

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

**April 26, 2018
7:00 P.M.
CITY HALL, HEARING ROOM #4
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - i. Approval of Minutes
 - a. March 29, 2018
 - ii. Minutes Available for Review
 - a. March 8, 2018
 - b. March 22, 2018
4. OPEN FORUM
5. NEW BUSINESS
 - i. Memo to Board Members Re Substantial Rehabilitation
 - ii. Appeal Hearing in cases:
 - a. L16-0094; Wiebe v. Tenants
 - b. L16-0048; Truckee Zurich Place LLC v. Tenants
 - c. L15-0073; 525,655 Hyde St. LLC v. Tenants
6. REPORT ON CLOSED SESSION
7. SCHEDULING AND REPORTS

**FILED
OFFICE OF THE CITY CLERK
OAKLAND
2018 APR 18 PM 3:56**

i. Board Training

8. ADJOURNMENT

Accessibility. This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandnet.com or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantones, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandnet.com o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 sshannon@oaklandnet.com 或致電 (510) 238-3715 或 711 California relay service。請避免塗搽香氛產品, 參加者可能對化學成分敏感。

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 service 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

March 29, 2018

7:00 p.m.

City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA

MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:20 p.m. by Board Chair Ed Lai

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
U. Fernandez	Tenant Alt.	X		
D. Mesaros	Tenant	X		
T. Sandoval	Tenant			
Ed Lai	Homeowner	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

a . Approval of Minutes for February 22, 2018

E. Lai moved to approve the minutes. K. Friedman seconded.
The Board voted as follows:

Aye: U. Fernandez, K. Friedman, M. Cook, E. Lai, D. Mesaros
Nay: 0
Abstain: None

The motion passed by consensus.

4. OPEN FORUM

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a. James Vann

5. NEW BUSINESS

i. Hearing in appeal cases:

a. T15-0360-Harrison v. Solares

Appearances:

Stephen Judson Owner Appellant-Cross Appellee
Representative

Kathleen Solares Owner Appellant/Cross Appellee

Mercedes Harrison Tenant Appellee-Cross Appellant
Clifton Harrison

This is a landlord and a tenant appeal.

Appeal

Both the owner and the tenant appealed. On the owner's appeal, the owner primarily contends that the Hearing Officer and the Board misinterpreted the Regulation language that capital improvements will be given for improvements completed and paid for within the 24 month period prior to the date of the proposed rent increase. Instead of the effective date of the notice, which was August 1, 2015, the 24-month period for capital improvement expenses should run back from May 23, 2015 because May 23, 2015 was the date the rent increase notice was given. The owner also contends that the capital improvement pass-through period was incorrectly changed from August 1, 2015 to December 1, 2015. Finally, the owner appeals on the basis of delays in the appeal process.

On the tenant's appeal, the tenant primarily contends that (1) there were math miscalculations and clerical errors in the decision; (2) additional amounts should have been deducted from capital improvement due to deferred maintenance; and (3) the additional \$15,360.73 from payment to contractor's attorney should not have been allowed because the settlement agreement was available and should have been submitted as evidence at the original hearing.

Appeal Hearing

After the parties' presentations, rebuttal and questions to the parties, the Board had extended discussion on the appeal. During the discussion, the Board took a brief recess to review the file. After recess, U. Fernandez moved to affirm the hearing officer's decision with the following corrections to be made by staff:

- a. On Bate Stamp page 61, the capital improvement pass-through period should be from August 1, 2015 to July 31, 2020;
- b. Staff should correct calculation errors as follows:
 - i. On Bate Stamp page 59, the amount of disallowed expenses should be changed from \$12,698.97 to \$12,798.97 to be consistent with Bate Stamp page 56;
 - ii. On Bate Stamp page 58, the \$1,240 charge should be disallowed,
- c. Delete the second full paragraph on Bate Stamp 61;
- d. Carry through those calculations to find the appropriate capital improvement pass-through and the appropriate monthly rent increase.

E. Lai seconded. The Board voted as follows:

Ayes: D. Mesaros, U. Fernandez, M. Cook, K. Friedman, E. Lai

Nay: 0

Abstain: 0

The Board voted unanimously to stay past 10:00 p.m. in order to hear the two remaining cases.

- b. L16-0018, CNML Crescent Properties v. Tenants

Landlord Appeal

Appearances

Clifford Fried	Owner Appellant Representative
Liz Darius	Tenant

The owner appealed from denial of an exemption based on substantial rehabilitation and contends that the Hearing Officer improperly excluded \$124,450 in costs for a driveway, fence and security gates; that prior hearing decisions have allowed costs for these items and this is a case of first impression that has not been previously decided by the Board; that there is a factual error in the calculations and the Hearing Officer removed the owner's exhibits from his submittal.

The tenant contends the definition of substantial rehabilitation means the building, and does not include the driveway or a security gate; that the owner charged a double payment for windows; and there is a moratorium on substantial rehabilitation cases.

After the parties' presentation and Board discussion D. Mesaros moved to affirm the Hearing Decision based on substantial evidence; U. Fernandez seconded.

The Board voted as follows;

Aye: M. Cook, K. Friedman, U. Fernandez. E. Lai, D. Mesaros

Nay: 0
Abstain: None

The motion passed by consensus

c. T16-0259, Barghout v. Owens

Appearances: Jonathan Owens Landlord Appellant
No appearance by tenant

Landlord appeal

The owner appeals from denial of an exemption for a single family residence. He contends that the subject property is exempt from the Rent Ordinance as a single family residence; that the property is not separately alienable pursuant to Costa-Hawkins; and that he lives in the house and rents two rooms to individuals with shared facilities.

After questions to the appellant and Board discussion U. Fernandez moved to affirm the Hearing Decision. K. Friedman affirmed. The Board voted as follows:

Aye: M. Cook, K. Friedman, U. Fernandez. E. Lai, D. Mesaros
Nay: 0
Abstain: None

The motion passed by consensus

6. Report on Closed Session
7. SCHEDULING & REPORT
 - a. Board Training
8. ADJOURNMENT

E. Lai moved to adjourn the meeting. The meeting was adjourned by consensus at 10:15 p.m.

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

**PANEL MEETING
March 8, 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 7:09 p.m. by Panel Chair, Jessica Warner.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Ubaldo Fernandez	Tenant	X		
Jessica Warner	Homeowner	X		
Benjamin Scott	Owner	X		

Staff Present

Kent Qian	Deputy City Attorney, Office of the City Attorney
Linda M. Moroz	Hearing Officer, Rent Adjustment Program
Maimoona Ahmad	Hearing Officer, Rent Adjustment Program

3. OPEN FORUM

The following speakers spoke at Open Forum:

Leah Simon-Weisberg
Clinton Womack
Grant Rich
Kelly Phillips
Shayna Reese
Lauren Schechter
Ana Fouster
Mary Kallock

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Andy Larson
Tom Deckert
Kendra Edwards
Lydia Henkel-Moellmann
James Vann
Jonah Strauss

4. NEW BUSINESS

- i. Appeal Hearing in cases:
 - a. L16-0048; Truckee Zurich Place LLC v. Tenants
 - b. L16-0064; DODG Corp. v. Tenants
 - Appeal was withdrawn by the tenant appellant.
 - c. L16-0093; Masri v. Tenant
 - Appeal was withdrawn by the tenant appellant.

a. L16-0048; Truckee Zurich Place LLC v. Tenants

The Board panel could not hear the appeal in this case because there was no quorum. U. Fernandez recused himself due to a current pending litigation with the owner of the subject property. The case will be rescheduled.

5. ADJOURNMENT

The meeting was adjourned at 7:37 p.m.

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

**BOARD PANEL MINUTES
March 22, 2018
7:00 p.m.
City Council Chamber
One Frank H. Ogawa Plaza, Oakland, CA**

MINUTES

1. CALL TO ORDER

The HRRRB Panel was called to order at 7:03 p.m. by Panel Chair, Ed Lai

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Debbie Mesaros	Tenant	X		
Ed Lai	Homeowner	X		
K. Friedman		X		

Staff Present

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

3. OPEN FORUM
No speakers

4. NEW BUSINESS

i. Hearing in appeal cases:

a. **L16-0094, Wiebe v. Tenants**

Appearances

William Wiebe	Owner Appellant
No appearance by tenant	

Grounds for Appeal

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The owner appealed from a Hearing Decision which denied an exemption from the Rent Ordinance on the basis of substantial rehabilitation. He contended that the Hearing Officer applied a heightened standard of proof in requiring an invoice and proof of payment and there is no regulation requiring this is not in accordance with the Board's precedent decision in Ullman v. Breen which states what is reasonable; that the Hearing Officer failed to consider his evidence improperly denied costs for appliances which has been granted in other hearing decisions. He cited cases L15-0034, L15-008 and T04-0158 in support of his appeal.

Appeal Decision

After Board discussion and questions to the appellant E. Lai moved to refer this case for consideration by the full board. K. Friedman seconded.

The Board panel voted as follows:

Aye: D. Mesaro E. Lai, K. Friedman
Nay: 0
Abstain:0

The motion was approved by consensus. Ms. Friedman requested a copy of the information that is provided to landlords for substantial rehabilitation cases.

b. L16-0070: Oakvel Enterprises v. Tenants

Appearances

Erica McLeod Owner Appellant Representative

Grounds for Appeal

The owner representative contended that during the hearing the Hearing Officer refused to accept checks for payment because there was no invoice included; that she had the original documents but was denied the opportunity to present them by the Hearing officer.

Appeal Decision

After questions to the representative and Board discussion D. Mesaros moved to affirm the Hearing Decision on the basis of substantial evidence. E. Lai seconded.

The Board panel voted as follows;

Aye: D. Mesaro, E. Lai, K. Friedman

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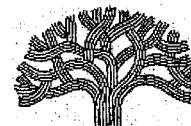
Nay:
Abstain: 0

The motion was approved by consensus.

6. ADJOURNMENT

The meeting was adjourned by consensus at 8:30 p.m.

CITY OF OAKLAND



Housing and Community Development Department
Rent Adjustment Program
P.O. BOX 70243, OAKLAND, CA 94612-204

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

MEMO

To: Rent Board Members

From: Barbara Kong-Brown
Senior Hearing Officer

Date: April 18, 2018

Re: Request for Information that is Provided to Landlords Regarding Substantial Rehabilitation Cases and Hearing Decisions

At the Rent Board Panel meeting on March Board Member Karen Friedman requested information that is provided to landlords regarding substantial rehabilitation cases and requested information regarding Nguyen v. Tenants, case L15-0008, and Ullman v. Breen, T04-0158. These cases are enclosed with this memo.

There are no specific guidelines which address the proof that is needed to substantiate expenses for these cases. Section 8.22.030-Exemptions, B (2)-Exemption Procedures, states the following:

2a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost of new construction for a rehabilitation project and performed substantial work on each of the units in the building.

b. the average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.

c. an owner seeking to exempt a property on the basis of substantial (B) obtaining a certificate of occupancy. If no certificate of occupancy was required to be issued for the property, in lieu of the certificate of occupancy an owner may provide the last finalized permit. For any property that has a certificate of occupancy issued on or before the date of enactment of this subparagraph O.M.C. 8.22.30 B.2.c for which an owner claims exemption as substantially rehabilitated, the owner must apply for such exemption no later than June 30, 2017, or such exemption will be deemed to be vacated (Eff. Feb. 2017).

Section 8.22.030 (B)(3) Exemptions-Rent Adjustment Program Regulations, states the following:

- a. In order to qualify for the substantial rehabilitation exemption, the rehabilitation work must be completed within a two (2) year period after the issuance of the building permit for the work unless the Owner demonstrates good cause for the work exceeding two (2) years.
- b. For the substantial rehabilitation exemption, the entire building must qualify for the exemption and not just individual units.



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: L15-0008, Nguyen v. Tenants
PROPERTY ADDRESS: 654, 656, & 658 Alcatraz Ave., Oakland, CA
DATE OF HEARING: May 15, 2015
DATE OF DECISION: June 16, 2015
APPEARANCES: Vuong Nguyen (Owner)
Ethan Pintard (Owner Representative)
(No Appearance by any Tenant)

SUMMARY OF DECISION

The owner's petition is granted. The units on the property are exempt from the Oakland Rent Ordinance, but not from the Just Cause for Eviction Ordinance.¹ The owner must continue to pay the Rent Program Service fee.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a Certificate of Exemption for a 3-unit residential building on the ground that it is a "substantially rehabilitated" building, pursuant to Oakland Municipal Code (O.M.C.) Section 8.22 and Rent Adjustment Program Regulations (Regulations). No tenant filed a response to the owner's petition.

THE ISSUE

Are the subject rental units exempt from the Rent Adjustment Ordinance on the ground that they have been "substantially rehabilitated?"

¹ O.M.C. Section 8.22.560, et seq.

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EVIDENCE

Square Footage: The owner testified that the subject building is of wood frame construction, and has 2 units upstairs and one unit downstairs. The owner further testified that he measured the units: one upstairs unit has 723 square feet and the other has 783 square feet; the downstairs unit has 1,421 square feet. Since it is a 2-story building, this figure is doubled, for a total of 2,842 square feet.

Expenses: The owner testified that he bought many of the materials for the subject renovation project, and that he supervised the construction. He has 35 years' experience in construction and worked full-time, 6 days a week, from February through November 2014. The core of the building was torn out, and new walls, floors, electric and plumbing were installed. The owner submitted into evidence a large number of documents, as follows:

List of employees, and payments ²	\$ ³	
Dump fee invoices ⁴	\$ 590	
Home Depot receipt ⁵	\$ 2,144	\$
City of Oakland invoices & checks ⁶	\$10,668	
EBMUD checks ⁷	\$23,258	
PG & E checks ⁸	\$25,160	
Bank of America statements ⁹	\$ ¹⁰	
American Express statements ¹¹	\$ ¹²	
Ashby Lumber receipts ¹³	\$24,175	
Home Depot receipts ¹⁴	\$20,157	
Eastern Supplies receipts ¹⁵	\$ 1,156	
American Emperor receipts ¹⁶	\$27,026	
Rubenstein Supply receipts ¹⁷	\$ 3,729	
Wayside Bldg. Mat. receipts ¹⁸	\$ 1,834	

² Exhibit No. 1.

³ For the reason discussed below, these amounts are not allowed.

⁴ Exhibit Nos. 1A-12

⁵ Exhibit No. 13

⁶ Exhibit Nos. 14, 16 & 17; an invoice in the amount of \$22,516 is Exhibit No. 98

⁷ Exhibit Nos. 15, 18-20, 22, 24, & 25

⁸ Exhibit Nos. 21, 23, & 26; an invoice from PG &E in the amount of \$100 is Exhibit 234.

