

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
REGULAR MEETING**

**January 25, 2018  
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. CONSENT ITEMS
  - i. Approval of minutes:
    - a. November 9, 2017
    - b. January 11, 2018
4. OPEN FORUM
5. NEW BUSINESS
  - i. Appeal Hearings in cases:
    - b. T16-0006; Raney v. Tesfa et al.
    - c. T16-0365; Johnson v. Thornton
    - d. T16-0377; Buggs v. Bay Property Group
  - ii. Review of Proposed Regulations
    - a. Report, Resolution, and Regulation Text for Owner Move-In Notice to Include Relocation and a Copy of the Ordinance
6. SCHEDULING AND REPORTS
7. ADJOURNMENT

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2018 JAN 17 PM 3:11

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

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

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

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

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

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

**CITY OF OAKLAND**  
**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**  
**Meeting**  
**November 9, 2017**  
**7:00 p.m.**  
**City Hall, Hearing Room #1**  
**One Frank H. Ogawa Plaza, Oakland, CA**

**MINUTES**

**1. CALL TO ORDER**

The HRRRB Panel was called to order at 7:00 p.m. by Board Chair Robert Stone.

**2. ROLL CALL**

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
T. Sandoval	Tenant	X		
D. Mesaros	Tenant	X		
R. Stone	Homeowner	X		
M. Cook	Homeowner	X		
K. Friedman	Landlord	X		

Staff Present

Kent Qian                      Deputy City Attorney  
Barbara Kong-Brown      Senior Hearing Officer

**3. CONSENT ITEMS**

Approval of Minutes for October 26, 2017

- a. Roll Call- K. Friedman was present at the meeting, not absent.
- b. Board discussion of changes to the Regulations. K. Friedman objected to the comment "however, without K. Friedman there would be no quorum to continue the discussion because even though she voted "No to continue past 10:00 p.m. it did not mean that she would not stay past 10:00 pm. This phrase is stricken from the minutes.

**4. OPEN FORUM**

James Vann

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5. NEW BUSINESS

i. Hearing in appeal cases:

a. T16-0077, Sabrah v. Asset Management

Appearances: Waleed Sabrah	Tenant
Roni Rotholz	Tenant Representative
Aaron Young	Owner Representative

Procedural Background

The tenants filed a petition which claimed decreased housing services. The owner filed a timely response which denied the decreased housing service claims but did not appear at the hearing.

The Hearing Decision granted a 1% rent reduction for rust on a vanity mirror and denied the other decreased housing service claims.

Grounds for Appeal

The tenant appealed the Hearing Decision on the following grounds:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board;
- The decision is inconsistent with decisions issued by other hearing officers;
- The decision raises a new policy issue that has not been decided by the Board;
- The tenant was denied a sufficient opportunity to present his claim;
- The decision is not supported by substantial evidence.
- 

Appeal Hearing and Decision

There were questions to the parties. During Board discussion, K. Friedman stated there was a due process issue because there was no explanation for each of the grounds stated as the basis for appeal. R. Stone questioned the 1 percent rent reduction for what appeared to be a cosmetic issue but stated that the issue was not before the Board and that the 1 percent reduction for this issue should not be a Board precedent.

K. Friedman moved to affirm the Hearing Decision based on substantial evidence. M Cook seconded.

The Board panel voted as follows;

Aye:	T. Sandoval, D. Mesaros, R. Stone, M. Cook, K. Friedman
Nay:	0
Abstain:	None

The Motion was approved by consensus.  
Nay 0

The motion passed by consensus.

ii. Discussion and Possible action on Board Procedures

The Board discussed Board procedures and raised the following questions:

1. What happens if a party makes a late appearance or leaves in the middle of a hearing?

2. Is there a contact telephone number if someone is late for a board meeting?

3. There was a request for a copy of the Rent Ordinance and Regulations to be sent to a board member;

4. Does the board chair have discretion to waive the 5 minute appellant and appellee presentations, and the full 10 minutes for rebuttal?

5. K. Friedman feels that there is an inequity at the board meetings and asked if it was possible to require 2 landlord representatives at each board meeting.

Kent Qian agreed to address these issues at the next regular board meeting.

5. SCHEDULING & REPORTS

None

6. ADJOURNMENT

R. Stone moved to adjourn the meeting. K. Friedman seconded. The meeting was adjourned by consensus at 8:25 p.m.

**CITY OF OAKLAND**  
**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**  
**Meeting**  
**January 11, 2018**  
**7:00 p.m.**  
**City Hall, Hearing Room #1**  
**One Frank H. Ogawa Plaza, Oakland, CA**

**MINUTES**

**1. CALL TO ORDER**

The HRRRB Panel was called to order at 7:00 p.m. by Board Chair Jessie Warner

**2. ROLL CALL**

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
D. Mesaros	Tenant	X		
R. Stone	Homeowner	X		
M. Cook	Homeowner	X		
J. Warner	Homeowner	X		
K. Friedman	Landlord	X		

Staff Present

Kent Qian                      Deputy City Attorney  
Barbara Kong-Brown      Senior Hearing Officer

**3. CONSENT ITEMS**

Approval of Minutes for November 9, 2017

- a. The minutes were not in the Board packet and will be agendaized for the next full Board meeting

**4. OPEN FORUM**

James Vann-on New Business, 5.ii. Proposed Regulations

**5. NEW BUSINESS**

- i. Hearing in appeal cases:

000006

a. L16-0038, Ludwig v. tenants

Appearances: Barbara Tuse      Tenant Appellant  
                  Andrey Vakhovsky    Owner Appellee

Procedural Background

The owner filed a petition for approval of a rent increase. The tenant filed a timely response which claimed that the work performed was repair and maintenance and not a capital improvement. The tenant's monthly rent was \$1,063.00.

The Hearing Decision granted a rent increase totaling \$206.67.

Grounds for Appeal

The tenant appealed the Hearing Decision on the following grounds:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board;
- The decision is inconsistent with decisions issued by other hearing officers;
- The decision raises a new policy issue that has not been decided by the Board;
- The tenant was denied a sufficient opportunity to present her claim;
- The decision is not supported by substantial evidence.

Appeal Hearing and Decision

The tenant contended that the work performed was deferred maintenance and not done with permits. The owner contends that the hearing officer found no deferred maintenance and stated that there is no rule that a permit is required for a capital improvement to be passed onto a tenant.

There were questions to the parties. J. Warner moved to remand the Hearing Decision to determine which of the work performed required a permit by the grandfather clause in the 2014 amendment to the Rent Ordinance and were there ongoing conditions such as dry rot which constituted deferred maintenance. R. Stone seconded.

M. Cook offered a replacement motion and moved to remand the Hearing Decision to determine which of the work performed required a permit pursuant to the grandfather clause in the 2014 amendment to the Rent Ordinance and if a permit was not required, the capital improvement costs should be passed onto the tenants. K. Friedman seconded.

The Board voted as follows;

Aye:            D. Mesaros, R. Stone, M. Cook, J. Warner K. Friedman  
Nay:            0

Abstain: None

The motion passed by consensus.

ii. Hearing in appeal cases:

b. L16-0056, Khanna v. Tenants

Appearances: Kasturi Khanna Owner Appellant  
No appearance by tenants

### Procedural Background

The owner filed a petition for approval of an exemption based on substantial rehabilitation.

The Hearing Decision stated that it was clear from the documentation provided, e.g. the blue prints, buildings records and permits, construction loan, and certificate of occupancy, that the prior owner performed construction on the building. However, Rent Board policy requires invoices, agreements, or proof of payment for specific work that was done on the building and the current owner was unable to obtain this information because the building was sold pursuant to a deed in lieu of foreclosure to the prior owner. The Hearing Officer denied the request for the exemption.

### Grounds for Appeal

The owner appealed the Hearing Decision on the following grounds:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board;
- The decision is inconsistent with decisions issued by other hearing officers
- The decision is not supported by substantial evidence.

### Appeal Hearing and Decision

The owner contended that she provided sufficient documentation beyond what was necessary to establish that the work was done and paid for and met the required threshold for an exemption based on substantial rehabilitation. She went to the prior owner and he did not want to cooperate. She contacted the current building official, Tim Low, and he was unwilling to provide her with documentation of the costs expended for the work done on the building. The work was funded by a construction loan which is proof of payment, and in other hearing decisions, due to the passage of time, work that was done by owners was approved for a substantial rehabilitation exemption.

There was extended discussion among the Board. J. Warner stated that it was important to uphold the Rent Board policy requiring, invoices, receipts, or cancelled



checks because of the impact on removing a unit from the rental market. K. Friedman stated that in 2009 these were unusual times and one had to look at the totality of circumstances. R. Stone stated that the standards for substantial rehabilitation on this building had been upheld. D. Mesaros moved to affirm the Hearing Decision based on substantial evidence. J. Warner seconded.

The Board voted as follows;

Aye: D. Mesaros, M. Cook, J. Warner  
Nay: R. Stone, K. Friedman  
Abstain: None

The motion carried.

c. T16-0423, Habarek v. Vaughn

Appearances: Mourad Habarek Tenant Appellant  
No appearance by owner

Procedural Background

The tenant filed two petitions claiming decreased housing services and contesting a rent increase. The owner filed a timely response which denied decreased housing services and claimed that the rent increase was justified by capital improvements.

The Hearing Decision denied the rent increase for parking and granted a monthly rent increase based on capital improvements totaling \$76.61.

Appeal Hearing and Decision

After questions to the tenant and Board discussion K. Friedman moved to affirm the Hearing Decision based on substantial evidence. R. Stone seconded.

The Board voted as follows;

Aye: D. Mesaros, R. Stone, M. Cook, J. Warner K. Friedman  
Nay: 0  
Abstain: None

The motion passed by consensus

ii. Proposed Regulations

The Board discussed Board procedures and raised the following questions:

**6. SCHEDULING & REPORTS**

The Board discussed the Report, Resolution and Regulation text for Owner Occupancy Exemption Regulation. D. Mesaros stated that d. (g) (iv) (v) entitled current homeowner's exemption should be clarified and the lettering should be changed from roman numerals to letters. K. Friedman moved to accept the City Attorney's Recommendations with modifications. M. Cook seconded.

The Board voted as follows;

Aye: D. Mesaros, R. Stone, M. Cook, J. Warner K. Friedman  
Nay: 0  
Abstain: None

The motion passed by consensus

The Board discussed the Report, Resolution, and Regulation Text for Owner Move-In Notice to include Relocation and a Copy of the Ordinance with emphasis on Attachment C, 8.22.360.A-9, Eviction for Owner or Relative Move In, iv., A statement informing tenants as to their right to relocation payment (O.M.C. 8.22.850) and the amount of those relocation payments. The Board requested further review of this item after the next City Council meeting, for the next full board meeting.

## 6. ADJOURNMENT

J. Warner moved to adjourn the meeting. The meeting was adjourned by consensus at 9:30 p.m.

## CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0006

Case Name: Raney v. Tesfa et al.

Property Address: 2329 San Pablo Avenue, #201, Oakland, CA

Parties: Lamon Raney (Tenant)  
Mankonnen Aboo (Property Owner)  
Meaza Tesfa (Property Owner)

### TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 4, 2016
Owner Response filed	April 18, 2016
Hearing Decision issued	August 9, 2016
Tenant Appeal filed	August 16, 2016

000011

2016 AUG 16 PM 2:21

<b>City of Oakland</b> <b>Residential Rent Adjustment Program</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721	<b>APPEAL</b>
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<b>Appellant's Name</b> Iamon raneu	Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/>
--	--

<b>Property Address (Include Unit Number)</b> 201 2329 san pablo avenue, oakland, california 94612
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<b>Appellant's Mailing Address (For receipt of notices)</b> 2329 san pablo avenue, room 201, oakland, california	<b>Case Number</b> +16-0006 <b>Date of Decision appealed</b> august 9, 2016
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<b>Name of Representative (if any)</b>	<b>Representative's Mailing Address (For notices)</b>
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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.)

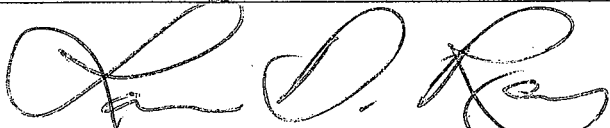



1.  **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2.  **The decision is inconsistent with decisions issued by other hearing officers.**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

000012

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 one. 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 August, 2002016, 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:

<b><u>Name</u></b>	meaza tesfa <del>mankon</del>
<b><u>Address</u></b>	2329 San Pablo Avenue, Oakland, California 94612
<b><u>City, State Zip</u></b>	Oakland, California 94612
<b><u>Name</u></b>	
<b><u>Address</u></b>	
<b><u>City, State Zip</u></b>	

   	Aug. 16, 2016 DATE
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	

**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.

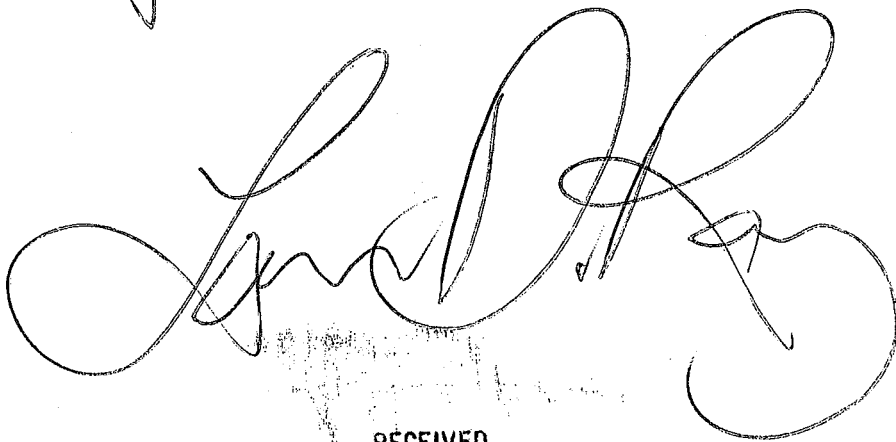
- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal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

000013

- explanation of vncs for appeal -  
my life is in great danger due to severe unhealthy life  
threatening illegal tobacco smoking/alcohol/drug activities  
and usage inside the silver dollar hotel residential location  
at the address 2329/2327 san pablo avenue, oakland,  
california 94612

HL6-0006 raney v. tesfa et al

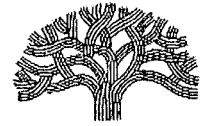
Date: aug. 16, 2016

A large, stylized handwritten signature in black ink, appearing to read 'L. Raney'.

RECEIVED  
CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2016 AUG 16 PM 2:21

000014



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

CITY OF OAKLAND

Housing and Community Development Department  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBER:** T16-0006, Raney v. Tesfa

**PROPERTY ADDRESS:** 2329 San Pablo Avenue, No. 201, Oakland, CA

**DATE OF HEARING:** June 16, 2016

**DATE OF DECISION:** August 9, 2016

**APPEARANCES:** Lamon Raney Tenant  
Meaza Tesfa Owner

**SUMMARY OF DECISION**

The tenant's petition is GRANTED IN PART.

**INTRODUCTION**

Lamon Raney filed a petition on January 4, 2016, which claims various decreased housing services, which include the following:

1. Pests-rodents, spiders, bedbugs, cockroaches;
2. Bathrooms are not sanitary;
3. Mold;
4. Issues with other tenants-assault/harassment;
5. Smoking by tenants;
6. Security
7. Broken bathroom window;
8. Building maintenance;
9. Leaking ceiling.

The owner stated that she has paid the Business Tax License and Rent Adjustment Program fees. She filed an untimely response on April 18, 2016.

**THE ISSUES**

1. Has the owner paid her business tax and Rent Adjustment Program fees?

2. If so, did the owner have good cause for filing an untimely response to the tenant petition?
3. When, if ever, did the tenant receive the Notice of the Rent Adjustment Program?
4. Have the tenant's housing services been decreased and if so, what amount of restitution is owed to him?

