulations contain any exception to the filing requirement. The tenant’s petition was not filed within the required time limit. Therefore, before considering the tenant’s claims of decreased housing services, the rent is \$2,350 per month, effective October 15, 2016.

Decreased Housing Services: Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁷ and may be corrected by a rent adjustment.⁸ 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.

A tenant has the burden of proof with respect to each decreased services claim. Further, a tenant must give an owner notice of a problem and the owner is allowed a reasonable period of time after such notice to make repairs.

Toilet: The tenant did not notify the owner about this problem and, therefore, the claim is denied.

Oven: The tenant did not give the owner a reasonable opportunity to repair the oven before he had it repaired on his own. For this reason, the claim is denied.

Rent Underpayments: The tenant paid rent of \$1,070 per month for 6 months. This was an underpayment of \$1,280 per month, a total of \$7,680. The underpayment is a very large amount of money compared to the rent, and is found to be an “extraordinary circumstance.” Therefore, the overpayment is ordered repaid over a period of 24 months, rather than the standard 12 months.⁹ The rent is temporarily increased by \$320 per month, to \$2,670 per month, beginning with the rent payment in April 2017 and ending with the rent payment in March 2019.

⁶ O.M.C. Section 8.22.090 (A)(2)

⁷ O.M.C. Section 8.22.070(F)

⁸ O.M.C. Section 8.22.110(E)

⁹ Regulations, Section 8.22.110(F)

ORDER

1. Petition L16-0082 is denied
2. Petition T16-0601 is denied.
3. The subject building is not a “substantially rehabilitated” building.
4. The rent, before a temporary increase due to underpaid rent, is \$2,350 per month.
5. The tenant has underpaid rent in the amount of \$7,680. The overpayment is ordered repaid over a period of 24 months.
6. The rent is temporarily increased by \$320 per month, to \$2,670 per month, beginning with the rent payment in April 2017 and ending with the rent payment in March 2019.
7. The tenant’s claims of decreased housing services are denied.
8. The Anniversary Date for future rent increases is October 15.
9. **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: April 14, 2017



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number L16-0082

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

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

Tenants

Adel Ghanem & Eman Alwajeeh
3143 West St
Oakland, CA 94608

Darla Brown
3145 West St
Oakland, CA 94608

Owner

Bay Development Real Estate LLC/Stepha
1128 Boranda Ave
Mountain View, CA 94040

Tenant Representative

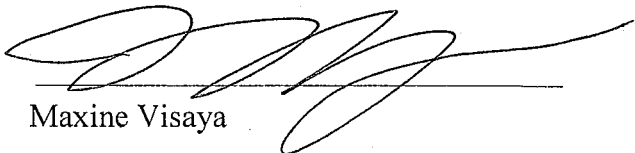
Matthew J. Webb
1382 "A" St
Hayward, CA 94541

Owner Representative

Stephen Parker
4096 Piedmont Ave
Oakland, CA 94611

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 14, 2017 in Oakland, CA.


Maxine Visaya

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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 DEC -8 PM 2:43
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T/6-0601

OWNER RESPONSE

Please print legibly.

Your Name <i>Stephen Parker</i> <i>Agent, Manager</i>	Complete Address (with zip code) <i>4096 Piedmont Ave #191</i> <i>Oakland, CA 94611</i>	Phone: <i>510 263 0303</i> Email: <i>StephenParker@gs.com</i>
Your Representative's Name (if any) <i>Stephen Parker</i> <i>Agent, Manager</i>	Complete Address (with zip code) <i>Same as above</i>	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <i>Adel Abdo Ghanem</i>	Complete Address (with zip code) <i>343 West St</i> <i>Oakland, CA 94608</i>	

Have you paid for your Oakland Business License? Yes No Number _____
 (Provide proof of payment.)

Have you paid the Rent Adjustment Program Service Fee? (\$30 per unit) Yes No
 (Provide proof of payment.)

There are 2 residential units in the subject building. I acquired the building on ___/___/___.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 2009.

The tenant's initial rent including all services provided was \$ 1000 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants?
 Yes No I don't know If yes, on what date was the Notice first given? Aug 9, 2016

Is the tenant current on the rent? Yes No

If you believe your unit is exempt from Rent Adjustment you may skip to **Section IV. EXEMPTION**.

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes _____ No . If yes, on what date was the Enhanced Notice given? _____. Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes _____ No _____. Not applicable: there was no capital improvements increase. _____

Begin with the most recent rent increase and work backwards. Attach another sheet if needed.

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
8/9/16	10/15/16	\$ 1070	\$ 2350	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

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.