⁹ Exhibit Nos. 27-47

¹⁰ See discussion below

¹¹ Exhibit Nos. 48-82

¹² See discussion below

¹³ Exhibit Nos. 101-3, 106-8, 110, 115-17, 121-3, 129, 130, 140, 141, 146-9, 164, 166-70A, 174, 175, 181-3, 185, 186, 192, 194-6, 198, 200, 206, 228, 236-50, 253, 254, 257, 261-76, 343, 344, 348, 349, 351-3, 355, 356, 358-67, 369, 272-5, 377-83, & 386

¹⁴ Exhibit Nos. 83-8, 94-7, 124, 125, 151-7, 163, 203, 232, 233; 282-7, 317, 318, 323, 338-41, 387 & 390

¹⁵ Exhibit Nos. 89-93

¹⁶ Exhibit Nos. 99-100, 104, 105, 109, 111-13, 119, 120, 126, 127, 131, 134-6, 138, 139, 142, 144, 145, 150, 158-163A, 176-9, 184, 187, 189, 191, 193, 197, 204, 205, 210, 217, 218, 220, 226, 235, 252, 255, 256, 259, 288-95, 198, 299, 302-4, 311, 312, 315, 316, 319, 320, 335-7, 345, 346, 350, 354 & 368

¹⁷ Exhibit Nos. 132, 133, 321, & 389

¹⁸ Exhibit Nos. 165, 171, 172, 180, 190, 296, 342, & 347

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East Bay Blueprint receipt ¹⁹	\$ 193
Allied Ready Mix receipt ²⁰	\$ 350
Bayshore Metals receipts ²¹	\$ 1,927
Pacific Galvanizing receipt ²²	\$ 136
USA Metals receipt ²³	28
Tri City Rock receipt ²⁴	\$ 5,971
Solares House Movers proposal ²⁵	\$
Khen Carpet Man receipts ²⁶	\$ 2,704
Larm's Supply receipts ²⁷	\$ 410
U-Save Supplies receipt ²⁸	\$ 831
Granite Expo receipts ²⁹	\$ (illegible)
United Carpet receipts ³⁰	\$ 3,140
H & L Home Supply receipts ³¹	\$ 5,690
Best Buy receipts ³²	\$ 1,314
G & C Bldg. Contr. proposal ³³	\$ ³⁴
Economy Lumber receipt ³⁵	\$ 183
United Carpet receipts ³⁶	\$ 666
Martin Madsen Co. receipt ³⁷	\$ 10
Economy Lumber receipt ³⁸	\$ 285
H & L Home Supply receipt ³⁹	\$ 64
Appliance Repair ⁴⁰	\$ 280
Santa Clara appliances ⁴¹	\$ 283
Superior Hardware receipts ⁴²	\$ 3,300
Sam Jin Supply receipts ⁴³	<u>\$ 4,544</u>

¹⁹ Exhibit No. 388

²⁰ Exhibit No. 384

²¹ Exhibit Nos. 370 & 376

²² Exhibit No. 371

²³ Exhibit No. 362

²⁴ Exhibit No. 357

²⁵ Exhibit Nos. 330 through 334 (unsigned by owner)

²⁶ Exhibit Nos. 326-9

²⁷ Exhibit Nos. 260, 324 & 325

²⁸ Exhibit No. 322

²⁹ Exhibit Nos. 313 & 314

³⁰ Exhibit Nos. 199 & 310

³¹ Exhibit Nos. 306-8

³² Exhibit Nos. 301, & 305

³³ Exhibit No. 258

³⁴ There is no proof of payment for this proposal

³⁵ Exhibit No. 251

³⁶ Exhibit Nos. 227 & 231

³⁷ Exhibit No. 173

³⁸ Exhibit No. 229

³⁹ Exhibit No. 223

⁴⁰ Exhibit No. 224

⁴¹ Exhibit No. 225

⁴² Exhibit Nos. 208, 209, 211 through 216, 219, 221, & 230

⁴³ Exhibit Nos. 114, 118, 128, 137, 143, 201, 202, 207, 277, 297, & 309

TOTAL

\$171,856

FINDINGS OF FACT AND CONCLUSIONS OF LAW

It is found that the above-listed costs were all spent on the construction project. There is no doubt that a great deal of labor was necessary in order to complete the project. However, the only evidence of labor costs is a list of people and payments. In a precedent decision,⁴⁴ the Board held that

[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction . . .

Therefore, none of the labor costs claimed on the hand-written document are allowed.

However, the owner credibly testified that he has extensive experience in construction, and worked full-time supervising his workers for 10 months. He therefore contends that the value of his labor should be considered in making the necessary calculation of costs. This argument is persuasive.

The Regulations governing capital improvement costs state: "Undocumented labor costs provided by the landlord cannot exceed 25% of the cost of materials."⁴⁵ This principle is equally applicable in computing the cost of a rehabilitation project. Twenty-five per cent of \$171,856 is \$42,964. When this amount is added to the cost of materials set forth above, the total expense for the project was \$214,820. It is found that this is the proper calculation of construction expenses in this case.

The Applicable Law: O.M.C. 8.22.030(A)(6) states that dwelling units located in "substantially rehabilitated buildings" are not "covered units" under the Rent Adjustment Ordinance.

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.

- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.⁴⁶

⁴⁴ T04-0158, *Ulman v. Breen & Orton*

⁴⁵ Regulations Appendix, Section 10.2.2(4)

⁴⁶ O.M.C. Section 8.22.030(B)(2)

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The tables issued by the Building Services agency refer to a dollar amount per square foot (Tables "A," and "B," attached). Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

The Calculation: "The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed."⁴⁷ The construction in this case took place in the year 2014. The Tables referenced in this Decision were issued by the City Building Services agency. Table "A" lists square foot construction costs, effective August 1, 2009. However, since the construction in this case occurred in the year 2014, and costs have risen since that time, it is proper to increase the cost shown on the 2009 Table. The Building Services agency has recognized this fact, and therefore issued a document entitled "Quarterly Cost Indexes (1926 = 100)" (Table "B").

These tables are used as follows: (1) On Table "B," determine the number for the year of construction, geographical district, and type of construction; (2) Divide this number by the number in the same category for the year 2009. The resulting fraction is then multiplied by the number derived when the square foot cost shown on Table "A" is multiplied by the number of square feet in the building.

If the work were done in the year 2009, the square foot cost would be \$127 (Apartment Building more than 2 units; new construction; Type V [wood frame]). This amount multiplied by 2,842 total square feet equals \$360,934. However, the work was done in 2014. Therefore, the figure \$360,934 is increased, using Table "B," as follows:

October 2014	3004.3
1.18%	
October 2009	2550.2

One hundred eighteen per cent of \$360,934 is \$425,902. Fifty percent of \$425,902 is \$212,951. Therefore, if the owner spent at least \$212,951 on the project, the units in the building are exempt from the Rent Adjustment Ordinance.

Discussion: The owner spent \$214,820, which is slightly more than the required amount for the building to be declared "substantially rehabilitated." Therefore, the units in the subject building are exempt from the Rent Adjustment Ordinance.

ORDER

1. Petition L07-0004 is granted.
2. The subject building is a "substantially rehabilitated" building.

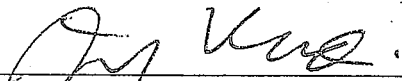
⁴⁷ O.M.C. Section 8.22.030(B)

3. A Certificate of Exemption for the subject building will be issued when this Decision becomes final.

4. The owner must continue to pay the Rent Program Service fee.

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

Dated: June 16, 2015



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

City of Oakland
Building Services
Construction Valuation¹
For Building Permits⁴
Effective Aug. 1, 2009

Community Economic Developr Agency
 Dalziel Administration Building
 250 Frank Ogawa Plaza - 2nd Floor
 Oakland, CA 94612
 510-238-3891

Occ.	Description ³	Construction	Level Ground ²		Hillside Construction		Marshall & Swift 3Q 7'09 Section pg (Class/type)
		Type	New	Remodel	New	Remodel	
R3	Custom Residence	V	\$207.53	\$107.92	\$269.79	\$140.29	Section 12 pg 25 (C/e)
	Single Family & Duplex	V	\$144.46	\$75.12	\$187.80	\$97.65	Section 12 pg 25 (C/g)
	Factory/Manufactured home	V	\$43.50	\$22.62	\$56.55	\$29.41	Section 12 pg 26 (CDS/g)
	Finished Habitable Basement Conversion	V	\$96.42	\$50.14	\$125.35	\$65.18	Section 12 pg 25 (S/a)
	Convert non-habitable to habitable	V	N/A	\$43.50	N/A	\$56.55	Section 12 pg 26 (CDS/g)
	Partition Walls	V	N/A	\$16.19	N/A	\$21.05	Section 52 pg 2 (6"wall)
	Foundation Upgrade (i.f.)	V	\$105.37	NA	\$136.98	NA	Section 51 pg 2 (R/24x72.)
	Patio/Porch Roof	V	\$24.70	\$12.84	\$32.11	\$16.70	Section 66 pg 2 (Wood)
	Ground Level Decks	V	\$30.49	\$15.85	\$39.64	\$20.61	Section 66 pg 2 (100sf/avg)
	Elevated Decks & Balconies	V	\$41.16	\$21.40	\$53.51	\$27.82	Section 66 pg 2 (100sf/+1 story)
U1	Garage	V	\$38.42	\$19.98	\$49.95	\$25.97	Section 12 pg 35 (C/a600)
	Carport	V	\$24.70	\$12.84	\$32.11	\$16.70	Section 12 pg 35 (D/a4car)
	Retaining wall (s.f.)	III	\$32.96	NA	\$42.85	NA	Section 55 pg 3 (12"rein.f/h)
R2	Apartment (>2 units)	I & II	\$174.69	\$90.84	\$227.10	\$118.09	Section 11 pg 18 (B/g)
		III	\$156.91	\$81.59	\$203.98	\$106.07	Section 11 pg 18 (Dmill/g)
		V	\$127.00	\$66.04	\$165.10	\$85.85	Section 11 pg 18 (D/g)
Non-Residential Occupancy							
A	Church/Auditorium	I & II	\$247.07	\$128.48	\$321.19	\$167.02	Section 16 pg 9 (B/g)
		III	\$182.01	\$94.65	\$236.61	\$123.04	Section 16 pg 9 (B/a)
		V	\$175.93	\$91.48	\$228.71	\$118.93	Section 16 pg 9 (S/g)
A	Restaurant	I & II	\$221.82	\$115.35	\$288.37	\$149.95	Section 13 pg 14 (A-B/g)
		III	\$174.20	\$90.58	\$226.46	\$117.76	Section 13 pg 14 (C/g)
		V	\$166.80	\$86.74	\$216.84	\$112.76	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	\$145.24	\$75.52	\$188.81	\$98.18	Section 13 pg 17 (C/a)
B	Bank	I & II	\$223.46	\$116.20	\$290.50	\$151.06	Section 15 pg 21 (B/a)
		III	\$182.01	\$94.65	\$236.61	\$123.04	Section 15 pg 21 (C/a)
		V	\$173.02	\$89.97	\$224.93	\$116.96	Section 15 pg 21 (D/a)
B	Medical Office	I & II	\$249.76	\$129.88	\$324.69	\$168.84	Section 15 pg 22 (A/g)
		III	\$243.19	\$126.46	\$316.15	\$164.40	Section 15 pg 22 (B/g)
		V	\$200.73	\$104.38	\$260.95	\$135.69	Section 15 pg 22 (C/g)
B	Office	I & II	\$165.41	\$86.01	\$215.03	\$111.82	Section 15 pg 17 (B/a)
		III	\$120.77	\$62.80	\$157.00	\$81.64	Section 15 pg 17 (C/a)
		V	\$115.34	\$59.98	\$149.94	\$77.97	Section 15 pg 17 (D/a)
E	School	I & II	\$239.11	\$124.34	\$310.84	\$161.64	Section 18 pg 14 (A-B/g)
		III	\$181.96	\$94.62	\$236.55	\$123.00	Section 18 pg 14 (C/g)
		V	\$171.94	\$89.41	\$223.52	\$116.23	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	\$186.25	\$96.85	\$242.13	\$125.91	Section 14 pg 33 (MSG 527C/e)
		III	\$180.70	\$93.96	\$234.91	\$122.15	Section 14 pg 33 (MLG 423C/e)
		V	\$175.14	\$91.07	\$227.68	\$118.39	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	\$186.04	\$96.74	\$241.85	\$125.76	Section 15 pg 22 (B/a)
		III	\$152.09	\$79.09	\$197.72	\$102.81	Section 15 pg 22 (C/a)
		V	\$146.52	\$76.19	\$190.48	\$99.05	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	\$143.82	\$74.79	\$186.97	\$97.22	Section 13 pg 26 (A/g)
		III	\$117.10	\$60.89	\$152.23	\$79.16	Section 13 pg 26 (C/g)
		V	\$113.19	\$58.86	\$147.15	\$76.52	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	\$157.34	\$81.82	\$204.54	\$106.36	Section 14 pg 15 (B/a)
		III	\$134.38	\$69.88	\$174.69	\$90.84	Section 14 pg 15 (C/a)
		V	\$111.93	\$58.20	\$145.51	\$75.66	Section 14 pg 15 (D/a)
S	Warehouse	I & II	\$96.28	\$50.07	\$125.16	\$65.09	Section 14 pg 26 (A/g)
		III	\$91.77	\$47.72	\$119.30	\$62.04	Section 14 pg 26 (B/g)
		V	\$90.79	\$47.21	\$118.03	\$61.37	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	\$76.31	\$39.68	\$99.20	\$51.59	Section 14 pg 34 (A/g)

¹ Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); includes 1.3 regional multiplier (see Secc. 99 pg 6 July 2009 Marshall & Swift)

² Hillside construction = slope >20%; multiply by additional 1.3 multiplier

³ Remodel Function of New Construction is a 0.52 multiplier.

⁴ Separate structures or occupancies valued separately.

⁵ Separate fees assessed for E/P/M permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

TABLE "A"

000020

QUARTERLY COST INDEXES (1926 = 100)

SECTION 98 PAGE 7
October 2014

BUILDINGS – EASTERN DISTRICT

	10/2014	7/2014	4/2014	1/2014	10/2013	7/2013	4/2013	1/2013	10/2012	7/2012	4/2012	1/2012	10/2011	7/2011	4/2011	1/2011	10/2010	7/2010	4/2010	1/2010	10/2009	7/2009	4/2009	
A: Fireproofed steel frame	2608.6	2762.5	2738.5	2726.6	2770.0	2685.0	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6	2691.6
B: Reinforced concrete frame	2739.0	2782.5	2772.5	2770.0	2770.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0
C: Masonry bearing walls	2739.0	2782.5	2772.5	2770.0	2770.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0
D: Wood frame	2475.0	2470.0	2465.0	2455.1	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0
S: Metal frame and walls	2788.7	2778.3	2759.2	2746.4	2733.6	2713.9	2686.3	2653.1	2645.5	2635.0	2626.9	2619.5	2612.9	2606.9	2601.5	2596.5	2591.6	2587.2	2583.1	2579.3	2575.8	2572.5	2569.4	2566.4

BUILDINGS – CENTRAL DISTRICT

A: Fireproofed steel frame	2760.6	2757.6	2751.8	2729.5	2726.6	2717.0	2695.1	2677.7	2669.0	2648.8	2630.6	2614.6	2601.6	2590.7	2571.9	2556.1	2542.9	2529.3	2516.2	2503.7	2491.6	2479.7	2468.2	2457.1
B: Reinforced concrete frame	2739.0	2782.5	2772.5	2770.0	2770.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0
C: Masonry bearing walls	2739.0	2782.5	2772.5	2770.0	2770.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0	2730.0
D: Wood frame	2475.0	2470.0	2465.0	2455.1	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0	2450.0
S: Metal frame and walls	2788.7	2778.3	2759.2	2746.4	2733.6	2713.9	2686.3	2653.1	2645.5	2635.0	2626.9	2619.5	2612.9	2606.9	2601.5	2596.5	2591.6	2587.2	2583.1	2579.3	2575.8	2572.5	2569.4	2566.4