### EVIDENCE

#### Payment of Business Tax and Rent Adjustment Program Fees-Late Owner Response

The owner response states that she did not pay her business tax license or Rent Adjustment Program (RAP) fee. During the Hearing she testified that she had paid her fees. The Hearing Officer asked her to provide support documentation but has not received confirmation of payment of the fees. In order to file a response to a tenant petition the owner must provide the following:

- Evidence of possession of a current city business license;
- Evidence of payment of the Rent Adjustment Program Service Fee;
- A completed response or petition on a form prescribed by the Rent Adjustment Program.<sup>1</sup>

There is no evidence provided that the owner has paid the required fees. Therefore, she may not file a response to the tenant petition. Furthermore, the owner's response was untimely. She filed a response to the tenant petition on April 18, 2016. Pursuant to Section 8.22.090 (B)(2) the response must be filed within 35 days from the date the tenant petition is mailed to the owner. The proof of service for the mailing of the tenant petition to the owner was January 11, 2016. The response should have been filed by February 15, 2016, and was not filed until April 11, 2016. The response is untimely and the owner did not provide good cause for failure to file a timely response. The owner's participation to cross examination and a closing statement.

#### Notice of the Existence of the Rent Adjustment Program/Rent History

The tenant testified that he has not received notice of the Rent Adjustment Program. This is not disputed.

#### Decreased Housing Services

Pests-The tenant testified that there are rodents, spiders, bedbugs and cockroaches in his unit. However, he has not allowed the owner access to service his unit. He testified that the owner should not have to come into his unit, that the bugs

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<sup>1</sup> Section 8.22.090 (B)(1)(a)(b)(d)



come from tenants in the other units, and they talk to the bugs and roaches and train them to come into his room.

Bathroom Sanitation/Mold/Shower Curtain-The tenant testified that the bathroom sinks are full of blood, mucous and needles. The tenant did not notify the owner about these complaints and complained to a city inspector in July 2014.

#### Security-Non-Tenants Use the Building Facilities

The tenant testified that the security guard is on drugs and outsiders who are non tenants come to the building to do drugs, and use the building facilities. He further testified that everyone is doing drugs. He testified that there is increased drug dealing and usage, and increased threats and harassment occurring outside the premises. Non-tenants access the building by following someone in or if a tenant leaves the gate open.

#### Issues with Other Tenants-Assaults and Harassment

The tenant testified that he has been harassed by the tenant in Room 212 and had to call the police and he has gone to court about this. The tenant testified that he has had fights and confrontations with other tenants and outsiders.

#### Smoking

The tenant testified that people are smoking in the building. The owner asked the tenant if he was talking about people outside the building and he replied "Yes, that they are outside the building, on the sidewalk, across the street, 24/7."

#### Building Maintenance

The tenant testified that there are holes in the walls, people from the outside kick in the gate, and the common areas are not maintained.

#### Broken Bathroom Window

The tenant did not offer any testimony about this complaint. Additionally, the city inspector did not cite this condition in his report in July 2014.

#### Leaking Ceiling

The tenant testified that there was a leak in the ceiling in a corner of his room. This occurred a year and a half ago and was repaired at that time.

#### Code Violation

The tenant testified that there was mold in the sinks and the toilets were dripping

for a couple of years. He complained to the City and a city inspector came to the property in July 2014 and verified a complaint about the unsanitary conditions in the communal bathrooms, and holes in the bedroom ceiling. The problem was fixed a year and a half ago, which would have been January 2015.

### Site Inspection

The Hearing Officer conducted a site inspection of the subject property and unit on August 5, 2016. She noted that the tenant's room was clean, and there was no sign of any pests. There two bathrooms, one on the tenant's floor and one on the floor above the tenant's unit. The bathrooms were very neat and clean and there was no evidence of any mold, blood or mucous or any other matter anywhere. The Hearing Officer did not see any broken bathroom window.

The building is secured by a deadbolt locked metal gate to the front entrance. There is another door secured by another deadbolt lock and metal gate on the second floor. The owner's office is also located on the first floor. There was no evidence of any non-tenant activity in, or about the subject building. The Hearing Officer did not observe any evidence of smoking in the subject building.

The common areas, including the stairwell, hallway, fire exits, were neat and clean and well maintained.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### Notice of the Existence of the Rent Adjustment Program

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 tenancy<sup>2</sup> and together with any notice of rent increase.<sup>3</sup> An owner may cure the failure to give notice at the start of the tenancy. However, a notice of rent increase is not valid if the effective date of increase is less than six months after a tenant first receives the required RAP notice.<sup>4</sup> The tenant first received the notice of the existence of the Rent Adjustment Program (RAP) in February 2014. Therefore, the rent increase may be considered.

### Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent and may be corrected by a rent adjustment.<sup>5</sup> 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

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<sup>2</sup> O.M.C. Section 8.22.060(A)

<sup>3</sup> O.M.C. Section 8.22.070(H)(1)(A)

<sup>4</sup> O.M.C. Section 8.22.060(C)

<sup>5</sup> O.M.C. Section 8.22.060(C)

to be provided in a contract between the parties. The tenant has the burden of proving decreased housing services by a preponderance of the evidence. The tenant also has the burden of proving notice to the owner about a complaint and the owner must be afforded a reasonable opportunity to respond to the complaint.

#### Pests-Rodents, Spiders, Bedbugs and Cockroaches

The tenant has not sustained his burden of proof regarding this complaint. He has refused access by the owner. Furthermore, inspection of the tenant's unit indicated that the room was very clean and neat, and there was no evidence of any pests. Compensation for this item is denied.

Security-The entrance to the subject building is secured by two deadbolt locks, one to the front entrance and one on the entrance to the second floor. The tenant has not sustained his burden of proof regarding the security issue. Compensation for this item is denied.

Smoking-The owner has no control over non-tenants who smoke outside the subject building. Inspection of the subject building indicated non-smoking signs were posted in the building. Compensation for this item is denied.

#### Issues with Other Tenants-Assaults and Harassments

Complaints of assaults and harassment are beyond the jurisdiction of the Rent Adjustment Program and need to be addressed in civil court.

#### Broken Bathroom Window

The tenant did not sustain his burden of proof regarding this complaint and compensation for this item is denied.

Bathroom Sanitation/ceiling leak-The tenant's complaints about the bathroom sanitation were confirmed by the city inspector. He complained to the city inspector in July 2014 and the owner agreed to repair the bathroom and ceiling leak, which was done by January 2015. Compensation for these items is granted.

The preferred method of evaluating decreased housing services is consideration of all services provided by an owner and then determining the percentage by which total services provided by the owner have decreased because of the lost housing services. Based on the totality of the circumstances and considering the total bundle of housing services, the value of the decreased housing services is stated in the following table.

**VALUE OF LOST SERVICES**

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Bathroom sanitation	7/1/14	1/1/15	\$550	5%	\$27.50	6	\$165.00
Hole in ceiling	7/1/14	1/1/15	\$550	3%	\$16.50	6	\$99.00
<b>TOTAL LOST SERVICES</b>							<b>\$264.00</b>
	From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
							MONTHLY RENT \$550.00
							TOTAL TO BE REPAID TO TENANT \$264.090
							TOTAL AS PERCENT OF MONTHLY RENT 48%
				AMORTIZED OVER 6	MO. BY REG. IS		<b>\$44.00</b>

The tenant has over paid a total of \$264.00.

Tenant Harassment

Claims of harassment are beyond the jurisdiction of the Rent Adjustment Program. These claims are dismissed.

**ORDER**

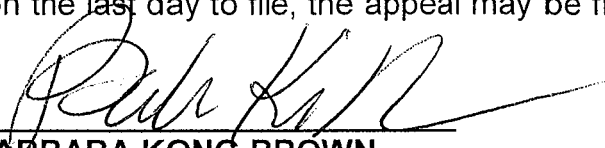
1. Petition T16-006, Tesfa v. Raney, is granted in part. The tenant's monthly base rent is \$550.00.
2. The tenant has overpaid rent for past decreased housing services totaling \$264.00.
3. The rent over payment is amortized as follows:

Base Rent	\$550.00
- past rent overpayments of \$264.00/6=\$44.00	-\$ 44.00
Current rent payment commencing September 1, 2016 and ending February 1, 2017	\$506.00

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

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

**DATE: August 9, 2016**

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**BARBARA KONG-BROWN**  
**Senior Hearing Officer**  
**Rent Adjustment Program**

Tile 0006 MS/SK

**★ I NEED AN ETHIOPIAN INTERPRETER PRESENT TOO. ★**

<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. <div style="text-align: center;"> <b>RECEIVED</b>  <b>JAN 04 2011</b>          RENT ADJUSTMENT PROGRAM          OAKLAND       </div>
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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 <b>LAMON RANEY</b> (C)	Rental Address (with zip code) <b>2329 SAN PABLO AVENUE ROOM #201</b> <b>OAKLAND, CALIFORNIA 94612</b>	Telephone <b>1(415)573-6201</b>
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <b>MEAZA TESFA</b> (1) <b>MANKONNEN ABDO</b> (2)	Mailing Address (with zip code) <b>2329 SAN PABLO AVENUE</b> <b>OAKLAND CALIFORNIA 94612</b>	Telephone <b>1(510)395-2226</b> (1) <b>515</b> (2)

Number of units on the property: **22** I THINK.

Type of unit you rent (circle one)	House	Condominium	Apartment, <b>(Room)</b> or Live-Work
Are you current on your rent? (circle one)	<b>(Yes)</b>	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 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 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)

000022

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

Date you moved into the Unit: FEBRUARY 2<sup>ND</sup> 2013 Initial Rent: \$ 550<sup>00</sup> /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: "NEVER". If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. 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		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

\* You have 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, 2<sup>nd</sup> Floor, Oakland, CA 94612. Phone: (510) 238-3381

**IV. VERIFICATION:** The tenant must sign:

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

LAMON @ Bldg Mgmt 13 *Lamon D. Ramey*  
Tenant's Signature

DECEMBER 22<sup>ND</sup> 2015  
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).

LAMON @ Bldg Mgmt 13 *Lamon D. Ramey*  
Tenant's Signature

DECEMBER 22<sup>ND</sup> 2015  
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): URINE WAS BEING SWEEP/MOPPED TO CLEAN THE BUILDING FLOOR.



LIST OF EACH PROBLEM <sup>MY GROUNDS FOR PETITION</sup>

- 1 RODENTS
- 2 BLACK WIDOWS
- 3 BROWN RECLUSES
- 4 BATHROOM SINK (UNDERNEATH)
- 5 TOILET
- 6 STAIRWELLS
- 7 WALLS
- 8 FIRE ESCAPE (OCCUPANCY)
- 9 SMOKING (TABBACO, ETC)
- 10 DRUG USAGE (RISKY DRUG & ALCOHOL USAGE)
- 11 DRUG SELLING
- 12 TENTANT SPITTING AND USING THE RESTROOM ON THE FLOOR OF BUILDING
- 13 TENTANT ASSAULTING ME IN MY OWN ROOM.
- 14 TENTANT'S VIOLENTLY PANHANDLING.
- 15 TENTANT'S BREAKING ALL THE BATHROOM MIRRORS.
- 16 VISITING HOURS BEING VIOLATED.
- 17 TENTANTS EATING OUT OF THE TRASH ROOMS
- 18 ~~NON~~ NON-TENTANTS PROSTITUTING INSIDE THE STAIR WELLS w/ JOHN
- 19 BEDBUGS & HOW DO THEY BITE? & COCK ROACHES & HOW DO THEY DIVE OFF WALLS?
- 20 NON-TENTANTS USING THE BATHROOMS TAKING SHDOWERS.
- 21 NON-TENTANTS SLEEPING IN THE STAIRWELL AFTER BREAK IN BUILDING.
- 22 NON-TENTANTS SCREAMING FROM THE FIRE ESCAPE.
- 23 NON-TENTANTS ASSAULTING ME BURNING ME WITH PIPES ASSAULTING ME
- 24 TENTANTS TAKING MY PERSONAL BELONGINGS OUT OF THE TRASH CAN (TRASH ROOM)
- 25 NON-TENTANTS FIGHTING, USING THE RESTROOM ON THE FLOOR IN THE STAIRWELL, SEWING, DRUGS, SMOKING, USING DRUGS BEING TOO NOISY AT SLEEPING HOURS 10 0 25

- INTERPETER, INTERETER
- 26 I NEED AN INTERETER
  - 27 OUTLAWING THE LAW NO STRUCTURE
  - 28 I CAN'T HAVE MANKONNEN ABDD PHONE
  - 29 I AM BEING THREATENED FOR THE IDEA OF R
  - 30 IT'S A CRASH PAD FOR THE HOMELESS.
  - 31 PHYSICAL THERAPY
  - 32 BLANKETS LEFT IN TRASH ROOM TO SLEEP INSIDE BUILDING
  - 33 YEAR AFTER YEAR I HAVE TO NOTIFY VECTOR CONTROL, BUILDING INSPECTOR, OAKLAND POLICE DEPARTMENT, OAKLAND FIRE DEPARTMENT FOR BUILDING TROUBLES.
  - 34 VISITING HOURS.
  - 35 20 <sup># OF ROOMS INCLUDING MIN</sup> OUT OF 22 ARE USING DRUGS ALSO
  - 36 THE BUILDING WAS BUILT BEFORE
  - 37 DECREASE IN HOUSING SERVICES. (A HABITABILITY PROBLEM (NO RETALIATION))

"TAKE NOTICE"

12/25/2015

"TAKE NOTICE" WHEN YOU SAY TO ME "I'LL PAY FOR IT I'LL GIVE YOU THE  
MONEY WHAT DO YOU WANT ME TO BOMB YOUR ROOM?" IT IS A TREAT-THREAT  
BECAUSE THE WHOLE BUILDING NEEDS TO BE BOMBED AND YOU KEEP  
PERSUADING ME NOT GETTING THE POINT OF THE WHOLE BUILDING  
NEEDS THE BOMB BY A PROFESSIONAL. I WON'T WIN ANY ARGUMENT  
BECAUSE THE ~~NECESSES~~ NECESSITIES YOU'LL OFFER TO TAKE CARE OF  
IS INSULTING MY INTELLIGENCE MEANING THE PROBLEM YOU WILL  
EVER 100% ABSOLUTELY SOLVE SO THAT'S WHY I NEED (RAP)  
RENT ADJUSTMENT PROGRAM AGENCY BECAUSE THE PERSONAL  
PESTICIDES ARE POINTLESS AND IT'S A WASTE OF MONEY.

"TAKE NOTICE" YOU WILL NEVER FIX THE OTHER TENANTS FROM CREATING  
PROBLEMS FOR ME PHYSICALLY AND FOR THE SAFETY OF THE BUILDING  
OR YOUR ALLOWANCE OF VISITING 3pm - 6pm NONE OF TENANTS  
SIDE BY AND THAT IS WHY I NEED (RAP) RENT ADJUSTMENT PROGRAM  
AGENCY.

"TAKE NOTICE" YOU ASK TENANTS TO STOP SMOKING IN THE BUILDING  
AND THROWING LIT CIGARETTES ON THE GROUND OF THE HALL AND  
AIRWELLS BUT THEY DON'T LISTEN TO YOU AND THAT IS WHY I  
NEED (RAP) RENT ADJUSTMENT PROGRAM AGENCY.

"TAKE NOTICE" THAT THE BATHROOM WINDOW IS STILL BROKEN (4 MONTHS NOW).

"TAKE NOTICE" THE SHOWER CURTAIN STILL HAS POOP ON IT (6 MONTHS NOW).

"TAKE NOTICE" THE RAT HOLE IS STILL DIRECTLY NEXT TO THE SINK THAT IS NO  
LONGER GLUED TO THE WALL ANYMORE (6 MONTHS NOW).

"TAKE NOTICE" FOR THEM THREE MORE TAKE NOTICES I NEED THE (RAP)  
RENTAL ADJUSTMENT PROGRAM AGENCY.