Exempt / Substantial Rebuild Petition

Date of Increase	Banking (deferred annual increases.)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
10/15/2016	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

IV. EXEMPTION

If you claim that your property is exempt from Rent Adjustment (Oakland Municipal Code Chapter 8.22), please check one or more of the grounds:

The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**

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

The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.

The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** 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 continuously as his or her principal residence and has done so for at least one year.

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.**

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.

File Review. 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.

[Handwritten Signature]
Owner's Signature
Agent, Manager
Bay Dev RE, LLC

12/8/2016
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

Bay RE Dev, LLC
4096 Piedmont Ave
Suite 191
Oakland, CA 94611

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 DEC -8 PM 1:57

December 7, 2016

Dear Roberto Costa,

I, Stephen Parker, am the Agent, Manager of Bay Dev RE, LLC ('Owner') of 3139-3145 West Street, Oakland. I am writing the Rent Adjustment Board ('RAB') requesting immediate rejection of Case No. T16-0601, Ghanem v Parker et al scheduled for Wednesday February 22, 2016 for improper notice and the below fraudulent activity:

(1) Reject Case T16-0601 because Mr. Adel Abdo Ghanem, and legal counsel Mr. Matt Webb individually received a 60 Day Notice of Change of Monthly Rent, with attachment "Notice To Tenants Of The Residential Rent Adjustment Program" dated August 9, 2016, each failed to respond. Ghanem, and Webb had a legal obligation to respond within 60days, not later than October 8, 2016 but choose not to respond. I also delivered a copy of the 60Day Notice to RAB, attached as reference.

(2) Mr. Ghanem, in conspiracy Attorney Matt Webb purposefully, with deceitful intent filed a Tenant Petition on October 24, 2016, with the wrong mailing address, claiming he wanted repairs to the toilet and oven. RAB mailed Notice of Petition to the wrong address. Ghanem, and Webb knowingly withheld the Owner's correct address from RAB.

In mid-November, I had a meeting with Case Manager, Mr. Roberto Costa in RAB's office, to discuss Case No. L16-0082, Bay Development Real Estate LLC v Tenants (scheduled for Tuesday, February 28, 2017. During, the meeting with Mr. Costa, he stated there were two open cases for Owner. I was surprised by Mr. Costa's statement. Mr. Costa procured copies of both files for mutual review and discussion. Our review of the files, Mr. Costa and I uncovered the Notice of Petition filed by Ghanem and Webb. Ghanem and Webb purposefully instructed RAB to mail correspondences for Owner to the wrong address. Thus, Owner was not Properly Noticed, and denied the proper amount of time to submit a timely written response to RAB; response date, 35days of October 31, 2016.

To support my position to reject Case No T16-0601, find attached copies of the relevant documents; Ms Maxine Visaya delivered file copies to me Tuesday November 22, 2016. To summarize; Ghanem and Webb failed to file a response to the 60day of Change of Monthly Rent, due October 8, 2016, and they deliberately mislead RAB into delivering the Notice of Petition to the wrong address.

Best Regards


Stephen Parker

Agent, Manager of Bay RE Dev, LLC
510-263-0303
stephenparker@gmail.com

Attachments:

- ① Maxine Visaya email
- ② Notice Case No. L16-0082
- ③ Tenant Petition 10/29/16
- ④ 60day Notice of Change of Rent
- ⑤ Notice of Hearing T16-0601

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T/6-0401 MS/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM 2016 OCT 24 AM 10:12 For date stamp.
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Adel Abdo Ghanem	Rental Address (with zip code) 3143 West St Emeryville CA 94608	Telephone (510) 390-3964
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Stephen Parker Bay Devre	Mailing Address (with zip code) 7380 Claremont Ave Berkeley Ave 94705	Telephone (510) 390-2031

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 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input checked="" type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) 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.
<input type="checkbox"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/>	(f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(g) The contested increase is the second rent increase in a 12-month period.
<input checked="" type="checkbox"/>	(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.
<input checked="" type="checkbox"/>	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input checked="" type="checkbox"/>	(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).
<input checked="" type="checkbox"/>	(k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

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

Date you moved into the Unit: 2009 Initial Rent: \$ 1,000 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 8/9/16. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. 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 Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
8/9/16	10/14/16	\$ 1070	\$ 2350	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 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 Petition(s) you have ever filed for this rental unit: _____

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

If you answered "Yes" to any of the above, 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

Toliet, Owen

IV. VERIFICATION: The tenant must sign:

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

Tenant's Signature _____ Date 10/27/14

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:

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

File Review

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): _____

HOUSING SERVICES

Toilet barely flush 2 months

Oven does not work - 3 weeks

000093

1070
1170