BUILDINGS – WESTERN DISTRICT

A: Fireproofed steel frame	3033.4	3022.5	2997.4	2976.7	2968.9	2954.7	2930.2	2911.2	2894.7	2879.9	2859.4	2841.2	2824.1	2800.5	2766.8	2747.0	2737.0	2698.1	2668.1	2656.1	2644.3	2632.9	2621.9	2611.2
B: Reinforced concrete frame	3008.5	3000.0	2973.6	2953.9	2946.5	2933.0	2907.6	2881.7	2865.8	2839.5	2821.2	2803.1	2785.7	2763.8	2734.0	2718.9	2711.6	2672.4	2642.9	2630.6	2619.2	2608.2	2597.5	2587.1
C: Masonry bearing walls	3028.3	3018.0	2998.8	2970.2	2965.9	2953.6	2928.2	2902.7	2886.0	2859.7	2841.9	2824.0	2807.4	2785.7	2755.9	2740.0	2732.8	2692.9	2663.9	2651.5	2640.1	2629.2	2618.5	2608.1
D: Wood frame	2990.3	2979.1	2938.8	2925.2	2925.6	2894.3	2849.2	2819.9	2788.0	2753.9	2736.4	2719.7	2702.6	2677.8	2656.2	2638.6	2631.5	2591.6	2562.6	2550.7	2540.0	2529.9	2520.3	2511.1
S: Metal frame and walls	2706.5	2699.4	2691.9	2669.5	2666.1	2655.4	2636.7	2625.1	2615.4	2604.9	2585.5	2571.6	2557.8	2538.6	2509.6	2491.5	2481.5	2441.5	2412.5	2398.7	2385.7	2373.2	2361.1	2349.4

EQUIPMENT – NATIONAL AVERAGE

Average of all	1593.7	1586.7	1569.0	1566.9	1563.7	1561.6	1556.6	1552.8	1551.6	1553.4	1542.1	1536.5	1533.3	1512.5	1490.2	1476.7	1473.3	1461.3	1448.3	1446.5	1446.6	1446.9	1447.2	1447.7
Appliance mfg.	1893.2	1886.1	1868.5	1866.9	1863.2	1863.4	1860.9	1856.2	1856.1	1858.4	1852.9	1847.9	1847.9	1819.6	1787.8	1768.9	1761.3	1745.4	1730.2	1728.9	1728.9	1728.9	1728.9	1728.9
Automotive	1133.0	1126.8	1117.4	1117.2	1117.2	1112.3	1105.9	1103.2	1098.1	1093.3	1083.6	1078.8	1076.4	1065.9	1052.8	1046.4	1044.1	1036.3	1026.1	1022.9	1022.9	1022.9	1022.9	1022.9
Bakery	1552.5	1545.5	1527.3	1523.8	1519.5	1514.4	1509.7	1508.7	1498.4	1493.5	1485.4	1479.4	1475.2	1464.9	1452.2	1443.2	1442.2	1420.2	1405.4	1404.0	1404.0	1404.0	1404.0	1404.0
Bank	1164.2	1156.5	1145.3	1144.0	1140.5	1138.3	1133.8	1133.5	1134.1	1133.0	1125.4	1121.4	1121.5	1108.8	1092.8	1085.0	1085.7	1076.4	1065.3	1065.3	1065.3	1065.3	1065.3	1065.3

INDUSTRY

A: Fireproofed steel frame	3033.4	3022.5	2997.4	2976.7	2968.9	2954.7	2930.2	2911.2	2894.7	2879.9	2859.4	2841.2	2824.1	2800.5	2766.8	2747.0	2737.0	2698.1	2668.1	2656.1	2644.3	2632.9	2621.9	2611.2
B: Reinforced concrete frame	3008.5	3000.0	2973.6	2953.9	2946.5	2933.0	2907.6	2881.7	2865.8	2839.5	2821.2	2803.1	2785.7	2763.8	2734.0	2718.9	2711.6	2672.4	2642.9	2630.6	2619.2	2608.2	2597.5	2587.1
C: Masonry bearing walls	3028.3	3018.0	2998.8	2970.2	2965.9	2953.6	2928.2	2902.7	2886.0	2859.7	2841.9	2824.0	2807.4	2785.7	2755.9	2740.0	2732.8	2692.9	2663.9	2651.5	2640.1	2629.2	2618.5	2608.1
D: Wood frame	2990.3	2979.1	2938.8	2925.2	2925.6	2894.3	2849.2	2819.9	2788.0	2753.9	2736.4	2719.7	2702.6	2677.8	2656.2	2638.6	2631.5	2591.6	2562.6	2550.7	2540.0	2529.9	2520.3	2511.1
S: Metal frame and walls	2706.5	2699.4	2691.9	2669.5	2666.1	2655.4	2636.7	2625.1	2615.4	2604.9	2585.5	2571.6	2557.8	2538.6	2509.6	2491.5	2481.5	2441.5	2412.5	2398.7	2385.7	2373.2	2361.1	2349.4

EQUIPMENT – WESTERN DISTRICT

Average of all	1593.7	1586.7	1569.0	1566.9	1563.7	1561.6	1556.6	1552.8	1551.6	1553.4	1542.1	1536.5	1533.3	1512.5	1490.2	1476.7	1473.3	1461.3	1448.3	1446.5	1446.6	1446.9	1447.2	1447.7
Appliance mfg.	1893.2	1886.1	1868.5	1866.9	1863.2	1863.4	1860.9	1856.2	1856.1	1858.4	1852.9	1847.9	1847.9	1819.6	1787.8	1768.9	1761.3	1745.4	1730.2	1728.9	1728.9	1728.9	1728.9	1728.9
Automotive	1133.0	1126.8	1117.4	1117.2	1117.2	1112.3	1105.9	1103.2	1098.1	1093.3	1083.6	1078.8	1076.4	1065.9	1052.8	1046.4	1044.1	1036.3	1026.1	1022.9	1022.9	1022.9	1022.9	1022.9
Bakery	1552.5	1545.5	1527.3	1523.8	1519.5	1514.4	1509.7	1508.7	1498.4	1493.5	1485.4	1479.4	1475.2	1464.9	1452.2	1443.2	1442.2	1420.2	1405.4	1404.0	1404.0	1404.0	1404.0	1404.0
Bank	1164.2	1156.5	1145.3	1144.0	1140.5	1138.3	1133.8	1133.5	1134.1	1133.0	1125.4	1121.4	1121.5	1108.8	1092.8	1085.0	1085.7	1076.4	1065.3	1065.3	1065.3	1065.3	1065.3	1065.3

EQUIPMENT – EASTERN DISTRICT

Average of all	1593.7	1586.7	1569.0	1566.9	1563.7	1561.6	1556.6	1552.8	1551.6	1553.4	1542.1	1536.5	1533.3	1512.5	1490.2	1476.7	1473.3	1461.3	1448.3	1446.5	1446.6	1446.9	1447.2	1447.7
Appliance mfg.	1893.2	1886.1	1868.5	1866.9	1863.2	1863.4	1860.9	1856.2	1856.1	1858.4	1852.9	1847.9	1847.9	1819.6	1787.8	1768.9	1761.3	1745.4	1730.2	1728.9	1728.9	1728.9	1728.9	1728.9
Automotive	1133.0	1126.8	1117.4	1117.2	1117.2	1112.3	1105.9	1103.2	1098.1	1093.3	1083.6	1078.8	1076.4	1065.9	1052.8	1046.4	1044.1	1036.3	1026.1	1022.9	1022.9	1022.9	1022.9	1022.9
Bakery	1552.5	1545.5	1527.3	1523.8	1519.5	1514.4	1509.7	1508.7	1498.4	1493.5	1485.4	1479.4	1475.2	1464.9	1452.2	1443.2	1442.2	1420.2	1405.4	1404.0	1404.0	1404.0	1404.0	1404.0
Bank	1164.2	1156.5	1145.3	1144.0	1140.5	1138.3	1133.8	1133.5	1134.1	1133.0	1125.4	1121.4	1121.5	1108.8	1092.8	1085.0	1085.7	1076.4	1065.3	1065.3	1065.3	1065.3	1065.3	1065.3

EQUIPMENT – WESTERN DISTRICT

Average of all	1593.7	1586.7	1569.0	1566.9	1563.7	1561.6	1556.6	1552.8	1551.6	1553.4	1542.1	1536.5	1533.3	1512.5	1490.2	1476.7	1473.3	1461.3	1448.3	1446.5	1446.6	1446.9	1447.2	1447.7
Appliance mfg.	1893.2	1886.1	1868.5	1866.9	1863.2	1863.4	1860.9	1856.2	1856.1	1858.4	1852.9	1847.9	1847.9	1819.6	1787.8									

PROOF OF SERVICE

Case Number L15-0008

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

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

Owner

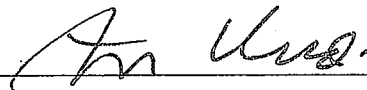
Vuong Nguyen
33 Cavoretto Lane
El Sobrante, CA 94803

Owner Representative

Ethan Pintard
555 12th St #1750
Oakland, CA 94607

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 16, 2015 in Oakland, CA.



Stephen Kasdin

Oakland Rent Adjustment Program

000022

PROOF OF SERVICE

Case Number L15-0008

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

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

Tenants

Tenant

658 Alcatraz Ave
Oakland, CA 94609

Tenant

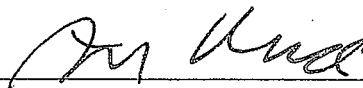
656 Alcatraz Ave
Oakland, CA 94609

Tenant

654 Alcatraz Ave
Oakland, CA 94609

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 16, 2015 in Oakland, CA.



Stephen Kasdin

Oakland Rent Adjustment Program

000023



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

Community and Economic Development Agency
Rent Adjustment Program

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

**Housing, Residential Rent
and Relocation Board (HRRRB)**

APPEAL DECISION

CASE NUMBER: T04-0158 (Ulman v. Breen)
APPEAL HEARING: February 23, 2006
PROPERTY ADDRESS: 1148 E. 18th St., #1, Oakland, CA
PARTIES PRESENT: Nancy Conway (Tenant Representative)
Lee Anne Phillips (Tenant Representative)
Gregory McConnell (Landlord Representative)

The issues on the appeal were whether the landlord proved that the subject unit was exempt from the Rent Adjustment Ordinance as new construction and whether the hearing officer applied the proper standard of proof. The Hearing Officer determined that the landlord had not met his burden of proof and applied a preponderance of the evidence standard of proof.

The Board heard and considered all of the issues raised by the parties and found that the Hearing Officer's decision was supported by substantial evidence and that the Hearing Officer applied the proper standard of proof. The Board affirms the decision of the Hearing Officer and designates the decision a precedent decision.


Action taken by the following vote:

Aye: L. Arreola, S. Kennedy, A. Flatt
Nay: R. Hunter, D. Taylor
Abstain: None
Absent: S. Sanger


NOTICE TO PARTIES

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

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



RICK NEMCIK-CRUZ
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD



DATE

PROOF OF SERVICE

Case Number T04-0158

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

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

Greg Mc Connell
P. O. Box 5841
Hercules, CA 94547

Nancy Conway
345 Franklin St
San Francisco, CA 94102

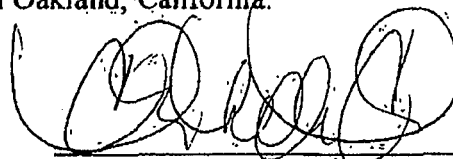
Russell W. Taylor
101 Linden St
Oakland, CA 94607

Alison Ulman
1148 East 18th St 1
Oakland, CA 94606

Gary Breen/Eddie Orson
101 Linden St
Oakland, CA 94607

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on Tuesday, March 28, 2006, in Oakland, California.



Chrishellé Chatman
Oakland Rent Adjustment Program

000026

CITY OF OAKLAND



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

Community and Economic Development Agency
Rent Adjustment Program

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T04-0158 (Ulman v. Breen & Orton)

PROPERTY ADDRESS: 1148 E.18TH St., #1, Oakland, CA

HEARING DATES: March 29, 2005 & September 26, 2005

APPEARANCES:

March 29, 2005

Alison Ulman (Tenant)
Lee Anne Phillips (Tenant Representative)
Nancy M. Conway, Esq. (Attorney for Tenant)
Robert Lavezzo (Witness for Tenant)
Janel Lavezzo (Witness for Tenant)
Manuel A. Martinez (Attorney for Landlord)
Gary R. Breen (Landlord)
Russell W. Taylor (Agent for Landlord)
J.R. Eddie Orton, III (Landlord)

APPEARANCES:

September 26, 2005

Lee Anne Phillips (Tenant Representative)
Gregory McConnell (Landlord's Representative)
Nancy M. Conway, Esq. (Attorney for Tenant)
Gary R. Breen (Landlord)
Russell W. Taylor (Landlord)

INTRODUCTION

This matter involves a Petition filed on June 7, 2004 by a Tenant who contests rent increases she claims exceed the Consumer Price Index rent increase authorized by the Oakland Municipal Code and Rent Adjustment Program Regulations. The Petition alleges failure of the Landlord to provide a summary of the justification for the rent increase despite Tenant's written request; lack of notice for the of the Rent Adjustment Program; decreased housing services; and that the current rent increase was the second rent increase in a twelve-month period.

The Landlord filed a timely response to the Petition, alleging that the Tenant's unit was exempt from the Ordinance in that it is located in a building that was "substantially rehabilitated" pursuant to Oakland Municipal Code 8.22.030(A)(6).

ORIGINAL DECISION

On October 11, 2004, a Hearing Decision was issued. The Decision denied the Petition, finding that the rental units in the Tenant's building are exempt from the rent ordinances on the basis of "substantial rehabilitation." It was undisputed that the correct rent was \$1,225.00 per month as of June 7, 2004.

APPEAL DECISION

The Appeal Hearing came before the Board on November 18, 2004. The Board found that the Hearing Decision was not supported by substantial evidence and remanded this matter for consideration of: (1) corroborating evidence, independent of the testimony of a party in interest, of the amounts expended for the work done; (2) when the building permit(s) were issued. If the work was not completed within two years of issuance of the relevant permit, was there good cause for delay? (3) verification of the square footage enclosed by building structure including the common areas, by reference to plans on other evidence corroborating the testimony in the record; and, (4) a finding as to the proper building inspector's table and recalculation of the estimated cost of new reconstruction using the correct table.

THE MARCH 29, 2005 HEARING

The Hearing mandated by the Board was held on March 29, 2005. At the March 29, 2005 Hearing, the persons listed above appeared at the Hearing, were given full opportunity to present relevant evidence and argument. They testified under oath. Before the final decision was made, Landlord requested a further hearing on the issue of exemption pursuant to the new construction exemption.

THE SEPTEMBER 26, 2005 HEARING

On September 26, 2005 the persons listed above appeared at the Hearing, were given full opportunity to present relevant evidence and argument. They testified under oath.

The first order of business was the matter of substantial rehabilitation of the subject premises. The Landlords present at the hearing through their representative dismissed that claim. The Hearing continued on the issue only of new construction exemption.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Ordinance states that units are not covered units if they were, "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." A clear reading of the Ordinance, therefore, requires the owner to prove that the unit was 1. "created from space that was formerly entirely non-residential" as of January 1, 1983 and 2. that the units receive "a Certificate of Occupancy on or after January 1, 1983."

Pursuant to the Ordinance "The burden of proving that a dwelling unit is exempt is on the Owner."²

(1) **Was the dwelling unit constructed or created from space that was formerly entirely non-residential?**

To prove that the premises occupied by Tenant Ulman in Unit #1 was non-residential before January 1, 1983, Landlord relied to a large extent on the testimony of Gary Breen. Mr. Breen testified that he became involved in the project in 1996 when the property was purchased with him as a partial owner. He testified that it had originally been the Old Mother Cookie factory and that since then it had been a recycling center and an import-export space. He testified credibly that when he first saw the property in 1996, that it was in horrible shape. It was completely unoccupied. Part of the roof was missing. Over 10,000 pigeons were living in the premises, half of the windows were missing. The floors were rotted. All of the bathroom fixtures had been looted including the copper. He testified that the property was yellow-tagged and a blight on the neighborhood. He testified credibly that there could not have been anything in that building for years and that it was his opinion, based on its condition, that it had not been used for residential purposes at any time.