"TAKE NOTICE" I FEEL LIKE YOU'RE TRYING TO TELL ME THAT MY LIFE SHOULDN'T  
BE THAT WORTH LIVING FOR AND THAT'S WHY I NEED (RAP) RENTAL ADJUSTMENT  
PROGRAM AGENCY.

000026

DATE #1

"TAKE NOTICE" THAT I DO NOT USE THE RESTROOM TO URINATE AND PDDP ANYMORE  
ITS BEEN (3 MONTHS NOW) AND I ONLY TAKE A SHOWER ONCE A WEEK OPPOSE  
D EVERYDAY AND THIS WEEK I DIDN'T GET TO TAKE A SHOWER 12/19/2015  
I AM NOT ALLOWED TO TAKE SHOWERS LIKE I WAS ABLE TO IN THE BEGINNING  
REMAINING (SHOWER ONCE A WEEK FOR 4 WEEKS UNTIL <sup>NOV</sup> 12/19/2015) AND THAT'S  
WHY WE NEED THE (RAP) RENTAL ADJUSTMENT PROGRAM AGENCY,

"TAKE NOTICE" I CLEAN MY ROOM UP MONDAYS, WEDNESDAYS, FRIDAYS AND ~~MAJOR CLEAN~~  
A MAJOR CLEAN-UP SATURDAYS. AND "TAKE NOTICE"

I HAVE ASKED TO HELP AROUND THE BUILDING SWEEPING, MOPPING ETC BUT YOU TELL  
D SOMEONE ELSE WILL DO IT AND THAT IS WHY WE NEED (RAP) FOR RENTAL ADJUSTMENT  
PROGRAM AGENCY FOR THE TWO MORE TAKE NOTICES.

"TAKE NOTICE" YOU ARE NOT VERY TRUTHFUL WITH ME MARY DIDN'T BRING ME MY MAIL MY NEXT  
DOOR NEIGHBOR 12/24/2015 THAT'S WHY WE NEED (RAP) RENTAL ADJUSTMENT PROGRAM AGENCY.














"TAKE NOTICE" THAT I DON'T LIKE BEATING A DEAD CAT AND I DON'T LIKE OR ENJOY CRYING OVER  
ILLED MILK OR ACCUSED OF STEALING COOKIES OUT OF THE COOKIE JAR AND THAT'S WHY WE  
NEED (RAP) RENTAL ADJUSTMENT PROGRAM AGENCY.

"TAKE NOTICE" AFTER THE DATE OF 7/3/2014 MY CEILING HAD BEEN LEAKING WATER FROM THE  
INTER SEASONS (EVERYTIME IT RAINED) AND I NEEDED A HOME DEPOT BUCKET TO CATCH THE WATER  
FLOWING FROM THE CEILING SINCE FEB. 2<sup>ND</sup> 2013 AND AFTER 7/3/2014 I HAD TO KEEP CALLING  
JD CHECKING TO SEE WHEN YOU WERE GOING TO FIX IT AND IT WAS NOT FIXED UNTIL AFTER  
THE 2<sup>ND</sup> TIME IT RAINED IN 2015 AND THAT IS WHY WE NEED (RAP) RENTAL ADJUSTMENT  
PROGRAM AGENCY AND DFOSTER RECORD ID#1402521 CITY OF OAKLAND.

"TAKE NOTICE" I REALLY KNOW THAT YOU ARE A GOOD PERSON BOTH OF YOU AND YOU TRY TO  
TAKE CARE OF ME THE BEST YOU CAN AND I REALLY ENJOY YOU BOTH BUT WE  
REALLY NEED THIS (RAP) RENTAL ADJUSTMENT PROGRAM AGENCY FOR ME FOR  
ALL RESPECTS DUE.

"TAKE NOTICE" I HAVE NEVER DISRESPECTED YOUR PROPERTY AND THAT'S WHY (RAP)  
RENTAL ADJUSTMENT PROGRAM AGENCY IS SO VERY IMPORTANTLY NEEDED FOR YOU  
AND ME TOO.

NAME: LAMON RANEY 

NATURE: LAMON               

<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp.  2016 APR 18 AM 9:58
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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 16-0006**

**OWNER RESPONSE**

**Please print legibly.**

Your Name <b>MEAZA TESFA</b> <b>MAKONNEN Abdo</b>	Complete Address (with zip code) <sup>business</sup> <b>2329 San Pablo Ave</b> <b>Oakland, CA 94612</b>	Phone: <b>510-395-2226</b> Email: _____
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <b>Lamon Roney</b>	Complete Address (with zip code) <sup>Room</sup> <b>2329 San Pablo Ave #201</b> <b>Oakland, CA 94612</b>	

Have you paid for your Oakland Business License? Yes  No  Number \_\_\_\_\_  
 (Provide proof of payment.) *not yet*

Have you paid the Rent Adjustment Program Service Fee? (\$30 per unit) Yes  No  ~~not yet~~ *not yet*  
 (Provide proof of payment.)

There are 24 residential <sup>Room</sup> units in the subject building. I acquired the building on \_\_\_/\_\_\_/\_\_\_ 1999

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

**I. RENTAL HISTORY**

The tenant moved into the rental unit on 2013

The tenant's initial rent including all services provided was \$ 550 / 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? \_\_\_\_\_

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.**

000028

*\* No Increase in Rent*

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	
<i>NO RENT INCREASE</i>	<i>NO RENT INCREASE</i>	\$	\$	<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

**II. JUSTIFICATION FOR RENT INCREASE**

*\* No 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)
_____	<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, 6<sup>th</sup> 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

4/18/16  
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

4/18/16  
Date

## CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0365  
Case Name: Johnson v. Thornton  
Property Address: 361 105th Avenue, Oakland, CA  
Parties: Sharon Johnson (Tenant)  
Candy Thornton (Property Owner)

### TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	July 7, 2016
Owner Responses filed	July 14, 2016
Hearing Decision issued	November 9, 2016
Tenant Appeal filed	November 17, 2016

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2016 NOV 17 AM 11:23

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

**APPEAL**

**Appellant's Name**

Sharon Johnson

Landlord

Tenant

**Property Address (Include Unit Number)**

361 105th Avenue  
Oakland, CA

**Appellant's Mailing Address (For receipt of notices)**

PO Box 6262  
Oakland, CA 94603

**Case Number**

T16-0365

**Date of Decision appealed**

November 9, 2016

**Name of Representative (if any)**

**Representative's Mailing Address (For notices)**

**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.*
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 2 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 NOV 17, 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:

<b><u>Name</u></b>	Candi Thornton	
<b><u>Address</u></b>		
	PO Box 5520	3998 Altamont Avenue
<b><u>City, State Zip</u></b>	Oakland, CA, 94605	Oakland, CA 94605
<b><u>Name</u></b>		
<b><u>Address</u></b>		
<b><u>City, State Zip</u></b>		

<p style="font-size: 1.2em; font-family: cursive;">Sharon Johnson</p>	<p>November 16, 2016</p>
<b>SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE</b>	<b>DATE</b>

**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.

Explanation of Grounds for Appeal

T16-0365

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CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2016 NOV 17 AM 11:23

**1. Decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the board**

Based on the regulations and previous decisions of the Board, the landlord should not have been allowed to provide evidence or testimony as she had not properly filed her response to the petition. As a result, the hearing officer should only have considered the tenant's testimony in assessing the decreased housing services claims.

Further, the landlord's Owner Response states that she had not paid her Rent Adjustment Program fee at the time she filed her petition, and did not attach proof of payment of her Oakland Business License to her Owner Response. The regulations clearly state that "in order for an owner to file a response to tenant petition...the owner must provide the following: (a) evidence of possession of a current city business license..." O.M.C. § 8.22.090(B). Furthermore, "[a]n owner's petition...is not considered filed until the following has been submitted: (a) evidence that the Owner has paid his or her City of Oakland Business License Tax." O.M.C. § Regulations 8.22.90(C)(1). Previously, the Board has held that an owner response that lacks a filing fee and copy of the business license, and also includes failure to provide RAP notices, does not meet minimum standards for response. *Mateer v. Green*, Case No. T02-0089-0090.

Previous decisions and the regulations very clearly state that failure to file a response precludes a landlord from entering evidence into the record. O.M.C. § 8.22.090(B); *see also Hill v. Brown*, Case No. T01-0099 (Board upheld Hearing Officer's ruling precluding Landlord from introducing evidence at the hearing below on the grounds that the Landlord had failed to file a timely response to the petition); *see also Santiago v. Vega*, Case No. T02-0404, and *Adams/Baca v. RMD Services*, Case No. T10-0075.

More recently, in Cases T15-0202 and T15-0203 the Hearing Officer ruled that the landlord's response was untimely, precluding him from introducing evidence, for failure to pay business tax fees. *Rodriguez v. Taplin*, Case No. T15-0202; *Lopez v. Taplin*, Case No. T15-0203. In particular, the decision stated that the landlord's failure to pay the tax meant that his response had not been validly filed. Therefore, the Hearing Officer did not consider his evidence or testimony, limiting his participation to cross-examination and presenting a summation. The Board affirmed this ruling at the July 28, 2016 appeal hearing.

**2. Decision is inconsistent with decisions issued by other hearing officers.**

The tenant testified that there was no central heating and she had just a portable heater, while the landlord testified that there was central heating. The Hearing Officer found their testimony "equally convincing" and held that the tenant had not met her burden of proof; however, as discussed above only the tenant's testimony should have been admitted. The decision acknowledges that tenant's portable heater was taken away in July of 2016. However, California Civil Code Section 1941(a)(4) requires that landlords provide tenants with "heating facilities... maintained in good working order."

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Explanation of Grounds for Appeal  
T16-0365

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CITY OF OAKLAND  
RENT ARBITRATION PROGRAM

2016 NOV 17 AM 11:23

The Hearing Officer herself noted that “normally a portable heater is not sufficient heat,” but declined to find the lack of central heating a decreased housing service because the tenant did not pay PG&E. The Hearing Officer further acknowledged that the space heater was removed in July, but stated that “a heater is not normally needed in Oakland, CA in July.” However, this past July saw a number of cold periods in Oakland, with temperatures going down to the low 50s at night.<sup>1</sup> As a result, the decision is inconsistent with previous decisions at other times of the year that did hold landlords to their statutory obligations to provide adequate heat.

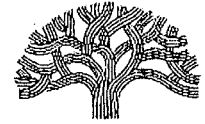
**3. Decision is not readily supported by substantial evidence**

In denying the tenant’s petition, the decision fails to address the photos of the bathroom the tenant provided, that she claimed showed urine on the floor. The decision is also silent on the testimony from the tenant that there was often feces in the bathrooms, claims of decreased housing services based on not having access to usable bathrooms. This evidence should have been considered and at least addressed in arriving at the decision.

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<sup>1</sup> See <http://www.accuweather.com/en/us/oakland-ca/94612/july-weather/347626> for more information.

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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 NUMBER:** T16-0365, Johnson v. Thornton  
**PROPERTY ADDRESS:** 361 105<sup>th</sup> Ave, Oakland, CA  
**DATE OF HEARING:** October 24, 2016  
**DATE OF DECISION:** November 9, 2016  
**APPEARANCES:** Candi Thornton, Owner  
Sharon Johnson, Tenant

### **SUMMARY OF DECISION**

The tenant's petition is denied.

### **CONTENTIONS OF THE PARTIES**

The tenant filed a petition which alleges that a rent increase from \$350 to \$650 a month exceeds the Consumer Price Index allowable rent increase and is unjustified or is greater than 10%; that no written notice of the Rent Program (*RAP Notice*) was given to her together with the notice of increase and that no *RAP Notice* was given to her at least six months before the effective date of the rent increase she is contesting.

The tenant additionally claimed that she has lost services originally provided by the owner or the conditions had changed and that there were serious problems with her unit. The tenant's claims of inadequate living conditions related to the lack of a heater in her room; that the smoke detector is broken; that the restroom she has access to doesn't work and there are water pressure problems; that the other bathrooms are not available or are filthy; and that there is barely walking space outside her unit because of clutter.

The owner timely responded to the tenant petition and claimed that the unit is exempt because it is an accommodation in a hospital, convent, monastery, extended care

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facility, convalescent home, non-profit home for aged, or dormitory owned and operated by an education institution.

### THE ISSUES

1. Is the owner exempt from the Rent Adjustment Program (RAP) for this rental?
2. When, if ever, was the tenant provided with a *RAP Notice*?
3. Is there a rent increase at issue?
4. Can the tenant's claims of harassment be considered?
5. Have the tenant's housing services decreased?

### EVIDENCE

Rental History: The tenant testified that she moved into a room in the building at 361 105<sup>th</sup> Avenue in November of 2015 for an initial rent of \$350 a month. The building is a health care facility in which the owners provide care for people with disabilities. She is not staying there as a patient. She had known the owner of the building (Candi Thornton) because she had been providing patient care for Ms. Thornton's sister. In November of 2015, she was no longer able to care for Ms. Thornton's sister, so Ms. Thornton provided her a room in her care facility.

On June 3, 2016, Ms. Thornton informed her that she would be raising the rent to \$650 a month. On June 8, 2016, she was given a letter from the co-owner that the rent was increasing to \$650 a month, effective July 1, 2016.<sup>1</sup> She did not pay this rent increase. The tenant last paid rent in June of 2016. She was never given the *RAP Notice*.

The *Owner's Response*, which was signed by the owner under penalty of perjury, states that she never gave the tenant the *RAP Notice*. The owner did not testify about this at the Hearing.

The tenant tried to pay rent in July of 2016, but it was returned by the owner. She sent the rent check by certified mail and it was returned to her.<sup>2</sup> The owner testified that she never got paid for July of 2016 and that she did not accept the envelope because it was sent to her home, not her business address.

The tenant moved out of the facility in July 22, 2016, because Ms. Thornton had gotten a restraining order against her. Even when the matter was cleared up in Court she was afraid to go back to the unit.

The owner testified that she runs an independent living facility from this property with 27 bedrooms. She is not licensed as a health care provider, and does not provide health care. She does have a business license. People come in who don't have a place to stay. The room she rented to Ms. Johnson had previously been an office, and she made it into

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<sup>1</sup> The tenant had not produced this document prior to the Hearing, but at the Hearing she showed it to the Hearing Officer. Because it had not been produced prior to the Hearing, it was not admitted into evidence.

<sup>2</sup> The tenant claimed to have sent to the RAP the proof of attempted payment of her July rent. These documents were not in the file.

a bedroom because Ms. Johnson needed housing or would be homeless. Ms. Johnson is not a client of the facility, but instead she was helping her out because of the work Ms. Johnson had done for her sister.

The owner was asked whether the business she runs is a hospital, a convent, a monastery, an extended care facility, a convalescent home, a non-profit home for aged, or a dormitory and she replied no. Her business, Arsola's House, is a 501(c)(3) non-profit, but it does not fall into any of the above categories. Ms. Thornton did not provide any documents to establish that she runs a non-profit.

Harassment: The tenant attempted to testify about harassment she suffered after filing her claim. She sought to bring in evidence regarding a scratch to her car and other incidents which occurred after she filed, including an altercation with the owner's brother. The tenant was informed not to testify about these matters and the documents regarding the damage to her car were not admitted. (See below.)

Decreased Housing Services:

Heater: The tenant testified that when she moved into the room it did not have a central heating supply other than a portable heater which the owner provided. The owner testified that there was central heating, and that the thermostat was outside the room in the office area (although she never told the tenant how it operated). The tenant denied that there was a thermostat that controlled a heater in her room. The tenant further testified that in July the owner took away the portable heater. The owner admitted to taking the heater because she did not appreciate the tenant's behavior.

Smoke Detector: The tenant testified that the smoke detector in her room was not working properly. There was a beep that kept going on. She tried to take it out, but it was stuck. Then, after some time, the beeping stopped. She believes it wasn't working because at one time she cooked something in her room and there was a fair amount of smoke but the detector did not go off. She informed Ms. Thornton's brother, who kept saying he would fix it, but he did not.