To support Mr. Breen's testimony, the Landlord introduced Exhibit A2, a description of the National Import Company located at 1148 East 18th St. that had been provided in the Tenant's Exhibits at the original hearing in this matter but were claimed by tenant to have come from a website controlled by an owner. The document states:

"Eventually, the import business tapered off, and the building was recast by the Heyman family in yet another incarnation, live/work space for individuals with a need for post-industrial space to live and work. Permits were taken out in 1989 for the first 'work-and live'

¹Ordinance 8:22:030A.5.

²Ordinance 8:22:030B.1.b.

spaces, but the heavy use of asbestos and other toxic materials in the building made this a 'difficult' sale without extensive clean-up operations. In 1990 a permit was obtained to reconvert the live/work spaces to warehouse space, but this permit was allowed to expire and the building remained as it was until purchased in 1996 by Eddie Orton and Associates as an existing live/work space."

Landlord's Exhibit A3 is a "update/query inspection history" dated 3-30-89 from the City of Oakland Office of Planning & Building. It states under Bldg. Use "74-Apartment 3-5 Units" and under description, "Work & Live Space." Landlord's Exhibit A4 is another "update/query project information" dated November 25, 2003 and has no particular relevance to the matter at hand nor does Landlord's Exhibit A5, a letter from Tenant Ulman to the Rent Board. Landlord's Exhibit A6 is an amended judgment in the matter of Hulihan, et al v. Old Mother Cookies, LLC, being case no. 793019-9 in the Alameda County Superior Court.

The Judgment itself is found in Landlord's Exhibit A6. However, the underlying facts and the complaint demurred to was not. There is no indication this court case dealt with the issue of whether or not there were tenants in residence in the subject unit before January 1, 1983.

The next exhibit of the Landlord was A7 which is a temporary occupancy request for units other than the subject Unit No. 1. Landlord's Exhibit A8 is an extension of a compliance plan which does not address the issue of occupancy before January 1, 1983, nor does Landlord's Exhibit A9 or A10.

The evidence presented by Landlord germane to the issue of whether or not there was any person in residence at the subject premises before January 1, 1983 is Mr. Breen's testimony that the premises were in such horrible shape that no one could ever have lived there, which is not corroborated by the documentary evidence and is, in fact, contradicted by Landlord's Exhibit A3, showing that as of 3-30-89 the premises were being used as "work & live space." Landlord's Exhibit A2 would suggest that since "permits were taken out in 1989 for the first 'work & live spaces . . .'" that there had been no residential use before that date. Unfortunately, this Exhibit has marginal evidentiary value. We do not know its author, their knowledge of the subject and it is, likely, a construct of the Landlord taken from an owner's website. Again, it is the Landlord's burden of proof to show that the subject Unit No. 1 was not used as a residence at any time before January 1, 1983.

Tenant introduced the testimony of Lee Anne Phillips who had lived in the neighborhood of the subject premises a good portion of her life. Her testimony was that she had walked by the premises many times over the years and that before 1983 she thought that it might have been residential because as she walked by she saw the back part of the buildings and it seemed to be used by persons who seemed to be living there. Under cross-examination, she testified she was not sure it was before

January 1, 1983 and that she never had actually gone onto the premises until 1998 or 1999. Her testimony had no probative value.

Tenant introduced Tenant's Exhibit B1, an inter-office letter dated April 16, 1990 from the City Planning-Zoning to the Housing Conservation Division giving the zoning as R40. This is of no help. Tenant's Exhibit B2, another City of Oakland inter-office letter dated April 11, 1990 from the Housing Conservation Division to the City Planning Department states in pertinent part is as follows:

"Approximately three years ago the structure was illegally converted, without benefit of permit, to both a large multi-unit artist's live-work studio and a multi-business enterprise."

This April 11, 1990 letter suggests that in 1987 the structure was illegally converted into a live-work space. It, unfortunately, does not make clear whether or not the unit had been used as a residence before January 1, 1983, though it does imply that the author believes that an illegal live-work use occurred in 1987. Tenant's Exhibit B3, a City of Oakland Housing Advisory Appeals Board Hearing declaring the building substandard and/or unsafe dated November 3, 1988 states: "That the Board finds, determines and declares that said building is, in fact, a substandard residential building and unsafe. . . ." This would appear to indicate that the building, at least as of November 3, 1988, was "residential" and likely was for a good deal of time before as it would take a considerable length of time before the City would obtain such a ruling after complaints were made and the matter was investigated.

Tenant's Exhibit B4, a plumbing permit application, dated January 1989, calls the premises "work/live environment." Tenant's Exhibit B5 another permit application dated January of 1989 again calls it "work/live" space. Tenant's Exhibit B6, a letter from the City of Oakland to Mr. Heyman Lawrence Tretal, dated November 1, 1988, outlining a Housing Conservation and Fire Inspection at ¶.5 notes "hot water heater is located inside living quarters of one of the tenant's spaces." Tenant also produced Exhibit B7, a partial transcript of Gary Breen in the Lavezzo Hearing, dated June 22, 2005. It helps us not at all to determine what the situation was before January 1, 1983. Tenant's Exhibit B8, another "update/query project information" dated 7-31-90 notifies the owner to "remove partitions & bathrm/convert back to warehouse." This would suggest that in 1990 there was a live-work use of the premises. Tenant's Exhibit B9 a further "update/query project information" dated 5-8-96 does nothing to help us understand whether or not there were residential tenants in the premises. Tenant's Exhibit B10, one more "update/query project information" dated 1-25-89 says that the building use is "15 artist live/work." Tenant's Exhibit B11, a 1-25-89 "update/query" is silent on the issue of residential use. Tenant's Exhibit B12, another "update/query" dated 3-30-89 describes the project as "work & live space." Tenant's Exhibit B13, an "update/query" also dated 3-30-89 states the building use as "74 apartment 3-5 units." Tenant's Exhibit B14, an "update/query" dated 5-17-01 states, "building appears to be occupied. Building permits have expired and no final

inspections are recorded. Obtain Certificate of Occupancy." Tenant's Exhibit B15, an "update/query" appears to be the same as Tenant's Exhibit B14. Tenant's Exhibit B16, dated 2-13-97, states: "took permits out for workspace, but actually being used as living space." The next to the last "update/query" dated 11-15-02, Tenant's Exhibit B17, states "live/work units created without permits. Work units converted to live/work, w/out permits." The final "update/query", Tenant's Exhibit B18 is dated November 14, 2002 and it tells us that the "roof is installed improperly/underground fuel tanks are leaking all over. Please call ULAM/Allison" with a phone number.

Tenant's evidence, excepting Ms. Phillips' testimony which was without value, is useful for indicating with a large probability that the unit was used for a residence certainly in 1988, likely in 1987 and possibly before that date.

Pursuant to the Ordinance, the Landlord has the burden of proving that a dwelling unit is exempt. The credible evidence used in this matter by the Landlord is primarily the testimony of Mr. Breen. Mr. Breen was able to testify that as of 1997-98 the premises were in an uninhabitable condition. This would suggest that for some period before that it was uninhabitable and hence, non-residential. It does not help us in determining whether or not the premises were uninhabited before January 1, 1983.

The Landlord's "smoking gun" as described by Mr. McConnell, is the City of Oakland's City of Oakland Inter-Office letter from the Housing Conservation Division to the City Planning Department dated April 11, 1990 which is found in Tenant's Exhibit B2. In that letter, the author, Julius F. Thompson, the Assistant Housing Manager states that "approximately three years ago the structure was illegally converted, without benefit of permit, to both a large multi-unit artists' live-work studio..." This would set a date, 1987, when the premises were used as a residence, making Mr. Breen's testimony irrelevant as to the issue of use before 1997-98. The letter, however, is not determinative of the use before January 1, 1983.

The evidence presented shows that in 1990 and probably in 1987 the premises were being used as a residence (live-work studio). No evidence has been submitted, except for Ms. Phillips' not credible testimony, as to the use of the premises as a residence before January 1, 1983. Because the Landlord has the burden of proving that the dwelling unit was exempt, in this case the Landlord has not met its burden of proving this subject unit was exempt.

Because the Landlord has not met its burden in proving the unit was exempt, there is no need to go into the second criteria required by the Ordinance at 8.22.030A.5, whether the subject dwelling unit received a Certificate of Occupancy on or after January 1, 1983.

ORDER

Wherefore, all the evidence has been heard and considered, it is the order of this Hearing Officer that:

1. Subject Unit No. 1 in Petition T04-0158 (Ulman v. Breen & Orton) is not exempt.
2. The correct rental amount is \$1,225 as of June 7, 2004.
3. This Decision is the Final Decision of the Hearing Officer. Either party may appeal this Decision within twenty (20) days after the date of mailing of the Decision under the attached Proof of Service, by filing with the Rent Adjustment Program a written appeal on the form prescribed by the Rent Adjustment Program. If the last date to file is a weekend or holiday, the period of time to file the document is extended to the next business day.

Dated: October 10, 2005



WILLIAM J. PETZEL,
HEARING OFFICER,
RENT ADJUSTMENT PROGRAM

PROOF OF SERVICE

Case Number T04-0158

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

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

Russell W. Taylor
101 Linden St
Oakland, CA 94607

Gary Breen/Eddie Orson
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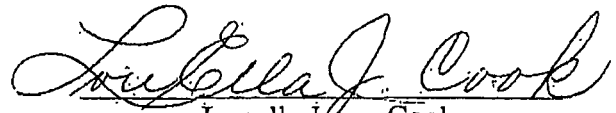
Greg Mc Connell
P. O. Box 5841
Hercules, CA 94547

Nancy Conway
345 Franklin St
San Francisco, CA 94102

Alison Ulman
1148 East 18th St Unit 1
Oakland, CA 94606

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on Thursday, October 13, 2005, in Oakland, California.


Louella Joyce Cook



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

Community and Economic Development Agency
Rent Adjustment Program

**Housing, Residential Rent
and Relocation Board (HRRRB)**

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

APPEAL DECISION

CASE NUMBER: T04-0158 (Ulman v. Breen & Orcon)
APPEAL HEARING: November 18, 2004
PROPERTY ADDRESS: 1148 E. 18th St., #1, Oakland, CA
PARTIES PRESENT: Nancy Conway, Esq. (Attorney for Tenant)
Russell W. Taylor, Esq. (Landlord Representative)

Procedural Background

The petition in this case was filed by the tenant on June 7, 2004, alleging that the current rent increase exceeded the applicable annual increase permitted under the Ordinance and Regulations. The petition additionally alleges failure of the landlord to provide a summary of the justification for the rent increase despite her written request; lack of notice of the Rent Adjustment Program; decreased housing services; and that the current rent increase was the second increase in a 12-month period.

The landlords filed a timely response to the petition, alleging that the tenant's unit is exempt from the Ordinance in that it is located in a building that was substantially rehabilitated.

The Decision

On October 11, 2004 a Hearing Decision was issued. The Decision denied the petition, finding that the rental units in the tenant's building are exempt from the Rent Ordinance on the basis of substantial rehabilitation.

Grounds for Appeal

The tenant filed an appeal on October 28, 2004, asserting that the decision was not supported by substantial evidence and that she was denied a sufficient opportunity to present her claim.

Appeal Decision

The appeal hearing came before the Board on November 18, 2004.

The Board holds that in order for a landlord to establish an exemption for a substantially rehabilitated building under OMC §8.22.030.A.5, a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction the measured area of the space claimed as the residential rental space, including common areas. In addition, under the current Rent Adjustment Regulations, a finding is necessary


The Board found that the Hearing Decision is not supported by substantial evidence and remands this case for consideration of (1) corroborating evidence, independent of the testimony of a party in interest, of the amounts expended for the work done; (2) when the building permit(s) were issued. If the work was not completed within two years of issuance of the relevant permit, was there good cause for delay; (3) verification of the square footage enclosed by the building structure, including the common areas, by reference to plans or other evidence corroborating the testimony in the record; and, (4) a finding as to the proper building inspector's table and recalculation of the estimated cost of new construction using the correct table.

This is a precedent decision.

NOTICE TO PARTIES

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

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



HILLERY BOLT TRIPPE, CHAIR
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD

2/3/05

DATE

Passed by the following vote:

Ayes: J. Bell, R. Judd, M. Montag, H. Bolt, Trippe

Nays: None

Abstention: None

Absent: S. Kennedy, D. Taylor

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PROOF OF SERVICE
Case Number T04-0158

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

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San Francisco, CA 94102

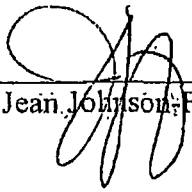
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1148 East 18th Street, Unit #1
Oakland, CA 94606

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on Tuesday, February 15, 2005, in Oakland, California.



Jean Johnson Fields

000038

CITY OF OAKLAND



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

Community and Economic Development Agency
Rent Adjustment Program

(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

HEARING DECISION

CASE NUMBER: T04-0158 (Ulman v. Breen & Orton)
PROPERTY ADDRESS: 1148 E. 18th St., #1, Oakland, CA
HEARING DATE: August 26, 2004
PARTIES PRESENT: Alison Ulman (Tenant)
Lee Anne Phillips (Tenant Representative)
Russell W. Taylor (Agent for Landlord)

INTRODUCTION

This matter involves a petition filed on June 7, 2004 by a tenant who contests rent increases she claims exceed the Consumer Price Index (CPI) Rent increase authorized by the Oakland Municipal Code (O.M.C.) and Rent Adjustment Program Regulations (Regulations). The tenant also alleges numerous decreased housing services.

The persons listed above appeared at the hearing and were given full opportunity to present relevant evidence and argument; they testified under oath.

THE DECISION

The tenant petition is denied. The tenant's unit is exempt from the Rent Ordinance on the ground of substantial rehabilitation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Background: The property consists of an apartment in a live-work building consisting of 21 units. The tenant originally moved into her unit on December 15, 1996 at an initial rent of \$800 per month. The tenant contests rent increases in the years 1997 through 2002, during which time the rent increased from \$800 to \$1,225 per month.

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The landlord, in response to the petition, claims that the tenant's unit is exempt from the rent increase limitations of the O.M.C. because of substantial rehabilitation. If this contention is correct, the Rent Adjustment Program has no jurisdiction over the unit, and the tenant's petition must be denied.

Substantial Rehabilitation: O.M.C. 8.22.030(A) states that "substantially rehabilitated buildings" are not "covered units" under the Rent Ordinance. "In order to obtain an exemption based on substantial rehabilitation, an Owner must have spent a minimum of fifty (50) per cent of the average basic cost of new construction . . . The average basic cost for new construction shall be determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed." [O.M.C. 8.30(B)(2)].

The landlord's agent, Russell W. Taylor, is the Chief Operating Officer of Old Mother's Cookies, LLC, the owner of the property. At the hearing, he credibly testified that the square footage of the building in which the tenant's unit is located is approximately 35,250 square feet, including common areas. Mr. Taylor further testified that he personally paid, by check, each of the expenses itemized in Landlord Exhibit No. 3. These expenses, which Mr. Taylor stated were all paid for construction in the subject building, total \$2,822,628. These costs were for interior construction; the exterior masonry walls of the building have always remained intact.

Administrative Notice is taken of the City of Oakland "Residential Building Minimum Valuation Data," approved by the Chief Building Inspector, effective February 1, 2001, a copy of which is attached. This table provides a valuation of \$113.27 per square foot for level ground construction of a masonry apartment building. Based upon this table, 100% of the average basic cost of new construction of a 35,250 square foot building is \$3,992,768, and 50% of this amount is \$1,996,384. The landlord has provided credible evidence of expenses exceeding 70% of the average basic cost of new construction.

The tenant contends that the building is somewhat larger than the figure stated by the landlord's representative, and that the claimed expenses are inflated due to overlapping ownership of the building owner and the general contractor. The tenant provided no credible evidence of either the square footage of the building or in support of her contention of inflated building costs. The landlord representative admitted that the general contractor was not chosen by competitive bidding, but denied that the contractor has an ownership interest in the building. The testimony of the landlord representative is found to be credible.

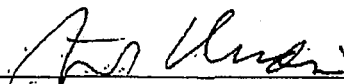
Conclusion: The landlord has provided sufficient proof of spending more than 50% of the average basic cost of new construction of the tenant's building. The building has been "substantially rehabilitated." Therefore, the rental units in the building, including the tenant's unit, are not "covered units" and are exempt from the Rent Ordinance.

ORDER

Wherefore, all the evidence having been heard and considered, it is the order of this Hearing Officer that:

1. Petition No. T04-0158 is denied.
2. The rental units in the tenant's building are exempt from the Rent Ordinance.
3. Right to Appeal: This decision is the final decision of the Hearing Officer. Either party may appeal the Hearing Officer's decision within than fifteen (15) days after service of the notice of decision by filing with the Rent Adjustment Program a written notice on a form prescribed by the Rent Adjustment Program setting forth the grounds for the appeal. The date of service of a document is the date the document is placed in the mail, in which case the time for responding is extended by five days. If the last day to file is a weekend or holiday, the period of time to file the document is extended to the next business day.

Dated: October 11, 2004



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

Residential Building Minimum Valuation Data

Approved by Calvin N. Wong to be effective February 1, 2001
 Building Official

The following building valuation data are based on cost and value reported in "Marshal Valuation Services" published by Marshall and Swift dated December 2000 with cost multiplier of 1.07 and local multiplier of 1.32.

Calculated Method * (\$/sf)				Segregated Cost Method	
Level ground construction (caisson found'n @ \$11.50/sf not included in this column)		Hillside construction Based on 20% slope (retaining wall not included)		Deck (\$/sf of area)	
				Ground level (< 6')	\$ 22.44/sf
				Terrace level	\$ 30.29/sf
Apartment		Apartment		Fence ((\$/sf surface)	
STEEL/CONC FRAME =	Type I & II	\$146.67	Type I & II	\$190.67	-wood \$ 4.18/sf
MASONRY WALLS =	Type III	\$113.27	Type III	\$147.25	-chain link \$ 2.64/sf
WOOD FRAME =	Type V	\$ 92.25	Type V	\$119.93	-masonry \$10.30/sf
	Basement	\$ 35.07	Basement	\$ 58.77	Fireplace \$6,270/ea
	Garage	\$ 31.24	Garage	\$ 50.14	Fire sprinkler \$ 3.28/sf
STEEL/CONC FRAME =	Type I Garage	\$ 39.71	Type I Garage	\$ 65.82	Kitchen Appliance \$ 4983/set
Custom Residences		Custom Residences		Patio Enclosure \$ 22.18/sf	
	Type III	\$184.23	Type III	\$239.50	Solarium \$129.53/sf
	Type V	\$178.35	Type V	\$231.86	Stair
	Basement	\$ 69.63	Basement	\$ 74.02	- prefab \$149.16/Tread
	Garage	\$ 64.78	Garage	\$ 84.21	- wood \$125.07/Tread
Semi-Custom Residences		Semi-Custom Residences		Wall - non-bearing	
	Type III	\$151.14	Type III	\$196.48	- wood (footing extra) \$15.00/lf
	Type V	\$142.67	Type V	\$185.47	Wall - retaining (\$/sf surface)
	Basement	\$ 49.56	Basement	\$ 64.43	- concrete
	Garage	\$ 51.43	Garage	\$ 66.86	< 6' tall \$ 23.10/sf
Single Family Residences		Single Family and Residences		< 10' tall \$ 27.05/sf	
	Type III	\$118.05	Type III	\$153.47	< 20' tall \$ 36.30/sf
	Type V	\$106.99	Type V	\$139.09	- masonry
	Basement	\$ 29.49	Basement	\$ 51.21	< 6' tall \$23.17/sf
	Garage	\$ 38.07	Garage	\$ 52.12	< 10' tall \$31.09/sf
Starter Home		Starter Home		- wood	
	Type V	\$ 76.59	Type V	\$ 99.57	< 6' tall \$ 17.66/sf
	Basement	\$ 24.74	Basement	\$ 32.17	< 10' tall \$22.44/sf
	Garage	\$ 28.11	Garage	\$ 36.54	

* Calculator method includes typical built-in appliances and one fireplace only

PROOF OF SERVICE

Case No(s) T04-0158

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

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

ALISON ULMAN
1148 E 18TH ST #1
OAKLAND CA 94606

GARY BREEN
EDDIE ORSON
101 LINDEN ST
OAKLAND CA 94607

RUSSELL W TAYLOR
101 LINDEN ST
OAKLAND CA 94607

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on October 12, 2004, in Oakland, California.



Donna Enright
Residential Rent Adjustment Program

CHRONOLOGICAL CASE REPORT

Case No.: L16-0094

Case Name: Wiebe v. Tenants

Property Address: 3515 Brighton Ave., Oakland, CA

Parties: William Wiebe (Owner)
Alisa Highfill (Tenant, Unit #1)
Bernadette Quattrone (Tenant, Unit #1)
Collin Quillian (Tenant, Unit #1)
Marvin Gleaton (Tenant, Unit #2)
Steve Arnwine (Tenant, Unit #3)
Taylor Campion (Tenant, Unit #3)

LANDLORD APPEAL

<u>Activity</u>	<u>Date</u>
Owner's Petition filed	December 19, 2016
Tenant Responses filed	None
Corrected Hearing Decision issued	July 5, 2017
Landlord Appeal filed	July 25, 2017

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

APPEAL

Appellant's Name
William Wiebe

Landlord Tenant

Property Address (Include Unit Number)
3515 Brighton Avenue, Unit 1, 2, and 3
Oakland CA 94602

Appellant's Mailing Address (For receipt of notices)
278 Connecticut St.
San Francisco, CA 94107

Case Number 216-0094

Date of Decision appealed July 5, 2017

Name of Representative (if any)
N/A

Representative's Mailing Address (For notices)
N/A

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

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency. *please see attached.*
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. *please see attached.*
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. *please see attached.*
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. *please see attached.*
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute. *please see attached.*
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. *please see attached.*

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 3. Please number attached pages consecutively. *Please see attached.*

with District 3 page Statement of Statement address page 3 page photos of Building

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 July 15, 20017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	<i>please see attached</i>	<i>Alisa Hill</i>
Address		<i>3515 North Ave #1 94602</i>
City, State Zip		<i>Bernadette Quattrone 3515 North Ave #1 Oakland, CA 94602</i>
Name		<i>Collin</i>
Address		
City, State Zip		

<i>Will R. Hill</i>	<i>7/24/17</i>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

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 Feb 25, 2012, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Steve Arnwine
Address	3515 Brighton Ave #3
City, State Zip	Oakland CA 94602
Name	Taylor Campion
Address	3515 Brighton Ave #3
City, State Zip	Oakland CA 94602



2/25/2012

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE DATE

IMPORTANT INFORMATION:


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

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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 July 25, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Alisa Highfill
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94602
Name	Bernadette Quattrone
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94602

	7/25/2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

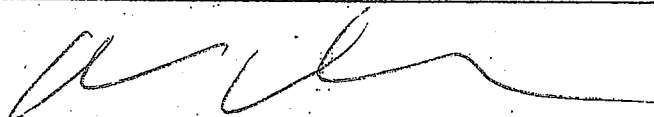
- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Anything to be considered by the Board must be received by the Rent Adjustment Program by 3:00 p.m. on the 8th day before the appeal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

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 July 28, 2012, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Collin Bullian
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94602

Name	Marvin Gleaton
Address	3515 Brighton Ave #2
City, State Zip	Oakland, CA 94602

	7/28/2012
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

HRRRB APPEAL GROUNDS STATEMENT

Wiebe v. Tenant - Petition # L16-0094

This ~~is~~ appeal is from the July 5, 2017 Corrected Hearing Decision ("Decision") in the above captioned petition denying a certificate of exemption under the "substantial rehabilitation" provision of the OMC § 8.22.030(B)(2). The appealing petitioner/owner is William Wiebe. The building is located at 3515 Brighton Ave in Oakland. The 3-unit 1920's building underwent a "down to studs" renovation with all new electrical, plumbing, HVAC, gas, insulation, sheetrock, doors, windows, trim/baseboard, paint (interior/exterior), floor tiling, 3 sets of kitchens (cabinets, countertops, appliances), bathrooms (tubs, toilets, vanities, tiling), hardwood floor replacement/refinishing, etc. Although I had a general contractor, I worked at the site daily and directly contracted with virtually all of the service providers.

This *uncontested* petition was heard by Hearing Officer Barbara Cohen. She determined that the minimum rehabilitation expenses needed for the building to be considered "substantially rehabilitated" was \$212,673. I submitted documented expenses of roughly \$300,000 supported by independent corroborating evidence showing either an invoice or payment or both, *but not always both*. These expenses did not include any amounts for my time or labor. The Hearing Officer accepted only \$116,008 in expenses rejecting any that did not have independent corroborating evidence for *both* the invoice and the payment. The Hearing Officer also deemed entire "categories" of expenses, which had been previously approved in multiple other recent "substantial rehabilitation" decisions, to be ineligible (appliances, construction insurance, etc.)

Identified Appeal Grounds

1. Improper Heightened Standard of Proof

- a. The Hearing Officer erred by finding that certain construction expenses - which were independently documented with corroborating evidence and supported by sworn testimony and statements - were *not sufficiently documented* because they did not have independent corroboration for *both* invoices and payments - a requirement which is inconsistent with the HRRRB's precedent in *Ulman v. Breen*, T04-0158 (which requires only that there be some form of "independent" "corroborating evidence" supporting a party's sworn testimonial or summary evidence). It is also inconsistent with other RAP hearing decisions which appear to have allowed expenses based only on the "credible" testimony of the petitioner/owner. See e.g., *Nguyen v. Tenants*, L15-0008.
- b. The Hearing Officer erred by finding that under the "*preponderance of the evidence*" standard there was insufficient evidence to meet the required burden of proof. Under controlling California law, the "*preponderance of the evidence*" standard requires only a showing that a fact or claim is "more likely to be true than not true." See *People v. Bryden*, No. A148203, 2017 WL 383389, at *2 (Cal. Ct. App. Jan. 27, 2017). Given the substantial independent corroborating evidence and supporting sworn statements/testimony provided on the one side and the lack of any contradictory evidence on the other side (or any evidence for that matter), the Hearing Officer's determination is not supported by substantial evidence. See *id.* ("[p]reponderance of the evidence means that the evidence on one side outweighs, preponderates over ... the evidence on the other side.").

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Improperly Disallowed Expense "Categories"

The Hearing Officer erred by concluding that certain expense categories were "not allowed," including, *inter alia*, (1) "appliance" costs, (2) the cost of "construction insurance," (3) construction-related transportation costs, and (4) any credit for "owner contributed labor" – all of which have been allowed in one or more other RAP hearing decisions See, e.g., *Mapel v. Tenant*, L16-0057 (allowing appliances), *Carta Holdings LLC v. Tenants*, L15-0034 (allowing appliances, construction insurance), *Nguyen*, L15-0008 (allowing appliances, owner contributed labor). The Hearing Officer did not offer any supporting citation and did not otherwise note the inconsistency with these or other RAP hearing decisions. In addition, many (if not all) of the excluded categories are specifically "included cost items" in the *Marshall & Swift* data that the City apparently uses in its Valuation Table (which in turn is used by RAP staff in determining the "substantial rehabilitation" expense threshold).

2. "Missing" Submitted Evidence

In response to the Hearing Officer's requests for certain documents at the end of the first hearing, I obtained the requested documents (within 24 hours of the hearing) – and confirmed that fact by email to the Hearing Officer. Thereafter, to the best of my belief and knowledge, I timely submitted them to RAP prior to rescheduled hearing date. Certain of those documents unquestionably were received and entered into the record. Others apparently were either not received or not properly entered into the record. As such, the Hearing Officer did not have any opportunity to consider them in her Decision. Two "confirming" documents that were include with these "missing" documents, a "zero-balance" statement from Restoration Management and a Declaration from Jesus Martinez, a painter/carpenter on the project were for over \$45,000 (almost half of the shortfall determined by the Hearing Officer).

3. Miscalculations, Omissions, and Classification Errors

There are a number of expenses which were inadvertently omitted or underreported or disallowed by the Hearing Officer in her Decision based upon computational, transcription, or classification errors which should be reviewed and corrected.

4. Due Process Issues

Given the Hearing Officer's use of a heightened (and undisclosed) standard of proof, the inconsistent treatment of similarly situated petitioners, and the limited public access to prior HRRB and RAP hearing decisions and/or written guidance on fundamental issues like the required documentation or allowable expenses, the current petition process raises significant issues of due process and fairness for HRRB/Appeal Panel review and consideration. See *People v. Ramirez* (1979) 25 Cal.3d 260, 268-69 (the California Constitution's due process include "freedom from arbitrary adjudicative procedures).

* * * * *

To address the Hearing Officer's concern regarding independent corroboration of *both* invoices *and* payments, I obtained "confirming" declarations (under penalty of perjury) from the main service providers whose expenses were disallowed. If considered, they would eliminate any remaining doubt and validate these previously submitted (and documented) expenses. I

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spoke with the RAP program analyst for my petition, who recommended that I also contact the RAP Manager, Connie Taylor, to request reconsideration. I am in the process of finalizing that request for reconsideration and supporting document. Absent that reconsideration, I would anticipate requesting an HRRRB Appeal Panel evidentiary hearing to consider some of the issues noted above and to seek consideration of the additional "confirming" documents, as is authorized under OMC § 8.22.120B.4.

HRRRB Appeals Form

Please also note, that many of these appeal grounds listed above implicate multiple grounds listed in 1-5 of the HRRRB Appeals Form (and even arguably 6 & 7), in that the claims deal with issues relating to inconsistencies in application of the OMC, prior RAP decisions, and the HRRRB's own decisions, as well as issues under California case and statutory law. It also may implicate areas of policy which the HRRRB may not have previously addressed (e.g., allowable expense categories, etc.) – even in the area of appropriate standard of proof (which should be clear from the HRRRB's prior decision in *Ulman*, but which appears to be interpreted by the Hearing Officer in a manner that is contrary to *Ulman's* plain language) may raise novel issues for the HRRRB/ Appeal Panel. Moreover, the Hearing Officer's application of a standard which purports to be "*preponderance of the evidence*" standard, but which appears in practice to be more akin to a "clear and convincing" standard or even higher, also raises multiple issues in the due process realm - fairness/opportunity to adequately prepare and present, notice, etc. which warrant HRRRB deliberative consideration. It also clearly implicates whether the Hearing Officer's decision is supported by substantial evidence.

Please let me know when a hearing date is set so I can plan for briefing accordingly, my understanding from speaking with RAP staff is that I will have the opportunity to fully brief the appeal and provide relevant supporting materials up to 8 days before the hearing date. If that timeframe is not correct please let me know as soon as possible.

Thank you in advance for your consideration of this appeal. Given my significant work on this project, the Hearing Officer's Decision came as a strong and discouraging blow - it is hard to see years of toil and financial investment dismissed as naught.... I tried to be as accurate, truthful, and responsive in my submissions and testimony. I know, without a shadow of a doubt that the project at 3515 Brighton more than meets the requirement for a "substantial rehabilitation." The hundreds of receipts, invoices, cancelled checks and other independent corroborating documents reflect that on their face (and the recent declarations from the tradespeople only further confirm the accuracy of those previously documented and submitted expenses and the veracity of my sworn statements and testimony). I continue to believe that the "truth" matters – even in this day and age – and I appreciate and am grateful for the opportunity to show the HRRRB/Appeal Panel of the merits and justness of this appeal.