Ms. Thornton testified that the smoke detector was working properly.

Bathrooms: The tenant testified that she was given a key to use the office bathroom. That toilet would break all the time, and they put grey tape around it to keep people from using it.<sup>3</sup> There are other bathrooms for the clients but she didn't like using the clients' bathrooms because they were often dirty—with blood on the toilet or the floor. The tenant provided photographs of the clients' bathroom which she testified shows that there was urine on the floor.<sup>4</sup> This would happen every day. She also did not want to use the clients' bathrooms because there were no seat coverings. She would use a bucket in her room to urinate.

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<sup>3</sup> See Exhibit 3, #3. This Exhibit, and all other exhibits referred to in this Hearing Decision, were admitted into evidence without objection.

<sup>4</sup> Exhibit 3, #1-2

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The tenant further testified that the office bathroom did not have a usable shower. She did not like to take showers in the clients' bathroom, she would take showers at the gym instead. Additionally, the sink in that bathroom had really low water pressure.

The owner testified that the tenant was given a key to use the office bathroom, but that at one point the toilet was out of order for approximately two weeks. There were two additional bathrooms right down the hall, that the tenant had access to. These bathrooms are kept clean. She has cleaning people who work in the building and the bathrooms are not generally dirty.

The owner further testified that the office bathroom does have a working sink and that while the water pressure is a little low, it is because the building is so large. She is able to use that sink all the time without a problem.

Clutter: The tenant testified that there were often boxes blocking her way outside her room.

The owner testified that these are supplies coming into the business and that these supplies were there temporarily. Also, she is very aware of safety issues associated with the premises and takes great care to make sure that access is not blocked.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### **Is the owner exempt from the Rent Adjustment Program (RAP) for this rental?**

The owner sought an exemption from the RAP alleging that the unit is an accommodation in a "hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged, or dormitory." However, when asked whether her facility was any one of these things, she replied "no" to each. Additionally, when she rented a room to the tenant, she did not consider the tenant as a client of the Arsola's House. In fact, the room she rented to the tenant was previously used as office space.

Ms. Thornton did not establish that she is exempt from the RAP with respect to Ms. Johnson. She provided her a room for which she was required to pay monthly rent. The unit is a covered unit and the RAP Ordinance applies to these parties.

#### **When, if ever, was the RAP Notice first served on the tenant?**

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>5</sup> and together with any notice of rent increase or change in the terms of a

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<sup>5</sup> O.M.C. § 8.22.060(A)



tenancy.<sup>6</sup> An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.<sup>7</sup>

The tenant testified that she never received a *RAP Notice* from the owner. The *Owner Response* states that the owner never gave the *RAP Notice*. It is found that the tenant has never been served with the *RAP Notice*.

**Is there a rent increase at issue?**

The tenant and the owner testified that the owner sought to increase the rent by giving the tenant oral notice that the rent was going up from \$350 to \$650 a month. Rent increase notices must be given in writing. Civil Code § 827. Additionally, 30 days' notice is required for increases that are 10% or less, and 60 days' notice is required for any increase over 10%. Therefore, the rent increase at issue was not valid.

Nonetheless, the tenant did not pay the rent increase, and she moved out of the unit in mid-July of 2016. While she had attempted to pay July rent, she never actually paid rent in July because the owner did not accept the certified letter that was mailed to her. Therefore, since the tenant moved out of the unit, the rent increase is moot.

**Can the tenant's claims of harassment be considered?**

At the Hearing the tenant raised concerns about the way she was treated by the owner, and her brother. These claims concern the tenant's right to the covenant of quiet enjoyment of her apartment and to be free from harassment. The RAP is an administrative agency whose power is limited to enforce the provisions of the Rent Adjustment Ordinance. In the case of *Larson v. City and County of San Francisco*, (2011) 192 Cal. App. 4th 1263, the court examined the authority of San Francisco's Rent Board. The court held that the jurisdiction of administrative agencies is limited to those claims that are quantifiable in nature. The Court specifically held that the loss of quiet enjoyment is not such a claim. *Larson* at p. 1281. Neither are claims of harassment.

The Residential Rent and Relocation Board has also stated that the RAP does not have jurisdiction over any such claims. See the *Housing, Residential Rent and Relocation Board Decision in Aswad v. Fields*, T03-0377. The tenant's claims for decreased housing services as they relate to the covenant of quiet enjoyment and harassment are not claims that can be made under the Rent Adjustment Ordinance. While these acts may well constitute civil wrongs, these claims must be made in a court of competent jurisdiction. The tenant's claims as they relate to the covenant of quiet enjoyment and harassment are dismissed.

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<sup>6</sup> O.M.C. § 8.22.070(H)(1)(A)

<sup>7</sup> O.M.C. § 8.22.060 (C)

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**Have the tenant's housing services decreased?**

Heater: The owner and the tenant were equally convincing that there was central heating in the tenant's room, and that the thermostat to control the heat was in the office outside the tenant's unit. Since the tenant has the burden of proof of a decreased housing services claim, when the parties are equally convincing, the tenant has not met her burden of proof.

Additionally, the tenant was provided a portable heater when she first moved into the unit. While normally a portable heater is not sufficient heat, in this case the tenant was not responsible for paying for PG&E. Therefore, there were no additional costs with running a space heater. While the space heater was removed in July, a heater is not normally needed in Oakland, CA, in July. Therefore, this claim is denied.

Smoke Detector: Again, the parties were equally convincing about whether or not the smoke detector in the tenant's room was working properly. The tenant has not sustained her burden of proof and this matter is denied.

Bathrooms: The tenant established that for a few weeks the normal bathroom she was expected to use did not have a working toilet. However, there were other bathrooms on the premises that were available to her. The owner established that these other bathrooms were generally usable and in working condition.

The same is true with respect to the shower. There was never a working shower in the office bathroom. The tenant was allowed to shower in the bathrooms used by the clients. This was an acceptable alternative. This claim is denied.

Clutter: The tenant established that sometimes there was clutter outside her room. However, the owner's testimony that she would get rid of the influx of boxes as soon as she could was credible. There was no testimony that the tenant was ever unable to get out of her room or have her access entirely blocked. This claim is denied.

**ORDER**

1. Petition T16-0365 is denied.

2. 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

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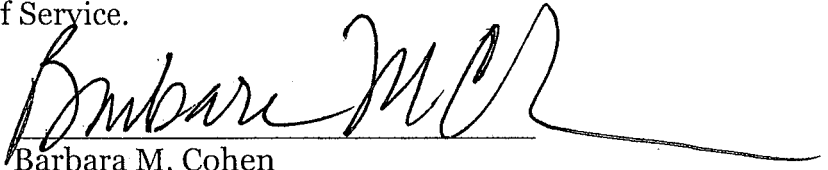
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service is shown on the attached Proof of Service.

Dated: November 9, 2016

A handwritten signature in black ink, appearing to read "Barbara M. Cohen", written over a horizontal line.

Barbara M. Cohen  
Hearing Officer  
Rent Adjustment Program

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T16-0365 KC/BC

<p><b>CITY OF OAKLAND</b>  <b>RENT ADJUSTMENT PROGRAM</b>          Mail To: P. O. Box 70243          Oakland, California 94612-0243          (510) 238-3721</p>	<p>For date stamp          2016 JUL -7 PM 3:09</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 Sharon Johnson	Rental Address (with zip code) 361-105th AVE OAKLAND, CA 94603	Telephone (510) 798-9564
Your Representative's Name	Mailing Address (with zip code) P.O. Box 6262	Telephone (510) 798-9564
Property Owner(s) name(s) Ms. Candy Thornton	Mailing Address (with zip code) 361-105th AVE OAKLAND, CA 94603	Telephone (510) 830-7851

Number of units on the property: 60 or MORE

Type of unit you rent (circle one)	House	Condominium	Apartment, <u>Room</u> or Live-Work
Are you current on your rent? (circle one)	<u>Yes</u>	<u>NO</u> <u>SS</u>	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 checked="" 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 checked="" 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 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 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)

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

Date you moved into the Unit: NOV 23, 2016 Initial Rent: \$ 350.00 /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: NEVER. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. 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		<input type="checkbox"/> Yes	<input type="checkbox"/> No
JUNE 8, 2016	July 1-5 2016	\$ 350.00	\$ 650.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No

\* You have 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: None

**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, 2<sup>nd</sup> Floor, Oakland, CA 94612. Phone: (510) 238-3381

**IV. VERIFICATION:** The tenant must sign:

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

Sharon Johnson  
Tenant's Signature

July 7, 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).

Sharon Johnson  
Tenant's Signature

July 7, 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): People referral

July 7, 2016

City of Oakland  
250 Frank Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243

This is a list of Inadequate living conditions:

- My room doesn't have a heater, I'm using a portable heater
- The Smoke Detector doesn't work is broken.
- The restroom which I was given a key to use. Doesn't work have to "Hold" which causes me bad stomach cramps. Have to Leave the property to find a restroom. Sometime I'm not able to make it to the restroom on time! which has causes "accidents" it's very embarrassing. Also, the water pressure doesn't work well in Bathroom. Have to take shower at the 24 hour fitness.
- "Tenant" Myself was told to use client restroom from owner. Sometime the client restroom aren't available because of use! "by client" Also, is often fifthly and broken.
- Often lots of clutter outside of room, barley have walking space.

Arsola's Adult Residential Facility  
361 1054<sup>th</sup> Oakland, CA 94603

Sincerely,

Sharon Johnson

Ms. Sharon Johnson

000047

City of Oakland  
250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612

Today is July 7, 2016. I miss Sharon Johnson have not paid my rent as of July 5, 2016 because the owner of the property Ms. Candi Thornton, Founder/CEO wouldn't accept my rent. I tried to pay \$385.00 which is 10% of what I originally pay. I've tried to plead with the owner on several occasion to accept my rent. I've tried to give my portion of the rent to her Brother who is the Co-Owner of the property.

I have written notices to the owner and also, have text the owner and Co-Owner in regards to paying my portion of the rent. Neither one of them is willing to except my rent. I don't no what else to do, but request help from the City of Oakland Rent Adjustment Program. My rent was currently \$350.00 per month for a room at the property located at Arsola's Adult Residential Facility 361-105<sup>th</sup> Ave, Oakland, CA 94603. On June 8, the owner handed me a letter requesting an rent increase of \$650.00. I was shocked and scared because I know that I wouldn't be able to pay this amount.

I started asking question about what I should do? Eventually someone told me that their is a law regarding rent increase right for tenants. They suggested that I contacted the City of Oakland regarding the Rent Adjustment Program.

I dropped by the City of Oakland Rent Adjustment Program on July 6, 2016, 12:50 am. I was able to speak with Ms. Susan.

Sincerly,

Sharon Johnson

Ms. Sharon Johnson

000048



<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp.  2015 JUL 14 PM 4:01
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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 16-0365**

**OWNER RESPONSE**

**Please print legibly.**

Your Name Candi Thornton	Complete Address (with zip code) P.O. Box 5520 Oakland, Ca. 94605	Phone: (510) 830-7851 Email: alrsolahouse@esbcglobal.net
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) Sharon Johnson	Complete Address (with zip code) 361 105th Ave Oakland, Ca. 94603	

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 27 residential units in the subject building. I acquired the building on OCT 8 / 2014

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

**I. RENTAL HISTORY**

The tenant moved into the rental unit on NOV. 2015

The tenant's initial rent including all services provided was \$ Waived 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? \_\_\_\_\_

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?  <input type="checkbox"/> Yes <input type="checkbox"/> No
		From	To	
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

**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)
_____	<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, 6<sup>th</sup> 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.**

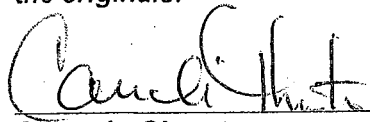
**NOTE: If you do not file a timely Response, you will not be able to produce evidence at the Hearing, unless you can show good cause for the late filing.**

**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

7/14/16  
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

\_\_\_\_\_  
Date

## CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0377  
Case Name: Buggs v. Bay Property Group  
Property Address: 2418 High Street, #8, Oakland, CA  
Parties: Michael Buggs (Tenant)  
Bay Property Group (Property Owner)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	July 14, 2016
Owner Response filed	July 29, 2016
Hearing Decision issued	November 15, 2016
Owner Appeal filed	December 9, 2016

000053

2016 DEC -9 PM 4:32

<b>City of Oakland</b> <b>Residential Rent Adjustment Program</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		<b>APPEAL</b>	
<b>Appellant's Name</b> Bay Property Group		<b>Landlord</b> <input checked="" type="checkbox"/> <b>Tenant</b> <input type="checkbox"/>	
<b>Property Address (Include Unit Number)</b> 2418 High St., Apt. #8, Oakland, CA			
<b>Appellant's Mailing Address (For receipt of notices)</b> 482 W. MacArthur Blvd. Oakland, CA 94609		<b>Case Number</b> T16-0377	
		<b>Date of Decision appealed</b> November 15, 2016	
<b>Name of Representative (if any)</b> Daniel Bornstein, Esq.		<b>Representative's Mailing Address (For notices)</b> Bornstein Law 507 Polk St., #410 San Francisco, CA 94102	

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.)

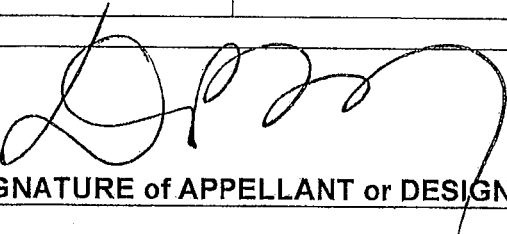
1.  **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2.  **The decision is inconsistent with decisions issued by other hearing officers.** 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.
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 December 8, 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:

<b>Name</b>	Michael Buggs
<b>Address</b>	2418 High Street #8
<b>City, State Zip</b>	Oakland, CA 94601
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

RECEIVED  
 CITY OF OAKLAND  
 RENT ADJUSTMENT PROGRAM  
 2016 DEC -9 PM 4:02

 SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE December 8, 2016
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**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.

2016 DEC -9 PM 4:32

T16-0377

**EXPLANATION BY APPELLANT**  
**Attachment 1 & 7**

Appellant Bay Property Group is the manager for Hertzell Enterprises LLC, the owner of the residential property involved in this matter, located at 2418 High St., Apt. #8, Oakland, CA. After entirely demolishing an existing single-family residence at 2418 High St. around 1987, the owner constructed a new 10-unit apartment building on that site. Unit 8 is one of those 10 apartments. .

The following is relevant evidence, attached, that was presented to the Residential Rent Adjustment Program at the hearing on October 19, 2016:

<b>Ex.</b>	<b>Title</b>	<b>Date</b>
A	Report of Building Record from Planning and Building Department	10/11/2016
B	Report of Residential Record and Application (3R Report)	7/26/2016
C	Update/Query Parcel Historic Data	9/27/2016
D	Dwelling Schedule	4/13/1936
E	County Assessor Display, including Assessor's map and aerial view	7/29/2016
F	City of Oakland Building Certificate of Occupancy	11/13/1987
G	Printout of excavation application, dated 8/21/14	10/3/2016
H	Application for repair (single family dwelling)	11/17/1976
I	Plumbing & Mechanical Inspection	6/22/1978
J	Building Permit Application ("demo existing SFR for new building, permit for new 10 unit apartment issued 4/13/87")	4/24/1987
K	Building Permit Application (construct "new 10 unit apt.")	6/9/1986
L	Electrical Permit Application ("temp power")	4/13/1987
M	Electrical Permit Application ("new 10 units")	4/13/1987
N	Plumbing Permit Application	4/13/1987
O	Plumbing Permit Application	7/24/1987
P	Update/Query Project Information (Application ZC031870 granted for "home office for off-site janitorial services")	6/30/2003
Q	Update/Query Project Information (Application ZC120868 granted for "home office for a consultative service event planning")	4/11/2012

The hearing decision, issued on November 15, 2016, conflicts with OMC Chapter 8.22.030(A)(5). Under that provision, a dwelling unit is exempt from rent control if it was entirely newly constructed and received a certificate of occupancy on or after January 1, 1983. Since it is undisputed that the apartment building that contains the unit at issue was entirely newly constructed and received a certificate of occupancy in 1987, it is not covered by Oakland's rent control ordinance. The hearing officer's decision found the unit was *not* exempt, though, only by improperly combining two separate exemptions into one. Thus, the Board should reverse



the officer's decision and not interfere with the rent increase from \$834.00 to \$1,000.00 effective September 1, 2016.