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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

CORRECTED HEARING DECISION

CASE NUMBER: L16-0094, Wiebe v. Tenants
PROPERTY ADDRESS: 3515 Brighton Ave, Oakland, CA
DATES OF HEARING: April 10, 2017; June 6, 2017
DATE OF DECISION: July 5, 2017
APPEARANCES: William Wiebe, Owner
No appearance by any tenant

REASON FOR CORRECTED DECISION

The Hearing Decision in this case had several typographical errors in it. There were two different references to Exhibit "A", when one of the Exhibits should have been listed as Exhibit "B". Additionally, Exhibit "B" was not attached to the Hearing Decision. Additionally, the date the decision was signed was listed as 2016, instead of 2017. This Corrected Hearing Decision corrects those errors. However, there are no substantive changes to the original decision. A new appeal period is set out in this Corrected Hearing Decision.

SUMMARY OF DECISION

The owner's petition is denied. The units at 3515 Brighton Ave are not exempt from the Oakland Rent Ordinance.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a *Certificate of Exemption* on a 3-unit residential building on the ground that it has been substantially rehabilitated.

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No tenant has filed a response to the owner petition.¹

THE ISSUE

Are the units exempt from the Ordinance because they were substantially rehabilitated?

EVIDENCE

The owner testified that he purchased the subject property in either 1999 or 2000. The property consists of a 3 unit apartment building of wood frame construction. The owner produced a *Property Characteristics* document from the *Alameda County Assessor's Office* showing that the square footage of the building in 2016 was 2,848 square feet.² The owner further testified that an additional 84 square feet were added to the building. He produced permits from the *City of Oakland* which document this addition.³ The owner testified that the total square footage after the work was complete was 2,932 square feet.

The owner testified that there had been a fire in one unit in the building in 2015. The owner produced a permit which was opened on October 15, 2015, which states "fire damage repair for triplex including creation of small storage rooms in basement, enlarge bathroom at 1st floor, reconfigure non-load bearing walls at 1st and 2nd floors per plans. Replace finishes at all levels."⁴ The job value was listed as \$80,000. An additional permit was taken out on September 28, 2015, to "construct new addition and deck at Bedroom 2 at upper rear unit." The job value for this permit was listed as \$10,000.⁵ Both of the permits are listed as "final OK" on January 19, 2017.

The owner testified that much of the work was paid for by fire insurance; but not all the expenses because he did some upgrades that were not covered. The owner did not produce the documents which showed his reimbursement from the fire insurance company.

The owner testified that while he had a general contractor, he did a lot of the work himself. None of his work is billed for in the documents provided.

The owner testified that the interior was demolished; the lathe and plaster ceilings were removed; the kitchen counters and appliances were removed; the bath fixtures were removed; all the flooring in the kitchens were removed; approximately 30% of the hardwood floors were removed and replaced and the rest were refinished; asbestos

¹ According to the documents filed with the *Owner Petition* none of the units were occupied at the time the petition was filed. A copy of the *Owner Petition* was sent to all the units. At the Hearing held on April 10, 2017, the owner testified that the units were now occupied. A new copy of the *Owner Petition* was sent to all the units, in each tenant's name. None of the tenants filed a *Tenant Response* to the owner petition and no tenants appeared at the Hearing.

² Exhibit 34, page 5. This Exhibit and all other exhibits referred to in this Hearing Decision, were admitted into evidence.

³ Exhibit 34, pp 1-4

⁴ Exhibit 34, p. 1.

⁵ Exhibit 34, p. 3

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abatement was performed; galvanized pipes were replaced with cooper; all old gas lines were removed and replaced with new; all the knob and tube electrical was removed and replaced with romex; new lighting was added; subpanels and breakers for each units was added; new smoke alarms and CO2 detectors were hardwired; new CAT5 and HDMI cables were added in the units; new interior and exterior doors and jambs were added; new energy efficient windows were installed; fire rated sheetrock was added; the furnace was replaced; three new high efficiency water heaters were installed; all three bathrooms were renovated, the kitchens were renovated; new laundry rooms were added in two of the units; the interior and exterior were patched and painted; thermal insulation was added; new window treatments and rods were added; and new r/c channels were added as a sound attenuator. To the exterior the owner also did stucco repairs and added new stucco for the addition; painted; removed and replaced the existing roof; added gutters and vents; added a custom steel rail balcony; removed a dead tree; did additional landscaping; installed a slate walkway, installed new gates and repaired the cracked and damaged driveway.

The owner's documentation separated the work by category. The owner testified that while he did his best to separate the invoices into separate categories, there were times when he shopped at *Home Depot*, or other stores, where he would purchase things in more than one category. He tried to put each invoice into the category which most closely aligned with the purchases made.

Throughout this Hearing Decision, and the accompanying spreadsheet, all receipts are rounded to the nearest dollar.

The owner was informed in the first Hearing that he needed invoices and proof of payment for all expenses and was given the opportunity to provide proof of payment or an invoice where he had not done so already.

At a variety of times throughout the Hearing, receipts the owner had produced included charges for water, food, candy and other nourishment. The owner testified that these charges were all for food and water he was providing for his workers and that for a period of time that they were doing work there, there was no water available on site.

Doors:

The owner produced a packet of expenses related to the work done to replace many of the doors in the building. See the attached spreadsheet which lists all the costs submitted. The total submitted costs are \$4,669.

Demo and Dump Fees:

The owner testified that during the demolition phase of the work on the unit, many trips were taken to the dump. He produced a *Bank of America* account activity detail showing a payment to Pablo Filipe for \$169.⁶ No invoice was provided.

⁶ Exhibit 3, page 3

He produced receipts from *Smart Demolition* showing cash payments of \$55, \$50, \$70, 65, \$60, \$50, \$95, \$50, \$60, \$90, \$80 and \$100.⁷ He testified that he was the one who normally drove to the dump, would pay cash, and would get a receipt.

The owner further testified that he hired *Restoration Management Company* to do asbestos remediation. The invoice, for \$28,964.61 was provided.⁸ No proof of payment was provided.

The owner provided an invoice from *Phoenix Environmental Consulting* for \$510.⁹ Proof of payment was provided.¹⁰

The owner provided invoices and proofs of payment from *Oakland Landscape Supply* for \$349, \$392, and 318 which at the first hearing he testified were for dump fees.¹¹ There were additional invoices from *Oakland Landscape Supply* totaling \$295 and \$269 for which the owner did not have separate proof of payment. The owner testified that when you drop things off at the dump, you cannot leave without making a payment and each invoices lists that the amount was "received".

At the second hearing, the owner was asked to identify those documents that he had produced which were related to landscaping. He testified that the receipts from *Oakland Landscape Supply* were for drainage rock related used on the exterior of the premises, and not in the building.

The total invoices submitted by the owner for the dump and demolition category was \$32,013. The total for which he had proof of payment was \$3,218, because he did not have proof of payment for the asbestos remediation. Of that amount, \$1,793 was for the purchase of the drainage rock.

Landscape and Fencing: The owner testified that there was landscaping work performed around the unit. He had a fence installed on the property, purchased retaining wall blocks, installed stone walkways and patios and did outside drainage work.

The owner produced invoices and proof of payment for the landscaping category totaling \$1,536.¹² Within these charges, there was one charge covering the cost of water.¹³ Within these charges, the owner testified that there were two charges within the *Home Depot* receipts that included charges for interior baseboards. Two receipts dated 12/5/16 include a charge for baseboards totaling \$132 and a second charge for \$66. The baseboard costs, with tax, are \$144 and \$72.

⁷ Exhibit 3, pages 1-5

⁸ Exhibit 3, page 6

⁹ Exhibit 3, page 7

¹⁰ Exhibit 3, page 3

¹¹ Exhibit 3, page 8-10

¹² Exhibit 4, pp. 1-11

¹³ See Exhibit 4, p. 9.

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Paint: The owner testified that he purchased items at a variety of locations for all the painting supplies he needed for the project. (See Exhibit 5.) The invoices he produced totaled \$4,076. He produced proof of payment in this category totaling \$4,126. The difference between the proof of payment and the invoice total relate to the fact that the receipts he provided from the *One Dollar Only* store, do not list the supplies purchased, they just amount to a proof of payment.

The owner testified that the paint costs included costs for painting the interior, exterior, driveway and fence.

The spreadsheet also documents the receipts that contain purchases of water, candy and other food.

The owner produced several receipts which included the cost of tools. These are listed on the spreadsheet. The owner testified that in certain instances tools got used up in the course of the construction or that tools broke which needed to be replaced. He further testified that he still owned the hedge trimmer, purchased on June 21, 2016 from *Home Depot*. This hedge trimmer is located at the apartment complex for use there.

One of the receipts, dated 11/21/16, included a receipt for 1 pint of Behr epoxy, which the owner testified was for use on the driveway.¹⁴ This cost was \$32.98, plus tax equals \$36.

Miscellaneous: The owner produced two packages of receipts labelled *Miscellaneous I and II*. These receipts include a receipt from *Ikea* for bar stools for the lower unit.¹⁵ He also included receipts for other furniture and décor. These are listed on the spreadsheet.

The owner produced a receipt from *Harbor Freight Tools* for \$73. The date on this receipt was unreadable. The receipt included a charge for a oscillating power tool and other tools.¹⁶ There was a charge for gloves on this receipt, that the owner testified is used by the workers on the job.

Several of these receipts include charges for water, beverages or food. They are listed on the spreadsheet.

Additionally, a variety of these receipts include the cost of tools. In addition to the oscillating multi-power tool, mentioned above, the owner also purchased a belt sander, reciprocal blades, safety glasses, sanding belts, hammers, chisels, a miter saw guide, pry bar sets, 5 amp electrical cutout, dremel, an oil lube device, gooseneck wrecking, a bottle jack, and many others. They are listed on the spreadsheet.

¹⁴ Ex. 5, p. 9

¹⁵ Ex. 6, p. 5

¹⁶ Ex. 6, p 12

Additionally, in this category, the owner put in a receipt from *TLC Glass* for a new windshield he needed after his car windshield was broken when he was carrying supplies.¹⁷ The owner also included a parking ticket which he testified he received when he was at the City of Oakland permit counter as well as parking charges for times he had to pay for parking when visiting the permit counter.¹⁸

Several of the receipts the owner produced in this category were unreadable. They are listed on the spreadsheet.

Additionally, in this category there were a few charges that relate to landscaping. The owner testified that the sod was used to fill in the dirt behind the retaining walls. These charges are listed on the spreadsheet.

Additionally, in this category, there were two charges for car keys. These are listed on the spreadsheet.

The owner's invoice total in these categories was \$4,793. He had proof of payment of \$4,898.

Insulation: The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. (See Exhibit 8). The primary charge was a \$4,677 invoice from *SDI Insulation*. The owner testified that this charge was for the actual insulation. He did not have proof of payment of this invoice. The proof of payment in this category totaled \$276.

Tile: The owner produced invoices for tile (see Exhibit 9.) Some of these charges included charges for water or tools. They are listed on the spreadsheet.

The owner produced invoices in this category totaling \$4,014 and proof of payment totaling \$3,835. One invoice from *Home Depot*, for \$179 did not have a proof of payment and an additional receipt was unreadable. These are listed on the spreadsheet.

Curtains and Rods: The owner produced a variety of documents from *Target* regarding the purchase of curtains and curtain rods from the website. (See Exhibit 10). These documents are order summaries and there are no proof of payment. There is one receipt from *Target* showing a purchase at the store for \$54. (See spreadsheet.)

Plumbing: The owner produced multiple receipts for plumbing, which included the installation of all new copper pipes. (See Exhibit 11.) The invoice and proof of payments total \$2,958. This amount included purchases of tools (hole saws and a bernzomatic) as listed on the attached spreadsheet. The owner testified that the bernzomatic is a tool that is used for melting solder to connect copper pipes but that some portion of the expense is for a benzene gas that gets used up as one employs the tool.

¹⁷ Ex. 7, p. 14

¹⁸ Ex. 7, pp. 26 and Ex. 6, p. 9 (He also did not produce proof of payment of the parking ticket.)

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Hot Water: The owner produced invoices and proof of payment for the costs associated with providing hot water in the units at a cost of \$1,968. This includes the cost of the hot water heaters. (Exhibit 12).

Trim: The owner produced invoices and proof of payment of \$1,601 in this category. The owner testified that these were for costs associated with the purchase of baseboards in the units. (Exhibit 13). Two receipts included charges for tools (see spreadsheet.) The owner testified that one of the tools, a brad nailer, is a pneumatic tool for nailing.

Electrical: The owner produced invoices totaling \$7,181 and proof of payment of \$10,334 in this category. (See Exhibit 14.) The predominant difference between the two totals, comes from multiple payments made to Bill Singh for work that he did on the unit. There were no invoices from Mr. Singh. The owner testified that Bill Singh is a licensed electrician who was hired to work on the project to hookup the electrical to the boxes.

The owner had produced an invoice from *Emperor Supply* that was impossible to read. The invoice was dated April 1, 2016.¹⁹ The owner had the original receipt at the Hearing and was able to testify that the items purchased were for electrical and plumbing supplies. The owner testified that the invoice charge of \$201.53 differed from the receipt total of \$170.95 because he had been issued a \$30.58 credit for a return.

In this category the owner produced an invoice dated January 20, 2015, from *Miles Construction* for electrical work performed on the premises. No proof of payment was provided.

Some of the receipts in this category contained tools. (See spreadsheet.) The owner testified that the hammer drill listed on the receipt from *Bayshore Builders Supply* dated July 23, 2016, was for a drill bit, which gets used up in the course of the construction. (See Exhibit 14, p. 26)

Appliances: The owner testified that he purchased new appliances for each unit. The owner produced two receipts in this category. One receipt, from *Best Buy*, lists multiple appliances purchased. Some parts of the document are unreadable. The receipt from *Best Buy* shows the costs for the refrigerators, ranges, microwaves, and washer and dryers for each unit. (See Exhibit 15).

The readable invoice amount for the appliances was \$5,927 and proof of payment was provided showing a total cost of \$6,292. Additionally, the owner produced a receipt from *Home Depot* for the purchase of a dishwasher for \$278. Proof of payment was provided. He also produced receipts from *Lowe's* which document the purchase of another dishwasher and a washer/dryer unit.

Stucco: The owner testified that he hired *Gerbert Lopez* to do stucco work on the building. There is an invoice from Mr. Lopez for \$8,500. The owner testified that original scope of work was to just do exterior stucco on the three units but the scope of

¹⁹ Exhibit 14, p. 19

work increased on the job because *Mr. Lopez* also did the stucco work on the addition and because when the work progressed, it turned out to be far more stucco damage than expected. There is proof of payment of \$19,500. (See Exhibit 16).

HVAC: The owner produced invoices and proof of payment totaling \$1,520 for heating supplies. (See Exhibit 17). The owner testified that these charges were for the purchases of the supplies to do the duct work for the heating system.

Lumber: The owner testified that lumber was purchased for new joists, studs, border trim and framing, as well as wainscoting. He produced many invoices, totaling \$9,085, for costs associated with the purchase of lumber for the project. (See Exhibit 18). He produced proof of payment of \$9,475. The difference between the two totals is caused by the lack of an invoice from *Golden State Lumber* for a \$390 charge.

Within this packet there were charges for water and for tools. (See spreadsheet.)

Labor: The owner produced copies of checks paid to Jesus Martinez, Pablo Felipe, Val Pizzini and Geber Lopez. He produced no invoices for any of these workers and testified that he did not have any invoices. He provided proof of payment, showing payments made of \$19,451. (See Exhibit 19).

One of the payments was made to the laborer Pablo Felipe, on July 17, 2015. This is several months before the original permit was taken out (in September of 2015—see Permit section.) This payment to Pablo Felipe was documented by a copy of an online payment receipt from the owners *Bank of America* account, showing that on July 17, 2015, funds were withdrawn (\$2,600) from the bank account and sent to Mr. Felipe.

One of the checks provided by the owner to Jesus Martinez stated that it was a loan. The owner testified that it was a loan advance for work that had not yet been done but was later done by Mr. Martinez. Additionally, one of the documents provided by the owner was a debit receipt from his bank, showing that he took money out of the bank that day. (Exhibit 19, p. 15). The owner testified that he gave this money to Jesus Martinez, one of the laborers.

The owner also provided a receipt, dated November 16, 2015, which states “received from Pablo Felipe” the sum of \$450.²⁰

The owner was given the opportunity to provide affidavits from these laborers; none were provided.

Gas: The owner testified that these costs related to the new gas pipes that were installed in the building. He produced copies of invoices for this category of \$581 and proof of payment of \$754. (See Exhibit 19a). The owner did not have an invoice for a \$173 charge to *American Emperor*.

²⁰ It is possible that this says \$4,450—the receipt is ambiguous.

Bath: The owner produced copies of invoices for supplies purchased for the bathrooms. (See Exhibit 20). The invoices and proof of payment total \$1,153. One receipt was unreadable.²¹

Kitchen/Ironwork: The owner produced copies of invoices and proof of payment for work done in the kitchen and the ironwork done on the property. (See Exhibit 21.) He produced a copy of a check to *Xiong Xin Liu* in the amount of \$1,650, who was hired to install the countertops. No invoice was provided. He also produced an invoice from *Iron Works* for \$550, for which there was no proof of payment.²² This invoice says “balance due” \$550. The owner testified that the invoice has the word “paid” written on it. He does not remember whether he paid the person cash or check.

The owner produced two invoices from *East Star Building Supply*, one for \$1,753 and one for \$88, which state they were unpaid. No proof of payment was provided.

The total for the invoices provided was \$2,640 and the proof of payment established payments of \$1,900.

Windows: The owner testified that he installed mostly new windows on the property. He provided invoices totaling \$2,970 for the purchase of windows. He produced proof of payment of \$3,180. (See Exhibit 22.) The difference in these two figures is based on the fact that the owner did not have an invoice from *Sherwin Williams* for three charges made on his credit card.

Travel/Tolls: The owner testified that he travelled back and forth from his home in San Francisco to the worksite as well as multiple trips to *Home Depot*, *Lowe’s* and other vendors to buy items needed for the project. He claimed expenses of \$1,168 for bridge tolls (for which he provided his *Fastrak* documentation) and \$1,610 for driving expenses at a cost of 57 cents a mile. (See Exhibit 23).

Sheetrock: The owner produced copies of checks made out to *Jorge Martinez* for sheetrock work totaling \$16,500. He testified that Mr. Martinez did the sheetrock work in all the units which included the cost of the bulk of the supplies for this job. The owner produced a screenshot from a text message exchange he had with Mr. Martinez regarding the work. The text message says:

“sorry I didn’t get to you earlier Total drywall and rc channel Smooth level 4 and patch on existing drywall 3 units, \$21,000.”²³

Hardwood Floors: The owner testified that he hired *Specialty Hardwood* to refinish the hardwood floors in the units. He produced proof of payment to *Specialty Hardwood* totaling \$7,739. No invoice was provided. (See Exhibit 25).

²¹ Exhibit 20, p. 2

²² Exhibit 21, p. 6

²³ Exhibit 24, p. 1

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Construction Insurance: The owner produced an invoice from *Lexington Insurance* for construction insurance he purchased to cover the property during the course of the construction. The invoice from the insurance company was for \$7,249. No proof of payment was provided. (See Exhibit 26). The owner testified that this was the cost for one year, and that the building was under construction for almost a two year period. No additional invoice was provided.

Permit Fees: The owner produced documents from the *City of Oakland* which document the permits he received (See Exhibits 27 and 34.) As noted above, the job values were listed as \$80,000 on one permit, and \$10,000 on the second permit. The costs, for which the owner provided both an invoice and proof of payment, was \$6,435.

The owner also produced a receipt from the *City of Oakland Business Tax* for the \$30 charge for his business tax in 2016.²⁴ He testified he was required to keep his license, even though he was not renting during the course of construction.

General Contractor: The owner testified that he hired *JTM Development* as a general contractor on the job. He produced invoices totaling \$52,449 and proof of payments of \$78,592. (Exhibit 28) The proof of payment was a combination of checks made directly to *JTM* as well as a copy of a *Bank of America* website page listing payments made to *JTM* through the owner's banking account.²⁵

Fireplace Servicing: The owner testified that there are fireplaces in all of the units. The charges in this category were for someone to come out, clean them up and inspect them to make sure that they had not rusted. The owner produced two invoices (one for \$748.35 and one for \$252.95.) The invoices state that they were paid by "Visa." (See Exhibit 29.)

Online Purchases: The owner produced many pages of receipts from online purchases he made for supplies for this project. The attached spreadsheet lists those purchases. (Exhibit 30).

The owner listed in this exhibit several purchases for which he paid cash and did not have any kind of documentation. He testified he purchased two aluminum ladders at a cost of \$425, which he paid in cash. (See Exhibit 30, page 1.) There is no receipt, no invoice and no copy of a webpage reference to this purchase. These ladders are on the premises of the Brighton apartments and are used to access the roof.

The owner testified that he purchased foam kits from *Craigslist* to spray foam for insulation. While he produced a picture of the product from the website, there is no proof of payment or invoice. The owner also produced many images from the *Ebay* website which show items he testified were purchased for this property. Many of these images do not show proof of payment.

²⁴ Exhibit 27, p. 1

²⁵ See Exhibit 28, p. 1

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The owner produced receipts from *Amazon* for the following purchases: bulbs, shop towels, outlets, faucets; door hardware, laptop cord and screw remover, toilet plunger, door hardware, electric hardware, kitchen hardware, tampons, curtains, timer/hose, garden hose, soaker hose, water timer, hdmi cable, cleaners, plumbing, cloths and a microplane, bulbs, dustpan and cleaners, household supplies, stools, humidity monitor, and a moisture meter. These are all listed on the spreadsheet. Many of these receipts are billed to Lauren Beeler, who the owner testified is his partner.

Many of the items purchased from *Amazon* were purchased before the first permit was taken out, which was in September of 2015. The owner produced receipts from purchases on *Amazon* going back to September of 2014.

In this category, the owner made claims for expenses totaling \$2,724 and had proof of payment totaling \$1,808.

Toilet Rental: The owner testified that until they were able to set up plumbing inside the units, he was required to rent toilets for his workers. He produced a bill for \$261.66 from *United Site Services*. He also produced an email from a man named Jose Corona who stated that the charge for services would be \$684.59. No proof of payment was provided. (See Exhibit 31).

Lighting: The owner produced several receipts related to lighting. He produced a *Paypal* receipt showing a payment made to Andres Orphanopoulos for \$90. He testified this was for a light fixture. He also produced an order confirmation from *Houzz* which shows the purchase of 2 light fixtures totaling \$53.98, paid for by an American Express card. Additionally, *Home Depot* receipts were provided showing purchases of light fixtures and mini-blinds. (See Exhibit 32).

The owner produced invoices totaling \$653 in this category and proof of payment of \$743. (The difference in these figures is the \$90 *Paypal* receipt to Mr. Orphanopoulos.)

Miscellaneous III: The owner produced additional receipts between the first two hearings showing additional purchases that had not been provided earlier. He produced a receipt from *Ikea* showing a charge of \$96.45 which included a charge for a toilet brush cleaner and lighting. When asked whether any of these items were installed in the building he testified that the SKEPP LED listed on the receipt was a light fixture that had been installed.²⁶ He did not know what any of the other items on this receipt was for. (See Exhibit 33, p. 1)

The owner testified that most of the other receipts in this packet were for supplies he purchased for the project from *Home Depot* and *Lowe's*. Some of the receipts included tools and candy. (See spreadsheet.) The owner testified that the gorilla ladders listed on a *Home Depot* receipt were small step ladders. Other receipts contained charges for a hammer tacker and scrapers, which are both tools.

²⁶ Ex. 33, p. 1

The owner also produced parking receipts from the *City of Oakland* showing parking fees for \$1.60. He also produced a receipt from *Pak'n Save* for lunch purchased for a worker.²⁷

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Are the units exempt from the Rent Adjustment Program because they have been Substantially Rehabilitated?

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

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.²⁸

The tables issued by the Building Services agency refer to a dollar amount per square foot (Exhibit “B” attached). Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

Square Footage: At the hearing, the owner representative presented a document from a *Alameda County Assessor's Office* that shows that the square footage of the building before the addition was 2,884 square feet. The owner testified that there was an addition of 84 square feet. Therefore, the total square footage of the building is 2,932 square feet. The information contained in this document, together with the owner representative's testimony, is found to be reliable evidence.

Expenses: In a precedent decision, the Board held that:

“[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction”²⁹

An owner has the burden of proving every element of his/her case by a preponderance of the evidence. Invoices, proposals, or estimates alone are not sufficient evidence of an

²⁷ Ex. 33, p. 7

²⁸ O.M.C. § 8.22.030(B)(2)

²⁹ *HRRRB Decision, T04-0158, Ulman v. Breen & Orton*

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expense; proof of payment is also required. Similarly, proof of payment alone is not sufficient, a corresponding invoice must be provided.

The spreadsheet produced by the owner was a spreadsheet that simply added up all the receipts the owner produced. This document is not sufficient to establish the costs expended for this project.

The California Evidence code states: "If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."³⁰

The applicable rules of evidence are stated in Government Code § 11513³¹:

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

The reasons that invoices or contracts are required is because these documents explain the work done. Since the work must be to the building (and not to landscaping or driveways) and must be for permanent installations (and not appliances), it is imperative to view and analyze the proper documentation.

The reason that proof of payment is required is because evidence of invoices alone do not establish that a bill has been paid. It is common knowledge that many invoices are renegotiated after work is done. Without evidence of both an invoice (or contract) and proof of payment the costs are not credited here.

In certain circumstances in this case the owner has produced invoices that are not for work done to rehabilitate the building; but instead are for other costs related to the project. For example, the work for landscaping is not allowed as this expenditure is not for work that is part of the square footage of the building.³² In order for a cost to be eligible as a substantial rehabilitation cost it must be for work done on the structure of the building. This is especially true because the calculation is based on the square footage of the building and does not include the square footage of the yard, the driveway, the fence or the landscaped area.

The same is true for appliances. The purchase of appliances is not a structural improvement. Therefore, costs expended for appliances are not allowable cost items.

The owner produced many receipts which contained purchases of tools, water, other beverages, food and candy. Tools are not allowed as an expense as they are not installed in the building, they belong to the owner (or his workers) and are a cost of doing business. Where it was clear that the tool purchased was for something that would likely

³⁰ Evidence Code, § 412

³¹ Regulations, § 8.22.110(E)(4)

³² Additionally, the concrete path was not approved because no invoice was provided.

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get used up in the course of construction, like a drill bit, it was allowed. However, where it is a cost for a hammers, ladders, drills, dremels, or other tools that lasts longer than the project, these costs were not allowed.

Additionally, food and water purchased for the workers on the job are not costs associated with the rehabilitation of the building. This is true even during the period of time that there was no water on the premises.

Attached to this Hearing Decision as Exhibit "A" is a 16 page spreadsheet documenting all the costs the owner submitted into evidence. Where there was a discrepancy between the invoice amount and the proof of payment, the lower figure was included in the spreadsheet in the column "allowable amount". Where a portion of an invoice was not granted, there is a column which lists the amount subtracted. Where the entire cost was not granted, the "allowable amount" is listed as zero. In each case, where specific items were subtracted, the tax of 9.5% was added to the total price that was then subtracted from the receipt price. Additionally, there is a column in the spreadsheet that lists the reasons for the denial of each listed cost.

Doors:

The owner established expenses for doors totaling \$4,669.

Demo and Dump Fees:

The owner established that he spent money on demolition fees and dump fees for the work that was done on the unit.

The owner produced proof of payment to Pablo Felipe for \$169. No invoice was provided. Additionally, he produced an invoice from *Restoration Management* for which no proof of payment was provided. These amounts were not allowed.

Additionally, the owner testified that the costs associated with billings from *Oakland Landscape Supply* were for landscaping. These amounts were not allowed.

The owner was allowed \$1,425 for the payments made in this category, for which he had both invoices and proof of payment and which were not related to landscaping.

Landscape and Fencing:

The owner established that there was work done outside the building on building a fence, for the purchase of wall blocks and for the installation of walkways, patios and outside drainage work. As noted above, these are not costs to the building, are not a part of the square footage of the building, and are not considered in the calculation for substantial rehabilitation.

However, in this category of documents, the owner had \$216 worth of expenses that were actually for baseboard purchased on the same *Home Depot* receipts as other

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landscaping purchases. The baseboard was installed inside the building and is an allowable expense. The owner is entitled to \$216 for those costs in this category.

Paint:

The owner established expenditures of \$2,597 for paint supplies for the work done on the building. While he submitted invoices totaling \$4,076 and proof of payment totaling \$4,126, there were several documents for which the owner did not have invoices. Additionally, there were costs expended for the driveway as well as costs expended on tools, and water. These costs were not allowed. See spreadsheet for details.

Miscellaneous I and II:

This collection of costs provided by the owner included costs for furniture from *Ikea*, costs for tools, water, other décor, costs of a car repair after the owner had his windshield broken on the job, costs for a parking ticket, costs associated with the purchase of car keys, landscape expenses, several expenses for which there were no invoices, and several unreadable invoices. These costs are not allowed.

The owner established allowable expenses of \$2,775. (See spreadsheet for detail.)

Insulation:

The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. However, the primary charge in this category was a \$4,677 invoice from *SDI Insulation*. He did not have proof of payment of that invoice.

The owner established allowable expenses in this category of \$276.

Tile:

In this category, the owner provided a variety of expenses related to the purchase of tools and water. Additionally, there are some receipts which were unreadable. They are listed on the spreadsheet.

The owner established allowable expenses in this category of \$3,778.

Curtains and Rods:

Curtains and curtain rods are not attached to the building and are not an allowable expense. Additionally, in this category, the owners' email from *Target* showing that an order has been made, does not have an accompanying proof of payment, or any showing on the document that the order was paid for.

There are no allowable expenses in this category.

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Plumbing:

The owner produced multiple allowable expenses in this category. The only expenses that were not allowed include the costs of tools (the bernzomatic and hole saw). Proof of payment and invoices totaling \$2,867 were allowed in this category.

The owner's argument that the bernzomatic is predominantly a charge for the gas used with this tool is not convincing. This is a tool purchased for the soldering of copper pipes. The tool was not used up in the course of the construction.

Hot Water:

The established costs in this category of \$1,968.

Trim:

Other than the costs of two tools listed on the receipts provided (a brad nailer and an additional tool), the owner's documentation for these costs was allowed. The owner established costs totaling \$1,518 in this category.

Electrical:

In this category the owner claimed expenses related to checks he wrote to *Miles Construction* and *Bill Singh*. He did not have invoices from these vendors. Additionally, the charge from *Miles Construction* was more than 8 months before the first permit was taken out. Still further, some charges were for tools, like voltage testers, nut setters, wire tracers and a keyhole saw. These charges were not allowed.