Chapter 8.22.030(A)(5) provides exemptions to:

“Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. ... To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed *or* created from space that was formerly entirely non residential.” (Italics added.)

The ordinance's text thus provides for *two separate* exemptions: 1) an “entirely newly constructed” dwelling unit, or 2) one “constructed or created from space that was formerly entirely non residential.” (See *People ex rel. Green v. Grewal* (2015) 61 Cal.4th 544, 561 [“[U]se of the word ‘or’ in a statute indicates an intention to use it disjunctively so as to designate alternative or separate categories’ ”], quoting *White v. County of Sacramento* (1982) 31 Cal.3d 676, 680.)

The apartment building here qualifies under the first exemption. The evidence is undisputed that “a single family residence existed on the lot and was demolished prior to the construction of the apartment building” in 1987. [Decision, p. 2, “Exemption as New Construction.”] So there was no structure on the land when the apartment building was constructed. The apartment building was “entirely newly constructed” within the meaning of the relevant exemption. That should have been the end of the hearing officer's analysis.

But Hearing Officer Linda M. Moroz applied the “or” in the provision as if it were an “and.” For the apartment building to be exempt, it was not enough for the hearing officer that the building was entirely newly constructed. Rather, the hearing officer ruled that the building *also* had to replace a building that was entirely non-residential. [Opinion, p. 3, ¶ 1]. But that is not what the provision says.

The second exemption is irrelevant here because it pertains only to buildings that were *not* entirely newly constructed. The second exemption was designed to apply to residential buildings that are repurposed warehouses, factories, or even retail stores—i.e., “*created from space* that was formerly entirely non residential.” (Italics added.) The term “space” refers to a building that was not entirely demolished prior to the new residential construction, contrary to what occurred here.

The hearing officer's reading of the provision is nonsensical. A single building cannot be *both* entirely newly constructed *and* created from space that was formerly entirely non residential. A building is either built from scratch or it isn't. The hearing officer, then, improperly read the two exemptions out of existence. (See *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735 [noting that courts must avoid constructions that render provisions nugatory].)

Further, if the Board were to uphold the hearing officer's finding, it could absurdly extend to almost every vacant lot in the City of Oakland that long ago held residential property.

(*John v. Superior Court* (2016) 63 Cal.4th 91, 96 [noting that courts should avoid absurd results].)

The Board should reverse the hearing officer's decision and rule that the dwelling unit at issue is exempt from Oakland's rent control ordinance.



**CITY OF OAKLAND**

250 FRANK H. OGAWA PLAZA - 2ND FLOOR - OAKLAND, CA 94612

Planning and Building Department, Permit Center - Records Archive  
www.oaklandnet.com

PH: 510-238-3606  
FAX: 510-238-6445  
TDD: 510-238-3254

**Report of Building Record**

This Information is not to be construed that the said building complies with all applicable laws of the City of Oakland. It only sets forth the record as of the date completed.

ADDRESS: 2418 HIGH ST      APN: 032 204401002      APPLICANT: DANIEL BORNSTEIN      RRR1600099      Page 1 Of 1

PERMIT RECORD	Permit #	Status	Date
Original construction permit not in records archive			
Building permit to replace burnt portion of roof	C92778	Finalled	12/09/1976
Plumbing permit for gas meter	63157	Finalled	06/22/1979
Building permit to demolish existing single family dwelling	B8701855	Finalled	06/14/1987
Building permit for new 2 story 10 unit apartment building	B8701082	Finalled	11/09/1987
Electrical permit for new 2 story 10 unit apartment building	E8701230	Finalled	10/19/1987
Plumbing permit for new 2 story 10 unit apartment building	P8701345	Finalled	10/27/1987
Excavation permit to replace distribution valve	X1402123	Expired	08/21/2014
Excavation permit to replace gas distribution valve	X1501002	Expired	05/04/2015

ENTITLEMENTS & CODE VARIANCES GRANTED	Reso/Ruling #	Status	Date
Zoning clearance for home occupation - Janitorial services	ZC031870	Approved	06/30/2003
Zoning clearance for home occupation - Event planning consulting services	ZC120868	Approved	04/11/2012

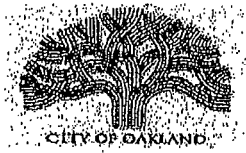
DETERMINATION OF AUTHORIZED OCCUPANCY OR USE					
Date of building construction: 1987	Occupancy Codes: R-2		OCHS Rating: X		
Construction type: V-N					
Number of stories: 2	Total number of dwelling units: 10	Total number of habitable rooms: 20	Total number of commercial units: 0	Certificate of Occupancy issued? Date: 11/13/1987	Yes Number: 39625BD

PARCEL ASSESSMENT					
Assessors Parcel Number: 032 204401002	Total number buildings: Residential =		Commercial =	Accessory =	
Grid #: _____	Grading Report on file: _____	Land Stability Report on file: _____	Soils Report on file: _____	Survey on file: _____	
Creek Zone: _____	Flood Zone: _____	Landslide Zone: _____	Liquifaction Zone: _____	Seismic Hazard Zone: _____	

This Report of Building Permit Record shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions or requirements of any laws or ordinances of the City of Oakland, nor shall such issuance thereafter prevent requiring corrections of errors, violations, or any applicable law or ordinance of the City of Oakland. This report contains information insofar as ascertainable from City of Oakland records.

 \_\_\_\_\_      02/11/16      \_\_\_\_\_  
 Authorized Signature, City of Oakland      Date      Expiration Date

Applications for which no permit is issued within 180 days shall expire by limitation. No refund more than 180 days after expiration or final.



**CITY OF OAKLAND**

250 FRANK H. OGAWA PLAZA ▪ 2ND FLOOR ▪ OAKLAND, CA 94612

Planning and Building Department  
www.oaklandnet.com

PH: 510-238-3891  
FAX: 510-238-2263  
TDD: 510-238-3254

**Permit No:** RRR1600099 Report of Residential Record (3R Report)  
**Job Site:** 2418 HIGH ST  
**Parcel No:** 032 204401002  
**District:**  
**Project Description:** 3R REPORT  
**Related Permits:**

Filed Date: 7/29/2016

Schedule inspection by calling: 510-238-3444

Not a permit

	<u>Name</u>	<u>Applicant</u>	<u>Address</u>	<u>Phone</u>	<u>License #</u>
<b>Owner:</b>	HERTZEL ENTERPRISES LLC		298 GRAND AVE OAKLAND, CA		
<b>Owner-Agent:</b>	DANIEL BORNSTEIN	X	298 GRAND AVE OAKLAND, CA	415-637-8598	

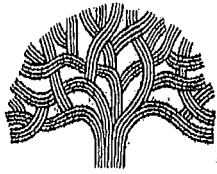
**PERMIT DETAILS: Building/Records/3R Report/NA**

**General Information**  
 Expedited Process: \_\_\_\_\_ Permit Number: \_\_\_\_\_ Preferred Delivery Method: \_\_\_\_\_  
**Type Of Request**  
 General Information: \_\_\_\_\_ CEQA Administration #: \_\_\_\_\_ Certificate of Occupancy: \_\_\_\_\_  
 Subpoena: \_\_\_\_\_ Subpoena Order #: \_\_\_\_\_ Subpoena Due Date: \_\_\_\_\_  
**Building Info (Provided By Applicant)**  
 Owner Occupied: \_\_\_\_\_ Number of Stories: \_\_\_\_\_  
 Construction Material: \_\_\_\_\_ Number of Dwelling Units or Apartments: \_\_\_\_\_  
 \_\_\_\_\_ Number of Hotel/Guest Rooms: \_\_\_\_\_  
 \_\_\_\_\_ Number of Housekeeping Units: \_\_\_\_\_  
 \_\_\_\_\_ Number of Kitchens: \_\_\_\_\_  
 Existing Attic: \_\_\_\_\_ Habitable Attic: \_\_\_\_\_  
 Existing Basement or Cellar: \_\_\_\_\_ Habitable Basement or Cellar: \_\_\_\_\_  
 Total # of Accessory Building on Premises: \_\_\_\_\_  
 Total # of Habitable Building on Premises: \_\_\_\_\_  
 Total # of Habitable Rooms: \_\_\_\_\_  
 (Excluding bath, toilet, laundry, utility rooms and closets)

**TOTAL FEES TO BE PAID AT FILING: \$284.58**

Determination	\$124.00	Processing	\$124.00	Records Management Fee	\$23.58
Technology Enhancement Fee	\$13.02				

**PAID**  
PS #127  
642450



CITY OF OAKLAND  
Oakland Housing Code, Sec. H-206

Bureau of Building  
PERMIT CENTER - RECORDS ARCHIVES  
250 Frank H. Ogawa Plaza, 2<sup>nd</sup> Floor, Suite 2114  
Oakland, California 94612  
(510) 238-3606 FAX: (510)238-6445

### APPLICATION FOR Report of Building Record (3-R Report)

ADDRESS OF SUBJECT PROPERTY: <u>2418 High St, Oakland CA</u>
Name of Applicant: <u>Daniel Bernstein</u>
Mailing Address of Applicant: <u>42 Wace Ave, Piedmont CA 94611</u>
Name of Address of Owner (If Different): <u>NA</u>
Address of Owner (If Different): <u>NA</u>

Total number of HABITABLE buildings on premises: 1

Total number of ACCESSORY building on premises: 0  
(eg. Garage, shed, in-law unit, etc.)

Existing BASEMENT or CELLAR? yes  no

Habitable BASEMENT or CELLAR? yes  no

Existing ATTIC? yes  no

Habitable ATTIC? yes  no

Number of STORIES: 2

Number of Dwelling UNITS or APARTMENTS: 10

Number of KITCHENS: 10

Total number of HABITABLE ROOMS: 20  
(excluding bath, toilet, laundry, utility rooms & closets)

Owner occupied? yes  no

I certify that I am the APPLICANT named hereto, that I have familiarized myself with the residential building with the respect to preparing and filing this application, that the answers herein contained are in all respects true and accurate to the best of my knowledge and belief, and that they may not correlate with the City's official records.

Signature of Applicant [Signature]

Date 7/29/2016

Contact Telephone Number 415-637-8598

NOTES:

#### City of Oakland Use Only

[Empty box for City of Oakland Use Only]

Parcel: 032-2044-010-00 Bldg: \_\_\_ Addr: 2418 HIGH ST  
Hist Name: \_\_\_\_\_ Permit \_\_\_\_\_ Plans \_\_\_\_\_  
Common Name: \_\_\_\_\_ Designer: \_\_\_\_\_  
Year Built: 1912 (est)  
Description: single family residence (assessor/field)  
OCHS Docs: preliminary survey maps  
Hist Status: not a PDHP  
OCHS Rating: X Year 1986 Level R1 Hist Dist\* \_\_\_\_\_

----- CITY PRESERVATION PROGRAMS -----

PDHP List:	Study List:	URMHS	EQDHS	Green Rating
Landmark #:	Ord# Case#	Date		Class
S7 Zone #:	Ord# Case#	Date		
Description:				

----- STATE PRESERVATION PROGRAMS -----

CRHR Ref#	Date	Desc
Ref#	Date	Desc

----- FEDERAL PRESERVATION PROGRAMS -----

NR Status*	Date	Dist*	NHL:

F3=Ext F5=Chg F6=Add F7=Fwd F8=Bok F9=Del F11=End F12=Prv F13=Print F24=Com

000062

44-58-236  
 C.I. 58  
 2418

44-58-236  
 C.I. 58  
 2418

44-58-236  
 C.I. 58  
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 C.I. 58  
 2418

44-58-236  
 C.I. 58  
 2418

44-58-236  
 C.I. 58  
 2418

I. ENTIRE STRUCTURE		II. THIS DWELLING UNIT	
<b>A. TYPE OF STRUCTURE</b> 1. Single Family <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Single Family Detached <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Single Family Attached <input type="checkbox"/> <input checked="" type="checkbox"/> 4. Two Family Side by Side <input type="checkbox"/> <input checked="" type="checkbox"/> 5. Two Family Two Decker <input type="checkbox"/> <input checked="" type="checkbox"/> 6. Three Family Three Decker <input type="checkbox"/> <input checked="" type="checkbox"/> 7. Four Family Double Two-Decker <input type="checkbox"/> <input checked="" type="checkbox"/> 8. No. of units _____		<b>A. OCCUPANCY</b> 1. Owner <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Tenant <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Vacant <input type="checkbox"/> <input checked="" type="checkbox"/> <b>B. DURATION</b> 1. Time Used for _____ Yrs. Mos. 2. Length of vacancy _____ Yrs. Mos.	
<b>B. BUSINESS UNITS</b> 1. None <input checked="" type="checkbox"/> <input type="checkbox"/> 2. No. of units _____ <b>C. EXTERIOR MATERIAL</b> 1. Wood <input type="checkbox"/> <input checked="" type="checkbox"/> 2. Brick <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Stone <input type="checkbox"/> <input checked="" type="checkbox"/> 4. Stucco or Plaster <input type="checkbox"/> <input checked="" type="checkbox"/> 5. Other _____		<b>F. FLUSH TOILETS</b> Number _____ <b>G. BATHING UNITS</b> Number _____ <b>H. RUNNING WATER</b> 1. Hot and Cold <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Cold only <input type="checkbox"/> <input checked="" type="checkbox"/> 3. None <input type="checkbox"/> <input checked="" type="checkbox"/> <b>I. HEATING</b> 1. Cent. Steam or Hot Water <input type="checkbox"/> <input checked="" type="checkbox"/> 2. Cent. Warm Air <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Other installed <input type="checkbox"/> <input checked="" type="checkbox"/> 4. None installed <input type="checkbox"/> <input checked="" type="checkbox"/>	
<b>D. STORIES</b> Number _____ <b>E. BASEMENT</b> 1. No <input type="checkbox"/> <input checked="" type="checkbox"/> 2. Yes <input type="checkbox"/> <input checked="" type="checkbox"/> <b>F. YEAR BUILT</b> _____		<b>J. LIGHTING</b> 1. Electric <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Gas <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Other <input type="checkbox"/> <input checked="" type="checkbox"/> <b>K. COOKING</b> 1. Electric <input type="checkbox"/> <input checked="" type="checkbox"/> 2. Gas <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Other <input type="checkbox"/> <input checked="" type="checkbox"/>	
<b>G. YEAR BUILT FOR OFFICE USE</b> Persons per Room 1. _____ 4. _____ 2. _____ 5. _____ 3. _____ 6. _____		<b>M. RACE-OF-HOUSEHOLD</b> 1. White <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Negro <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Other (or tentat.) <input type="checkbox"/> <input checked="" type="checkbox"/> <b>N. RAGNERS</b> Number _____	
<b>H. GARAGE</b> 1. No <input type="checkbox"/> <input checked="" type="checkbox"/> 2. No. Cars _____		<b>O. EXTRA FAMILIES</b> 1. No. Extra Fam. _____ 2. No. Persons _____	
<b>L. TYPE OF STRUCTURE</b> 1. Single Family <input checked="" type="checkbox"/> <input type="checkbox"/> 2. Single Family Detached <input type="checkbox"/> <input checked="" type="checkbox"/> 3. Single Family Attached <input type="checkbox"/> <input checked="" type="checkbox"/> 4. Two Family Side by Side <input type="checkbox"/> <input checked="" type="checkbox"/> 5. Two Family Two Decker <input type="checkbox"/> <input checked="" type="checkbox"/> 6. Three Family Three Decker <input type="checkbox"/> <input checked="" type="checkbox"/> 7. Four Family Double Two-Decker <input type="checkbox"/> <input checked="" type="checkbox"/> 8. No. of units _____		<b>P. NUMBER AND AGE OF ALL PERSONS</b> Total _____ Under-1 year _____ 1-4 _____ 5-9 _____ 10-14 _____ 15-19 _____ 20-64 _____ 65 and over _____	

000063

# County Assessor Display

## Assessor Parcel Record for APN 032- -2044-010-02

Parcel Number:	32-2044-10-2
Property Address:	2418 HIGH ST, OAKLAND 94601
Owner Name:	HERTZEL ENTERPRISES LLC
Care of:	BORNSTEIN & BORNSTEI
Attention:	
Mailing Address:	298 GRAND AVE 100, OAKLAND CA 94610-4724
Use Code:	MULTIPLE RESIDENTIAL BUILDING OF 5 OR MORE UNITS.
Recorder Number:	2008-232657
Recorder Date:	8/1/2008
Mailing Address Effective Date:	11/4/2008
Last Document Input Date:	9/29/2008
Deactivation Date:	
Exemption Code:	

- [Home](#)
- [Enter Assessor Parcel Number](#)
- [Property List](#)
- [Assessments](#)
- [Property Details](#)
- [GIS Parcel Map](#)
- [Alameda County Web Site](#)
- [Use Codes](#)

000064

EXHIBIT E



ASSESSOR'S MAP 32

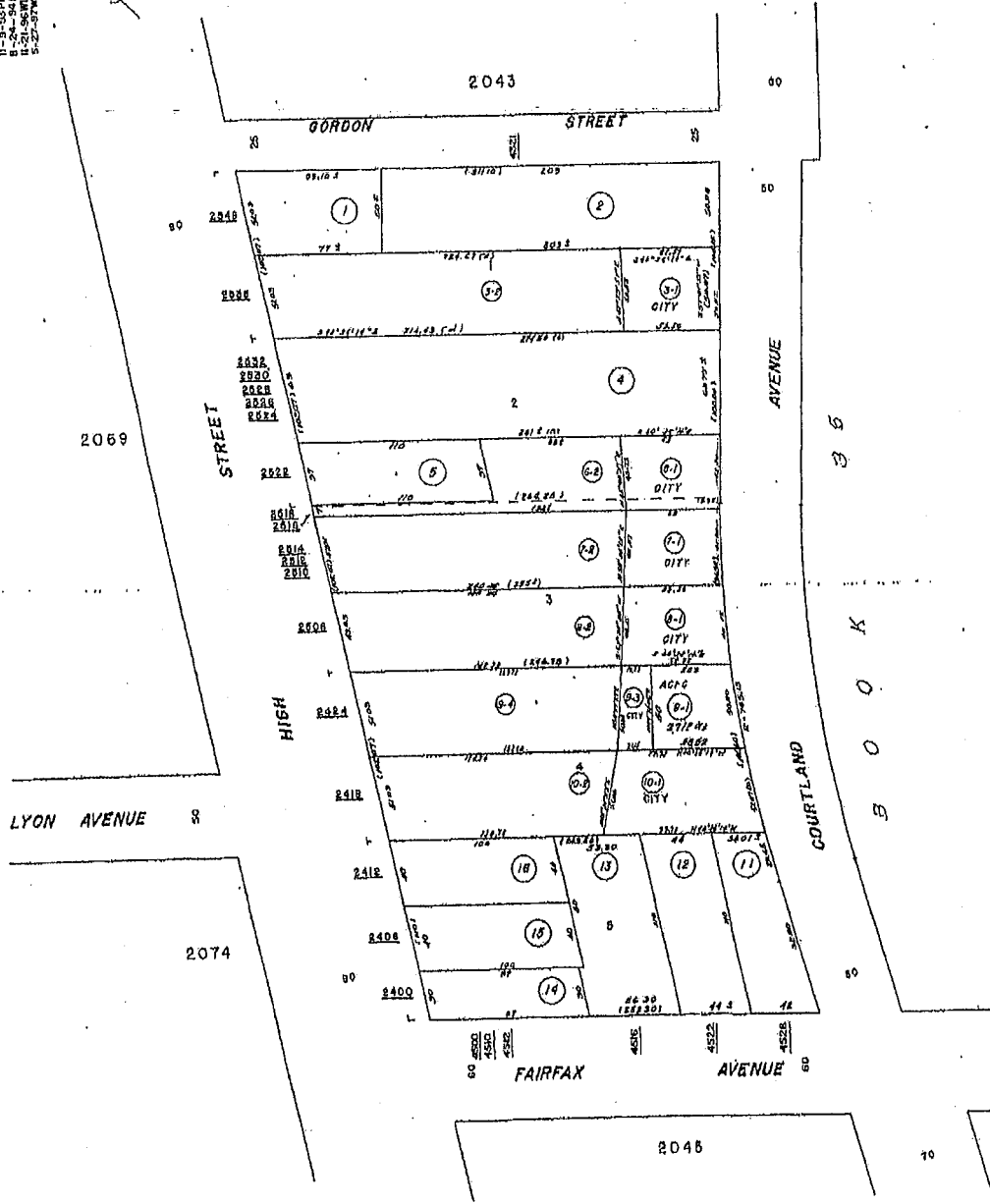
Code Area Nos. 17-001

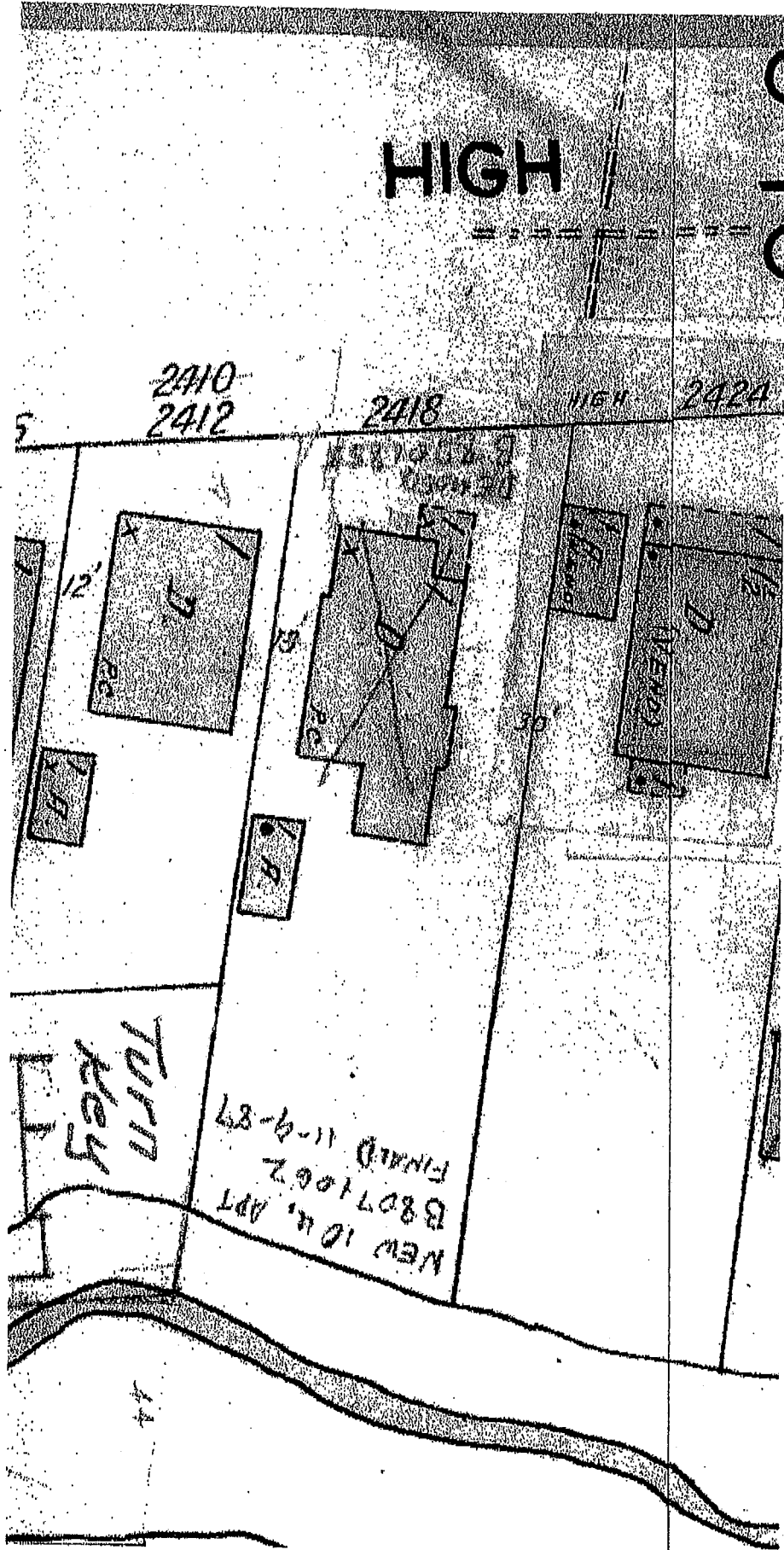
W/P

2044 Scale: 1" = 50'

MAP OF THE MACKINNON AND GOHRMAN TRACT (Bk. 13 Pg. 35)

Drawn: 6-54 SY  
Corrected: 1-5-69 REP  
1-16-52 PR  
1-2-54 MK  
1-21-56 ML  
5-27-57 ML





# 2418 High St.



© 2014 Pictometry

06/23/2014

000067

BUILDING INSPECTION INSPECTORIAL SERVICES DEPARTMENT  
 CITY OF OAKLAND  
 BUILDING CERTIFICATE OF OCCUPANCY

No. 8902E 00 Ten Unit Apartment Building November 13, 19 67  
 THIS IS TO CERTIFY that the GROUP R1 TYPE V-1 for (2) Two STORY building  
 at 2418 Hish Street which is owned  
 by L. H. JACKSON  
6587 Shattuck  
Oakland, CA 94609  
 in FIRE ZONE \_\_\_\_\_ USE ZONE R10/R7D OHC Variance No. \_\_\_\_\_ Dated \_\_\_\_\_  
 Building Permit No. 88701062 Building Completion Date 10-11-67 has been inspected

and the following occupancy thereof is hereby authorized:

Occupancies:	Number Habitable Rooms:
Cellar _____	_____
Basement _____	_____
1st Story <u>Five Units each with Kitchen/Living Area, One Bedroom and Bath.</u>	_____
1st Story <u>1 Electrical Room, 1 Porch</u>	<u>10</u>
2nd Story <u>Five Units same first floor, laundry room</u>	<u>10</u>
_____ Story _____	_____
_____ Story _____	_____
Add Story _____	_____
as necessary _____	_____
Prior Cert. of Occup. _____ Date _____	TOTAL <u>20</u>
Prior Cert. of Occup. void on _____	Rental Units (Yes or No) <u>Yes</u>
Re-insp. Dates _____	license (Yes or No) _____

PARKING: Number of Off-Street Parking spaces provided: (3) Three

For Senior Citizens and Disabled

*James B. [Signature]*  
 Chief Building Inspector

The Certificate of Occupancy shall not be construed as authority to violate, cancel, alter or set aside any of the provisions or requirements of any laws or ordinances of the City of Oakland nor shall such issuance thereafter prevent requiring cessation of any or of violations of any applicable law or ordinance of the City of Oakland.

Necessary licenses shall be obtained, as this Certificate does not of itself constitute a license.

Record ID: X1402123

Menu Reports Help

Application Type: Excavation

Address: 2418 HIGH ST

Parcel No: 032 204401002

Description of Work: Excavate, replace distribution valve, PG&E PM 31029818 Permit valid 90 days. Separate Obstruction permit reserve/block parking lane. Set up PWA PRE-CON prior to start work: 510-238-3651.

File Date: 08/21/2014

Application Status: Expired

Job Value: \$0.00

Total Fee Assessed: \$453.27

Total Fee Invoiced: \$453.27

Balance: \$0.00

**IF THIS IS A PRIORITY LIEN, REFER TO THE LIEN BALANCE BELOW**

Owner Name: HERTZEL ENTERPRISES LLC

Owner Address: 298 GRAND AVE, 100, OAKLAND, CA 946104724

Contact Info:	Name	Organization Name	Contact Type	Relationship	Address
	<u>PG&amp;E/Kevin Lim</u>	<u>PG&amp;E/Kevin Lim</u>	<u>Applicant</u>	<u>Owner-Agent</u>	<u>8 River Park Place East...</u>

Licensed Professionals Info:	Primary	License Number	License Type	Name	Business Name	Business License #

Workflow Status:	Task	Assigned To	Status	Status Date	Action By
	<u>Application Intake</u>				
	<u>Engineering Ser...</u>				
	<u>Final Check</u>				
	<u>Permit Issuance</u>				
	<u>Inspection</u>				

Custom Fields: BLD\_X

GENERAL INFORMATION

Tree Removal Involved      Holiday Restriction (Nov 1 - Jan 1)

Date Street Last Resurfaced      Excavation Type      USA Ticket #

Utility Company

Limited Operation Area (7AM-9AM) And (4PM-6PM)      Special Paving Detail Required

EXHIBIT G





STATE OF OHIO

OFFICE OF THE COMMISSIONER OF PUBLIC SAFETY  
DIVISION OF INVESTIGATION

REPORT OF THE INVESTIGATOR

DATE OF REPORT

FORM NO. 10

INVESTIGATOR

WARRANT NO.

DATE OF ARREST

OFFENSE OR VIOLATION

NAME OF SUSPECT

REPORT NO. 10-10-10









CITY OF OAKLAND



INSPECTIONAL SERVICES DEPARTMENT  
One City Hall Plaza, Room 233  
Oakland, California 94612

CORRECTION NOTICE

Address: SPREWELLER INC  
6571 Mattuck  
City/State: OAK

2410 HIGH ST  
Job Location  
08701062  
Permit Number  
8/27/87  
Date

An inspection of the subject premises on the above data revealed the following corrections and/or tests are necessary, as they do not comply with the requirements of the Oakland Code.

- Section:
1. MAKE SCREWING OF SHEET PILE 18" O.C.
  2. MAINTAIN 1/4" AIR GAP ABOVE LIA OF ALL OTHER TUBS
  3. SCREW ON RAIL OF RING RINGS
  4. SEAL W/PE BOARD ABOVE TUBS
  5. VERIFY RATCH TIGHTEN

These corrections are required to be made within ten (10) days after receipt of this notice.

If there are any questions, please contact:  
Thomas M. Budy  
Title: Chief Insp.

PHONE: 273-3441-Building Inspection  
273-3341-Electrical Inspection  
273-3291-Plumbing Inspection  
273-3201-Mechanical Inspection



APPROVAL REQUIRED BY ENGINEERING SERVICES DIVISION  
 (This form is required for all construction work in the public buildings of the State.)  
 IN ALL CASES WHICH INVOLVE THE USE OF SPECIALTY CONTRACTORS

SPECIAL PERMISSION REQUIRED FOR:

REFERENCE: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DATE OF SERVICE \_\_\_\_\_ DATE \_\_\_\_\_

FOUND OK

FIREPLACE

WIRE (EXT.) OK

LATH (INT.) OK

ROUGH OK

GYPHUM BO. OK

PLASTER OK

FINAL OK 5/11/17 WTB

CITY OF OAKLAND  
INSPECTOR GENERAL SERVICES DEPARTMENT  
ONE CITY HALL PLAZA, ROOM 203  
OAKLAND, CALIF. 94612



**BUILDING PERMIT APPLICATION**

THIS IS YOUR PERMIT WHEN PROPERLY FILLED OUT, SIGNED, VALIDATED & FEES PAID.

11977 S. Lakeside Ave.  
Bldg 111 675.25

ADDRESS: HIGH STREET  
CITY: OAKLAND, CALIF. 94607  
LOT: 111  
BLOCK: 111

Permit No. 94701062  
Call for Inspection 270-0444  
DATE ISSUED 4-13-87  
DATE RECEIVED 4/13/87

Describe briefly all proposed construction work.  
NEW 10 UNIT APPT.

11977 S. Lakeside Ave.  
Bldg 111 675.25

APPLICANT: [Signature]  
OWNER: [Signature]  
CITY: OAKLAND, CALIF. 94607

Proposed Use of Bldg: RES. APPT.  
Number of Units: 10  
Height of Highest Point: [Blank]

I hereby certify that I am the owner of the property...  
I am exempt under Sec. 2047 C for this reason

TYPE OF BUILDING: I II III IV V  
OCCUPANCY GROUP: A-1, B-1, C-1, D-1, E-1, F-1, G-1, H-1, I-1, J-1, K-1, L-1, M-1, N-1  
FIRE SPRINKLERS: SPECIAL INSPECTION REQUIRED  
ZONING: RES-1A

Fee: [Blank]  
Type of Owner or Authorized Agent: [Blank]

Valuation of Proposed Work: \$257,000  
Include all labor and materials, all lighting, heating, ventilation, water supply, plumbing, electrical, fire sprinkler, elevator equipment, shafts and stairways.

Signature: [Signature]  
Title: [Blank]

VALUATION: \$257,000  
App. Fee: \$257.00  
Checking Fee: \$257.00  
B.R. Tax: \$257.00  
P. Pl. Rev: \$257.00  
TOTAL: \$1,028.00

Signature: [Signature]  
Title: [Blank]

ADDITIONAL COSTS:  
Address Fee: \$257.00  
Add'l Fee: \$257.00  
Add'l Ch Fee: \$257.00  
Add'l Int'l Rept: \$257.00  
Add'l Sur: \$257.00  
Add'l S&W: \$257.00  
TOTAL: \$1,028.00

Signature: [Signature]  
Title: [Blank]

TOTAL VALUE: \$1,028.00

Signature: [Signature]  
Title: [Blank]

AGENCY VERIFICATION:  
ZONING & PLANNING NO. 2-23-87  
FIRE MARSHAL  
HEALTH DEPT.  
PORT OF OAKLAND  
HOUSING CONSERVATION  
MOVING PERMIT NO.  
SPECIAL ACTIVITY NO.  
S&W PERM. NO.  
HA & AB RES. NO.  
HANDICAP APPEALS  
OTHER: 080-201

Signature: [Signature]  
Title: [Blank]

APK REC'D: [Blank]  
APK REC'D BY: [Blank]  
DATE: 4/13/87  
PLAN CHECKED BY: [Blank]  
DATE: 4/13/87  
PERMIT ISSUED BY: [Blank]

Signature: [Signature]  
Title: [Blank]

APK REC'D: [Blank]  
APK REC'D BY: [Blank]  
DATE: 4/13/87  
PLAN CHECKED BY: [Blank]  
DATE: 4/13/87  
PERMIT ISSUED BY: [Blank]

Signature: [Signature]  
Title: [Blank]

APK REC'D: [Blank]  
APK REC'D BY: [Blank]  
DATE: 4/13/87  
PLAN CHECKED BY: [Blank]  
DATE: 4/13/87  
PERMIT ISSUED BY: [Blank]

Signature: [Signature]  
Title: [Blank]

APK REC'D: [Blank]  
APK REC'D BY: [Blank]  
DATE: 4/13/87  
PLAN CHECKED BY: [Blank]  
DATE: 4/13/87  
PERMIT ISSUED BY: [Blank]

000077

APPROVAL REQUIRED BY ENGINEERING DIVISION  
 If any of the PROPOSED STREET, CURB, PLUMB, OR SIGNAGE OR RECORD  
 in this Office is not in accordance with the program  
 REVISIONS:  
 ENGINEER'S SERVICE: \_\_\_\_\_ DATE: \_\_\_\_\_

FORMS OK 5/11/87  
 Inside of house 4/73  
 5/11/87 P.H. Entry, also 4/73

FIREPLACE  
 WIRE (EXT) OK 7/70 9747B

ROUHS OK  
 7/18/87 P.H. Ext. walling and roof  
 8-4-87  
 8/1/87 (not ready off)  
 11/1/87 William...  
 or handling the... 11/87

LATHING OK  
 GYPSUM AND PLASTER OK 9/14/87 7647B

HEAVY OK 11/9/87 11/87  
 11/3/87 5m 841 Chastain 11/87









CITY OF OAKLAND  
INSPECTIONAL SERVICES DEPARTMENT  
ONE CITY HALL PL. 22A  
OAKLAND, CALIF. 94612  
PHONE: (415) 270-0443



LARRY  
LOCKHAM

MUNICIPAL PERMIT AFFIDAVIT

THIS IS YOUR PERMIT WHEN PROPERLY FILLED OUT, SIGNED, VALIDATED  
A FEE IS PAID.

WORK ADDRESS: 2418 HIGH ST  
CITY: OAKLAND

B870106Z  
E8701243

ELEC 112 242.75  
APPL 111 25.00  
RIGR 111 3.00  
SUBTOTAL 310.83  
CHECK TL 310.83  
MARK: (W)1 ROI 707114  
04/13/87

NAME: L. LOCKHAM  
ADDRESS: 6557 SHATTUCK, OAKLAND, CA 94609  
CITY: OAKLAND, CA 94609  
STATE: CA  
CITY: OAKLAND, CA 94609

Call for Inspection 270-4444  
DATE ISSUED: 4-13-87 APPROVED BY: JMH  
 NEW  REPAIR  ADDITION  
 MOVE  ALTERATION  DEMOLITION  
 OTHER

PROPERTY ADDRESS: 457457 B, OAKLAND, CA 94615  
OWNER: SHATTUCK INC

DESCRIPTION OF WORK: NEW 10 UNITS

PROPERTY ADDRESS: 457457 B, OAKLAND, CA 94615  
OWNER: SHATTUCK INC

PROPERTY ADDRESS: 457457 B, OAKLAND, CA 94615  
OWNER: SHATTUCK INC

I hereby affirm that I am licensed under the provisions of the Business and Professions Code, Chapter 8, Sections 7701.5 and 7701.6, and I am not subject to the provisions of the Business and Professions Code, Chapter 8, Sections 7701.5 and 7701.6, and I am not subject to the provisions of the Business and Professions Code, Chapter 8, Sections 7701.5 and 7701.6.

NO.	DESCRIPTION	AMOUNT	TAXES	TOTAL
1	SERVICE			
2	WATER			
3	SEWER			
4	STORM			
5	WASTE			
6	WASTE			
7	WASTE			
8	WASTE			
9	WASTE			
10	WASTE			
11	WASTE			
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96	WASTE			
97	WASTE			
98	WASTE			
99	WASTE			
100	WASTE			

I hereby affirm that I have a certificate of consent to sell, lease, or a certificate of workers' compensation insurance, or a certified copy thereof (Sec. 2600, Lab. C).

PROPERTY ADDRESS: 457457 B, OAKLAND, CA 94615  
OWNER: SHATTUCK INC

I hereby affirm that I have a certificate of consent to sell, lease, or a certificate of workers' compensation insurance, or a certified copy thereof (Sec. 2600, Lab. C).

PROPERTY ADDRESS: 457457 B, OAKLAND, CA 94615  
OWNER: SHATTUCK INC

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PROPERTY ADDRESS: 457457 B, OAKLAND, CA 94615  
OWNER: SHATTUCK INC

E8701243  
INSPECTION NO. 5  
ADDRESS 2418 HIGH ST

000081

ELECTRICAL INSPECTION RECORD

DATE	DESCRIPTION	REMARKS
5/12/67	Old RK	
7/1/67	Aluminum walls of Bay RK	
8-16-67	Kick	RAMSHE NOT SLIDED
08-17-67		ok

**CITY OF OAKLAND**  
 NATIONAL SERVICES DEPARTMENT  
 ONE CITY HALL PLAZA  
 OAKLAND, CALIF. 94612  
 PHONE (415) 278-3443



**PLUMBING PERMIT APPLICATION**

THIS IS YOUR PERMIT WHEN PROPERLY FILLED OUT, BONDED, VALUED & FEES PAID.

OWNER ADDRESS: 2418 HIGH ST  
 TRACT: [ ]  
 NAME: H. L. LUKEMAN  
 ADDRESS: 1557 SHAWNEE ST  
 CITY: BAYLAND CA 94609  
 LICENSE # [ ]  
 ADDRESS: [ ] PHONE: [ ]  
 CITY: [ ] STATE: [ ] ZIP: [ ]

PLMB 113 327.00  
 APRPL 111  
 HIGH 111 9.25  
 SUBTOTAL 337.31  
 CHECK TL 337.34  
 NUMBER COPIES 001 001 101115  
 04/13/87

PERMIT NO. P8701343  
 Call for Inspection 278-3444  
 DATE ISSUED 4-12-87 APPROVED BY [ ]  
 NEW  REPAIR  ADDITION  
 MOVE  ALTERATION  OTHER  
 BUILDING PERMIT NUMBER: B 8701066-VA-2  
 REMARKS:

WORKER'S COMPENSATION: 157457 B  
 CONTRACTOR: SPECIAL BUILDING, INC.  
 ADDRESS: 657 SHAWNEE ST  
 CITY: OAKLAND CA 94609  
 LICENSE # [ ]  
 DATE: [ ]

PLUMBING	NO.	FEES	POST DATES
TOLATS	10	50.00	
BATHS	10	50.00	
BASINS	10	50.00	
BOWLS	10	50.00	
SHOWERS			
LAUNDRY TUBS			
FLOOR DRAINS			
URINALS			
DRINKING FOUNTAIN			
AUTO CLOTHES WASHER	1	5.00	
AUTO DSH WASHER			
CANINE DEPOSITOR	10	50.00	
INTERIOR TUBS			
AREA DRAINS			
AUTOMOBILES TO CURB			
GREASY TRAP			
WATER ALTERATION			
WATER SERVICE			
WAS OUTLETS			
GAS METERS (FEET)			
LAUNDRY	1	5.00	
FRIGIDERS	1	5.00	
WATER TREATMENT			
CIRCULATORY SYSTEMS			
PISTONS - STAIRS			
GO-WIRE - BURIED COPIES			
LOG LIGHTS			
GAS LEAK - GAS TIGHTEN			
BURNER BURNERS			
WIRE BURNER TIGHTEN			
PILES			
VENTILATION TIGHTEN	100	100.00	
BP EX - EXTENSION			
INDOOR WATERS			
EXTRACTORS - SINKS			
PISTONS			
POOLS - TANK - HOT TUBS			
ROOMS FOR EQUIPMENT			
FIRELINE CONNECTIONS			
PRELIMINARY VALVES			
LAWN SPRINKLER ZONES			
Basic Fee		\$25.00	
SUB TOTAL		354.00	
MICR BURCHARGE 1%		3.54	
TOTAL		357.54	

PROPERTY OWNER'S SIGNATURE: [ ]  
 CONTRACTOR'S SIGNATURE: [ ]  
 DATE: 4-13-87

DATE ISSUED: 4-12-87  
 APPROVED BY: [ ]

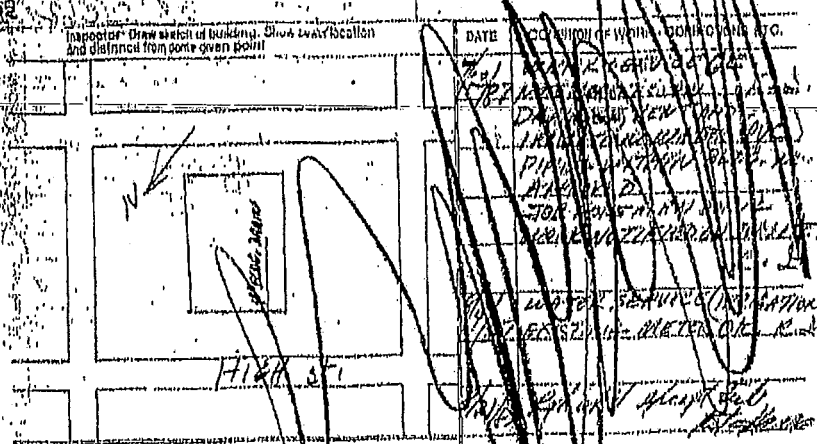
NOTICE TO CONTRACTOR: [ ]  
 NOTICE TO OWNER: [ ]  
 I hereby agree to give, personally and keep for the City of Oakland and its officers, employees and agents... [ ]

INSPECTION: [ ]  
 UNDERGROUND: [ ]  
 GAS: [ ]  
 FRIGIDERS: [ ]

PERMIT NO. P8701343 DISTRICT NO. 1A ADDRESS: 2418 HIGH ST

ADDITIONAL FEES

10	W.C.	40
		20
		70
		12
		2
		<hr/>
		72



REMARKS:

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ADDITIONAL FEES

ADDITIONAL FEES





Applic#\* ZC031870 Type: \_\_\_\_\_ Tract  
 Date Filed: 06/30/03 Complete By: \_\_\_\_\_ Disposition: G GRANTED 06/30/03  
 NUMBER STREET NAME SUFFIX\* SUITE ASSESSOR PARCEL#  
 Site addr: 1) 2418 HIGH ST 032 -2044-010-00  
 2)  
 3)  
 Zoning\* R-50 GP Use 3MR Prol Cond: X Cond Aprvl: Viol:  
 Proj Descr: Home office for off-site janitorial services.

Envirn Rev: Exempt? (Y/N): \_\_\_\_\_ Sect: \_\_\_\_\_ ER Applic#: \_\_\_\_\_  
 Track: \_\_\_\_\_ Ligt# \_\_\_\_\_ Phone# \_\_\_\_\_ Applicant \_\_\_\_\_  
 Owner: LUCKHAM LAWRENCE H  
 Contractor: \_\_\_\_\_  
 Arch/Engr: \_\_\_\_\_  
 Agent: HAGOS TESHFAMICHAEL (510)541-7453 X  
 Applicant Addr: \_\_\_\_\_ No Fee:  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Other Related Applic#s: \_\_\_\_\_  
 F3=Ext F23=Dsc F24=Com

33

UPDATE/QUERY PROJECT INFORMATION

9/27/16 14:54:36

Applic#\* 2C120868 Type: \_\_\_\_\_  
 Date Filed: 04/11/12 Complete By: \_\_\_\_\_ Disposition: G GRANTED Tract 04/11/12  
 NUMBER STREET NAME SUETTX\* SUITE ASSESSOR PARCEL#  
 Site addr: 1) 2418 HIGH ST #9 032 -2044-010-02  
 2)  
 3)

Zoning\* RM-4 GP Use 3MR Excl Cond: \_\_\_\_\_ Cond Aprvl: \_\_\_\_\_ Viol: \_\_\_\_\_  
 Proj Descr: home office for a consultative service event planning

Envirn Rev: Exempt? (Y/N): Y Sect: 15268 EX ER Applic#: \_\_\_\_\_  
 Track: \_\_\_\_\_ Lic# \_\_\_\_\_ Phone# \_\_\_\_\_ Applicant \_\_\_\_\_  
 Owner: HERTZEL ENTERPRISES LLC  
 Contractor: \_\_\_\_\_  
 Arch/Engr: \_\_\_\_\_  
 Agent: CHANELLE WASHINGTON (415) 671-5604 % X  
 Applicant Addr: \_\_\_\_\_ No Fee: \_\_\_\_\_  
 City/State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Other Related Applic#s: \_\_\_\_\_

F3=Ext F23=Dac F24=Com

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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:** T16-0377, Buggs v. Bay Property Group  
**PROPERTY ADDRESS:** 2418 High St., Apt. #8, Oakland, CA  
**DATE OF HEARING:** October 19, 2016  
**DATE OF DECISION:** November 15, 2016  
**APPEARANCES:** Michael Buggs, Tenant  
Renuka Bornstein, Owner  
Daniel Bornstein, Attorney for Bay Property Group

### **SUMMARY OF DECISION**

The Tenant Petition is granted.

### **CONTENTIONS OF THE PARTIES**

On July 14, 2016, the tenant filed a Tenant Petition, contesting a single rent increase and alleging that no notice of the existence of the Rent Program was provided to the tenant with the notice of rent increase.

The owner filed a timely response, alleging that the subject property is exempt from the Rent Adjustment Program as newly constructed after January 1, 1983.

### **ISSUES**

- (1) Is the subject unit exempt from the jurisdiction of the Rent Adjustment Program?
- (2) If not exempt, is the rent increase a valid rent increase?

### **EVIDENCE**

#### **Background**

The tenant moved into the subject unit on July 1, 2007, at an initial monthly rent of \$750.00. The tenant's monthly rent prior to the proposed rent increase is \$834.00. The

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subject unit is located in a residential building consisting of ten (10) residential units. The owner acquired the subject building on August 1, 2008.

### Rent Increase

The contested rent increase proposed to increase the monthly rent from \$834.00 to \$1,000.00, effective September 1, 2016. The rent increase notice, dated June 17, 2016, was admitted into evidence.<sup>1</sup> The tenant testified at the hearing that he did not pay the increased amount and kept paying \$834.00 per month, the monthly rent amount prior to the proposed rent increase.

### RAP Notice

The tenant stated on his petition and testified at the hearing that he received the first notice of the existence of the Rent Adjustment Program (RAP Notice) in April of 2014. The tenant also stated on his petition and testified at the hearing that he did not receive the RAP Notice with the notice of rent increase he was currently contesting.

### Exemption as New Construction

The owner submitted a copy of the Report of Building Record, issued by the City of Oakland in 1987, showing final permit approvals in 1987.<sup>2</sup> The Report also lists the building permit to demolish existing single family dwelling.<sup>3</sup> The owner testified that a single family residence existed on the lot and was demolished prior to the construction of the apartment building. This evidence was not disputed.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

### Exemption

The Rent Ordinance exempts certain dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. To qualify as a newly constructed dwelling unit, the unit must be entirely newly constructed or created from space that was formerly entirely non-residential.<sup>4</sup>

According to the final inspections, the subject property was built in 1987. A final approval by the Building Inspector triggers the issuance of a Certificate of Occupancy, and a "finalized" building permit is the practical equivalent of a Certificate of Occupancy.<sup>5</sup>

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<sup>1</sup> Exhibit A

<sup>2</sup> Exhibit B

<sup>3</sup> Exhibit B, citing Building permit B8701855

<sup>4</sup> O.M.C. §8.22.030(A)(5)

<sup>5</sup> See Housing Residential Rent and Relocation Board decisions in cases T00-0114 (*Clegg v. Mills College*), T04-0163 (*Garsson v. Collins*), T05-0110 (*Peacock et al. v. Vulcan*), and T12-0112 (*Williams v. Taplin*)

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While the subject property was constructed after 1983, in 1987, the evidence shows that the former use was residential. The dwelling that existed on the lot prior to construction of the subject property was a single family residence. Since the subject property was created from a space that was formerly a residential space, the property does not meet the requirements under the Rent Ordinance for exemption based on new construction. Therefore, the subject property is not exempt.

#### RAP Notice Requirement

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 tenancy<sup>6</sup> and together with any notice of rent increase.<sup>7</sup>

The rent increase notice included the Declaration of Service but did not include the RAP Notice. The RAP Notice was not listed on the Declaration of Service. No RAP notice was submitted. The RAP notice was not provided to the tenant together with the notice of rent increase. Therefore, the rent increase is invalid and the monthly rent will remain \$834.00, the amount the tenant paid prior to the proposed rent increase.

#### ORDER

1. The Tenant Petition T15-0377 is granted.
2. The subject property is not exempt from the Rent Adjustment Program.
3. The rent increase is invalid and the monthly base rent remains \$834.00.
4. The owner may increase the monthly rent in accordance with the notice requirements of Cal. Civil Code §827 and the Rent Adjustment Program Ordinance (O.M.C. §8.22 et seq.).

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

Dated: November 15, 2016

  
\_\_\_\_\_  
Linda M. Moroz  
Hearing Officer  
City of Oakland Rent Adjustment Program

<sup>6</sup> O.M.C. Section 8.22.060(A)

<sup>7</sup> O.M.C. Section 8.22.070(H)(1)(A)

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T116-0377 KM/LM

<p><b>CITY OF OAKLAND</b>  <b>RENT ADJUSTMENT PROGRAM</b>          Mail To: P. O. Box 70243          Oakland, California 94612-0243          (510) 238-3721</p>	<p>For date stamp.          2016 JUL 14 PM 2:48</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 MICHAEL BURGESS	Rental Address (with zip code) 94601 2918 HIGHWAY 140	Telephone 510 979 7708 510 985 4536
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Bay Property Group	Mailing Address (with zip code) 482 W MCGRAW BLVD OAKLAND, CA	Telephone 510 836-0110

Number of units on the property: 10

Type of unit you rent (circle one)	House <input type="checkbox"/>	Condominium	<input checked="" type="radio"/> Apartment, Room, or Live-Work
Are you current on your rent? (circle one)	<input checked="" type="radio"/> 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 checked="" 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 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 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)

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

Date you moved into the Unit: 7/2007 Initial Rent: \$ 750 /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: 4/2014. 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		
6/21/15	9/1/15	\$ 839	\$ 1,000	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

\* You have 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, 2<sup>nd</sup> Floor, Oakland, CA 94612. Phone: (510) 238-3381

**IV. VERIFICATION:** The tenant must sign:

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

Michael Bagg  
Tenant's Signature

7/15/15  
Date

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

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

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

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

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

\_\_\_\_\_  
Tenant's Signature

\_\_\_\_\_  
Date

**VI. IMPORTANT INFORMATION:**

**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): \_\_\_\_\_

## NOTICE OF CHANGE OF TERMS OF TENANCY

ANNUAL RENT INCREASE IS 2%

TO: Michael Buggs Does 1 to 20, and any other occupant(s) claiming the right to possession of the following premises:

### 2418 High Street, Unit 8

City of Oakland, County of Alameda, State of California, ZIP: 94601

Including all garage(s), storage and common areas.

You are hereby notified that effective September 1, 2016, not less than sixty (60) days after service on you of this notice (excluding the date of service), the terms of your tenancy of the premises you occupy will be changed as follows:

The monthly rental thereof will be \$1,000.00, payable in advance on the first day each and every month you continue to hold possession thereof.

You are further notified that a negative credit report reflecting on your credit history may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

You are further notified that pursuant to California Civil Code Section 1954.50, et seq. (Costa-Hawkins Rental Housing Act) the subject premises and/or your tenancy therein are not subject to the Oakland Rent Adjustment Program Ordinance for purposes of this rent increase.

YOU ARE FURTHER NOTIFIED that advice is available from the City of Oakland's Rent Program. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612, Tel: (510) 238-3501, website [www.oaklandnet.com](http://www.oaklandnet.com). (as of January 2004).

This notice supersedes prior notice(s).

June 17, 2016

510 981 7368

510 981 CITY  
29 09

*Uchii Lazio*

Bay Property Group  
Duly Authorized Agent for Owner  
(510) 836-0110

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DECLARATION OF SERVICE OF NOTICE

Name of Renter(s): Michael Buggs

Name of person served (if other than renter): N/A

Place of service: 2418 High Street Unit 8, Oakland CA 94601

Date and time of service: June 17, 2016 @ 12:00 PM

I declare that: I served a copy of the Rent Increase

\_\_\_\_\_ on the renter(s) named above by:

(Check applicable statement)

Delivering it personal to one or more of the renter(s) named above.

Leaving a copy with the person named above, who is of suitable age and discretion, at the renter(s) premises/business and by sending a copy in a sealed envelop, by first class mail, postage prepaid, addressed to the renter(s) at the premises.

By sending a copy in a sealed envelope by first class mail, postage prepaid, addressed to the renter(s) at the premises.

I am personally aware of these facts and I am competent to testify thereto as a witness. I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on the following date and the following place:

DATE: 6/17/2016

PLACE: 482 W. MacArthur Blvd. Oakland, CA 94609

Uechi Lazio

Declarant

482 W MacArthur Blvd Oakland, California 94609 P 510-836-0110 F 510-836-0660  
507 Polk Street #410 San Francisco, California 94102 P 415-292-5000 F 415-409-9345  
39465 Paseo Padre Pkwy #1500 Fremont, California 94538 P 510-505-5545 F 510-836-0660  
43225 Mission Blvd Fremont, California 94539 P 510-933-4421 F 510-952-3388  
496 First Street, Suite 200, Los Altos CA 94022 P 650-947-4526 F 650-745-2685

2016 JUN 14 PM 2:49



2018 JUL 14 PM 2:55

FOR MICHAEL BUGGS

THE PROPERTY AT 2910

HIGHT ST IS EXEMPT FROM

THE CITY OF OAKLAND ASST

ADJUSTMENT PROGRAM

BECAUSE IT WAS NEWLY

CONSTRUCTED AFTER 10/14/1980

THE INCREASE IS BASED

ON THE EXEMPTION

§ THE CURRENT ~~MARKET~~  
MARKET

RATES

6/2/15

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<b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. <b>RECEIVED</b> CITY OF OAKLAND RENT ARBITRATION PROGRAM  <b>2016 JUL 29 AM 11:38</b>
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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 T16-0377

**OWNER RESPONSE**

Please print legibly.

Your Name Hertz Enterprises, LLC	Complete Address (with zip code) 482 W. MacArthur Blvd. Oakland, CA 94609	Phone: (510) 836-0110 Email: _____
Your Representative's Name (if any) Bay Property Group Vickie Lazio	Complete Address (with zip code) 482 W. MacArthur Blvd. Oakland, CA 94609	Phone: (510) 836-0110 Fax: _____ Email: vickie@baypropertygroup.com
Tenant(s) name(s) Michael Buggs	Complete Address (with zip code) 2418 High St. #8 Oakland, CA 94601	(510) 479-7704 (510) 485-4536

Have you paid for your Oakland Business License? Yes  No  Number 28009511  
(Provide proof of payment.)

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

There are 10 residential units in the subject building. I acquired the building on 8/1/08

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

**I. RENTAL HISTORY**

The tenant moved into the rental unit on 7/1/07

The tenant's initial rent including all services provided was \$ 775.- / 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? \_\_\_\_\_

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.**

000098

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?  <input type="checkbox"/> Yes <input type="checkbox"/> No
		From	To	
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

**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)
_____	<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, 6<sup>th</sup> 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.*

*Wickie Lajo*

*7/29/16*

Owner's Signature *Agent for Owner*

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

000101



PROPERTY MANAGEMENT | REAL ESTATE SERVICES

July 29, 2016

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

Re: Case Number T16-0377

To Whom It May Concern:

This letter is in reference to the petition filed by Michael Buggs at 2418 High Street, Unit 8 Oakland, CA 94601

The property located at 2418 High Street was newly constructed and a certificate of occupancy was issued for it on or after January 1, 1983 so it is exempt from the Rent Adjustment Program. Documentation to be provided prior to Hearing.

Sincerely,

Vickie Lazio  
Property Manager  
Bay Property Group

482 W. MacArthur Blvd. Oakland, CA 94609 (510) 836-0110  
507 Polk St. Suite 410, San Francisco, CA 94102 (415) 292-5000  
www.BayPropertyGroup.com | Call Toll-Free (855) 381-8570

000102

**CITY OF OAKLAND**  
**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**  
**RESOLUTION**

**RESOLUTION No. R18-002**

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**RESOLUTION APPROVING AMENDMENTS TO JUST CAUSE FOR  
EVICTION REGULATIONS TO PROVIDE NOTICE OF NEW  
RELOCATION REQUIREMENT FOR OWNER MOVE-IN EVICTIONS**

**WHEREAS**, the City Council enacted the Uniform Residential Tenant Relocation Ordinance on January 16, 2018; and

**WHEREAS**, the Ordinance establishes a uniform schedule of relocation payments for no-fault evictions that conforms with the amounts required for Ellis and Code Compliance Relocation evictions; extends relocation payments to tenants displaced by owner or relative move-in evictions; and extends relocation payments to tenants displaced by condominium conversions; and

**WHEREAS**, the Rent Board wishes to adopt new Regulations to require eviction notices to inform tenants of the new relocation requirement and the payments they are entitled to; now, therefore be it

**RESOLVED**: The Just Cause for Eviction Regulations are hereby amended as set out in Attachment C.

APPROVED BY THE FOLLOWING VOTE

AYES:           CHANG, COOK, FRIEDMAN, MESAROS, SANDOVAL, STONE, AND CHAIRPERSON  
                  WARNER

NOES:

ABSENT:

ABSTENTION:

\_\_\_\_\_  
Date:

ATTEST \_\_\_\_\_

000103

JESSIE WARNER  
Chairperson of the Housing, Residential  
Rent and Relocation Board

#2286258v1

000104



**Attachment C: Amendment to Just Cause for Eviction Regulations**

**8.22.360.A.9 - Eviction for Owner or Relative Move In. [revised]**

- a. A notice terminating tenancy under this section must contain, in addition to the provisions required under O.M.C. 8.22.360 B 6:
  - i. A listing of all real property owned by the intended future occupant(s).
  - ii. The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
  - iii. The lawful rent applicable for the unit on the date of the notice.
  - iv. A statement informing tenant(s) as to their right to relocation payments (O.M.C. 8.22.850) and the amount of those relocation payments.
- b. For the purpose of subdivision (a), real property means a parcel of real estate located in Oakland or elsewhere.

**CITY OF OAKLAND**  
**OFFICE OF THE CITY ATTORNEY**

**SUPPLEMENTAL REPORT**

To: Chairperson Jessie Warner and Members of the  
Housing Residential Rent and Relocation Board

FROM: Kent Qian, Deputy City Attorney

DATE: January 17, 2018

**SUBJECT: Amending Just Cause Regulations to Provide Notice of New Relocation Requirement for Owner or Relative Move-in Evictions**

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On January 16, the City Council enacted the Uniform Residential Tenant Relocation Ordinance to establish a uniform schedule of relocation payments for no-fault evictions that conforms with the amounts required for Ellis and Code Compliance Relocation evictions; extend relocation payments to tenants displaced by owner or relative move-in evictions; and extend relocation payments to tenants displaced by condominium conversions. The relocation requirement will apply to owner or relative move-in notices issued after November 28, 2017.

For a Qualifying Relocation Event, the Ordinance sets the relocation amounts as follows:

- \$6,500 per studio/one bedroom units
- \$8,000 per two bedroom units
- \$9,875 per three or more bedroom units

Tenant households in rental units that include lower income, elderly or disabled tenants, and/or minor children shall be entitled to a single additional relocation payment of two thousand five hundred dollars (\$2,500.00) per unit from the owner. For owner or relative move-in evictions under 8.22.360(A)(9), tenants who lived in the unit for less than two years will receive reduced payments as follows:

- 1/3 of full payment if Tenant lived in the unit less than one year;
- 2/3 of full payment if Tenant lived in the unit one year or longer but less than two years;
- Full payment if the Tenant lived in the unit for two years or longer.

Under the Ordinance, the relocation payments specified above increases annually on July 1 in accordance with the CPI Adjustment as calculated in OMC subsection 8.22.070(B)(3). The first CPI adjustment (at 2.3%) took effect on July 1, 2017 (not reflected in the numbers above). The

additional \$2,500 payment for tenant households in rental units that include lower income, elderly or disabled tenants, and/or minor children is not adjusted for inflation.

The existing Just Cause for Eviction Ordinance and regulations require owners to notify tenants of the relocation requirements when the eviction is for Ellis withdrawal or code compliance. The Rent Board should revise the notice requirements to reflect the new relocation requirement for owner or relative move-in evictions. We ask that the Rent Board consider and adopt these proposed regulations in Attachment C. A copy of the ordinance is provided with your packet.