The owner established costs totaling \$6,512 in this category.

Appliances:

Appliances are not allowable expenditures in a substantial rehabilitation case as they are not permanent costs associated with the structure of the building. None of these costs are allowed.

Stucco:

The owner produced an invoice from *Gerbert Lopez* showing costs for the stucco work as \$8,500. While he did have proof of payment of a greater amount, the owner must provide both invoices and proof of payment. The owner is entitled to credit for the cost of \$8,500.

HVAC:

The owner established costs in this category of \$1,520.

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Lumber:

The owner established costs in this category of \$8,809. The only excluded costs were associated with the purchase of tools, water, for an unreadable invoice and one expense for which no invoice was provided. (See spreadsheet.)

Labor:

At the first hearing in this case, the owner was informed that for all charges, he was required to provide invoices and proof of payment. He testified that he did not have any invoices for the laborers who worked on the project. He asked if providing affidavits from the workers would be helpful. He was informed that while invoices were preferable, affidavits would be considered. No such affidavits were provided.

Without invoices or affidavits, none of these expenses are allowed.

Additionally, in a few instances, the owner did not have a check to substantiate the payment; instead he produced records relating to the withdrawal of money from his bank account and then testified that he paid the worker cash. This is an additional reason why certain of these charges were not allowed. (See spreadsheet.)

Gas:

The owner established \$581 in costs in this category. He did not have an invoice for a \$173 charge to *American Emperor*. Only those costs for which he can establish proof of payment and an invoice are provided.

Bath:

The owner established costs in this category totaling \$1,153.

Kitchen/Ironwork:

In this category, the owner again did not have invoices for the laborer *Xiong Xin Liu* or proof of payment to *Ironworks*. The fact that the invoice from *Ironworks* has the word "paid" on it, in handwriting, is not compelling, as anyone could write the word "paid" on an invoice. In fact, in this case, the owner has written notes on many of the invoices he provided.

Furthermore, he produced invoices from *East Star Building Supply*, which state they were unpaid. No proof of payment was provided.

In this category, the owner established expenses totaling \$250.

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Windows:

The owner established expenses in this category totaling \$2,970. The only charges removed were three items listed on a credit card receipt from *Sherwin Williams* for three charges made on his credit card as no invoices or receipts from the vendor were provided.

Travel/Tolls:

The owners' expenses to travel to and from the worksite are not allowable expenses as they are not expenses for the rehabilitation of the building. This category is denied.

Sheetrock:

In this category, the owner produced a text message which he claimed was a quote for the sheetrock work. A text message is not the kind of business record on which people reasonably rely. There is no invoice.

This cost is denied. Since this was the only cost in this category, the allowable expense in this category is zero.

Hardwood Floors:

No invoice was provided for these expenses. Therefore, the allowable expense in this category is zero.

Construction Insurance:

Construction insurance is not a cost to the building—it is an expense to protect the owners' property. This cost is denied. Another reason this cost was denied is there was no proof of payment.

Permit Fees:

The owner's business tax expense is not an allowable expense for the rehabilitation of the building. The owner established expenses in this category totaling \$6,405 for the costs of the permits he received from the *City of Oakland* for jobs valued for a total of \$90,000.

General Contractor:

The owner testified that *JTM Development* was the general contractor on the job. He provided some invoices for which there were no proof of payment, and some proof of payment for which there were no invoices. There are only \$44,141 in expenses for which the proof of payment and invoices line up. However, since in this case there was proof of

invoices totaling \$52,449, and proof of payment of more than \$78,000, the owner is entitled to credit of the \$52,449.³³

Fireplace Servicing:

The owner established that he had the fireplaces serviced in all the units at a cost of \$1,001. This cost is allowed.

Online Purchases:

In this category the owner produced receipts for many expenses which were purchased up to more than a year before the permit was issued in this case. None of these purchases were allowed, as there was no explanation as to why any of these purchases would be made before the permit was issued.

Additionally, the owner produced many pages of receipts for items of a personal nature. He produced a receipt for tampons, for a microplanning device (for cooking), for laptop cords, for cleaning supplies and other things. The spreadsheet lists in detail those items that were denied.

Additionally, this category had a claim for two ladders purchased from a listing on *Craigslist* for which there was no documentation, and which the owner claimed to have purchased in cash. Ladders are tools and are not allowable expenses. Additionally, no proof of payment was provided. The owner also claimed many other tools and furnishings in this category.

Additionally, this category has claims for purchases the owner claimed to have made from *Ebay*. The documentation provided shows no proof of payment.

The owner established proof of allowable expenses in this category totaling \$1,146.

Toilet Rental:

No proof of payment was provided in this category. The only reference to a charge comes in an email stating that a charge would be made to a credit card. The receipt was not produced. The owner has not established any allowable expenses in this category.

Lighting:

Again, in this category the owner had proof of payment where he did not have an invoice or receipt of any kind showing what was purchased. The owner established allowable expenses in this category totaling \$653.

³³ The last two invoices/proof of payment entries for *JTM Development* were combined, so that even though there was a payment made on July 1, 2016, for \$15,000, for which there was no comparable invoice, there was an invoice dated September 5, 2016, for \$8,308. In this instance, the owner was given credit for the \$8,308 as if the payment made in July of 2016, covered the costs of that invoice.

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Miscellaneous III:

In this category, the owner had a receipt from *Ikea* which included a light fixture. Otherwise, he did not know what was purchased (other than a toilet brush cleaner.) Some of the other receipts included food, candy and tools. As noted above, these are not allowable expenses. The owner also submitted parking fees, which are not allowable.

The owner’s invoice from *JTM Development*, which was provided in this category, did not have an accompanying proof of payment.

The owner established allowable expenses in this category totaling \$1,970.

The Calculation: The owner testified that the subject building is of wood frame construction. Exhibit “B” lists square foot construction costs, effective May 1, 2015. A Type V building is a building that is made from allowable materials that are not “non-combustible materials.”³⁴ A wood frame building is combustible, and hence a Type V.

The Exhibit states that for Type V construction of an apartment building greater than 2 units the cost for new construction as of May 1, 2015, was \$145.07.

To determine if the owner is entitled to the exemption the following calculation is necessary. Multiply the square footage of 2,932 by \$145.07 (\$425,345.24) and then divide that by 2. Therefore, if the owner spent at least \$212,672.62 on the construction project, the building is exempt from the Rent Ordinance.

The chart below summarizes the allowable costs expended:

Doors	\$4,669	Gas	\$581
Dump/Demo	\$1,425	Bath	\$1,153
Landscaping	\$216	Kitchen	\$250
Paint	\$2,597	Windows	\$2,970
Miscellaneous I and II	\$2,775	Tolls/Travel	\$0
Insulation	\$276	Sheetrock	\$0
Tile	\$3,778	Hardwood Floors	\$0
Curtains/Rods	\$ 0	Const. Insurance	\$0
Plumbing	\$2,867	Permits/Fees	\$6,405
Hot Water	\$1,968	General Contractor	\$52,449
Trim	\$1,518	Fireplace	\$1,001
Electrical	\$6,512	Online Purchases	\$1,146
Appliances	\$0	Toilet Rental	\$0
Stucco	\$8,500	Lighting	\$653
HVAC	\$1,520	Miscellaneous III	\$1,970
Lumber	\$8,809		
Labor	\$0	Total:	\$116,008

³⁴ See California Building Code § 602.1-602.5.

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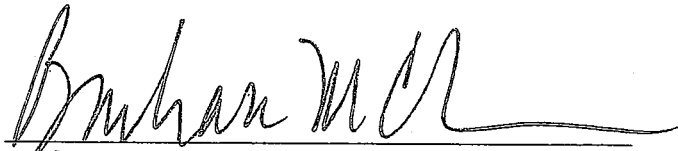
The owners have provided invoices and proof of payment that they spent \$116,008.^{35, 36} This amount is not above the necessary sum of \$212,672.62 and, therefore, the building has not been “substantially rehabilitated.” The rental units in the building are not exempt from the Rent Ordinance.

ORDER

1. Petition L16-0094 is denied. The units at 3515 Brighton Street, Apartments 1-3, are not exempt from the Rent Adjustment Ordinance.

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) days after service of this decision. The date of service is shown on the attached Proof of Service. If the last day to file is a weekend or holiday, the appeal may be filed on the next business day.

Dated: July 5, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

³⁵ It is important to note that this is only a bit more than the \$90,000 cost for which the owner received permits.

³⁶ This is \$1.00 more than shown on the spreadsheet, which is likely caused by a rounding error, as the spreadsheet is round to the nearest dollar.

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Doors									
10/19/2016	Home Depot	Doors	\$1,671	\$1,671			\$1,671		Ex. 2, p.2
12/27/2016	Home Depot	Doors	\$206	\$206			\$206		Ex. 2, p.3
12/14/2015	Home Depot	Doors	\$219	\$219			\$219		Ex. 2, p.3
11/10/2016	Home Depot	Doors	\$105	\$105			\$105		Ex. 2, p.3
12/7/2016	Home Depot	Doors	\$1,648	\$1,648			\$1,648		Ex. 2, p.4
11/12/2016	Home Depot	Doors	\$52	\$52			\$52		Ex. 2, p.4
9/27/2016	Home Depot	Doors	\$60	\$60			\$60		Ex. 2, p.5
12/19/2016	Home Depot	Doors	\$442	\$442			\$442		Ex. 2, p.5
12/20/2016	Home Depot	Doors	\$51	\$51			\$51		Ex. 2, p.5
8/23/2016	Lowe's	Doors	\$10	\$10			\$10		Ex. 2, p.4
11/12/2016	Home Depot	Doors	\$33	\$33			\$33		Ex. 2, p.4
12/9/2015	Lowe's	Doors	\$172	\$172			\$172		Ex. 2, p.5
Doors Subtotal:			\$4,669	\$4,669			\$4,669		
Owner Category: Dump and Demolition									
9/9/2015	Analytical Labs	Testing	\$40	\$40			\$40		Ex. 3, p.2
9/3/2015	Pablo Filipe	Dump Fee	\$0	\$169			\$0	no invoice	Ex. 3, p.3
11/19/2015	Smart Demolition	Dump Fee	\$55	\$55			\$55		Ex. 3, p.3
2/1/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p.3
4/29/2016	Smart Demolition	Dump Fee	\$70	\$70			\$70		Ex. 3, p.3
10/31/2016	Smart Demolition	Dump Fee	\$65	\$65			\$65		Ex. 3, p.4
1/14/2016	Smart Demolition	Dump Fee	\$60	\$60			\$60		Ex. 3, p.4
8/20/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p.4
7/29/2016	Smart Demolition	Dump Fee	\$95	\$95			\$95		Ex. 3, p.4
unreadable	Smart Demolition	Dump Fee	\$45	\$45			\$45		Ex. 3, p.4
12/29/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p.5
8/3/2016	Smart Demolition	Dump Fee	\$90	\$90			\$90		Ex. 3, p.5
7/20/2016	Smart Demolition	Dump Fee	\$80	\$80			\$80		Ex. 3, p.5
9/27/2016	Smart Demolition	Dump Fee	\$100	\$100			\$100		Ex. 3, p.5
7/26/2016	Smart Demolition	Dump Fee	\$45	\$45			\$45		Ex. 3, p.5
12/4/2015	Smart Demolition	Dump Fee	\$28,965	\$0			\$0	no invoice	Ex. 3, p.6
11/25/2015	Restoration Management	Asbestos Remediation	\$510	\$510			\$510		Ex. 3, pp. 3 and 7
4/2/2015	Phoenix Environmental	Testing	\$349	\$349			\$0	Landscaping	Ex. 3, p.8
10/29/2015	Oakland Landscaping Supply	Drainage rock	\$392	\$392			\$0	Landscaping	Ex. 3, p.9
11/2/2015	Oakland Landscaping Supply	Drainage rock	\$318	\$318			\$0	Landscaping	Ex. 3, p.10
11/4/2015	Oakland Landscaping Supply	Drainage rock	\$295	\$295			\$0	Landscaping	Ex. 3, p.11
11/6/2015	Oakland Landscaping Supply	Drainage rock	\$269	\$269			\$0	Landscaping	Ex. 3, p.12
8/28/2015	Oakland Landscaping Supply	Drainage rock	\$32,013	\$3,218			\$1,425		
Dump and Demolition Subtotal:			\$32,013	\$3,218			\$1,425		
Owner Category: Landscaping									
11/29/2016	Lowe's	Landscaping	\$72	\$72			\$0	all landscaping	Ex. 4, p.4
12/2/2015	Home Depot	Landscaping	\$52	\$52			\$0	all landscaping	Ex. 4, p.6
8/21/2015	Home Depot	Landscaping	\$130	\$130			\$0	all landscaping	Ex. 4, p.6
6/11/2016	Home Depot	Landscaping	\$105	\$105			\$0	all landscaping	Ex. 4, p.6
12/5/2016	Home Depot	Landscaping	\$102	\$102			\$72	mostly landscaping	Ex. 4, p.7
12/27/2016	Home Depot	Landscaping	\$68	\$68			\$0	all landscaping	Ex. 4, p.7
12/1/2016	Home Depot	Landscaping	\$185	\$185			\$0	all landscaping	Ex. 4, p.8
12/1/2016	Home Depot	Landscaping	\$72	\$72			\$0	all landscaping	Ex. 4, p.8
11/30/2016	Home Depot	Landscaping	\$51	\$51			\$0	all landscaping	Ex. 4, p.10

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
11/30/2016	Home Depot	Landscaping	\$78	\$78			\$0	all landscaping	Ex. 4, p. 10
12/2/2016	Home Depot	Landscaping	\$61	\$61			\$0	all landscaping	Ex. 4, p. 10
12/5/2016	Home Depot	Landscaping	\$233	\$233			\$144	mostly landscaping	Ex. 4, p. 11
12/6/2016	Lowe's	Landscaping	\$57	\$57			\$0	all landscaping	Ex. 4, p. 11
9/9/2015	Center	Landscaping	\$33	\$33			\$0	all landscaping	Ex. 4, p. 2
9/9/2015	Center	Concrete	\$13	\$13			\$0	all landscaping	Ex. 4, p. 3
12/2/2016	American Emperor	Concrete	\$9	\$9			\$0	all landscaping	Ex. 4, p. 5
10/13/2016	Home Depot	Concrete	\$45	\$45			\$0	all landscaping	Ex. 4, p. 7
12/1/2016	Home Depot	Retaining Wall	\$29	\$29			\$0	all landscaping	Ex. 4, p. 8
11/29/2016	Lowe's	Concrete	\$35	\$35			\$0	landscaping and water	Ex. 4, p. 9
12/6/2016	Home Depot	Landscaping	\$41	\$41			\$0	all landscaping	Ex. 4, p. 9
12/1/2016	Home Depot	Concrete	\$30	\$30			\$0	all landscaping	Ex. 4, p. 9
12/6/2016	Home Depot	Landscaping	\$36	\$36			\$0	all landscaping	Ex. 4, p. 11
Landscaping Subtotal:			\$1,536	\$1,536			\$216		
Owner Category: Paint									
5/13/2016	West Marine	Paint Supplies	\$2	\$2			\$2		Ex. 5, p. 2
10/5/2016	Lowe's	Paint Supplies	\$552	\$552			\$552		Ex. 5, pp. 3-4
8/4/2016	Ashby Lumber	Paint Supplies	\$312	\$312			\$312		Ex. 5, p. 6
12/10/2016	Center	Paint Supplies	\$9	\$9			\$9		Ex. 5, p. 7
11/6/2016	One Dollar Only	?	n/a	\$31			\$0	No invoice	Ex. 5, p. 8
12/27/2016	Kelly Moore	Paint Supplies	\$27	\$27			\$27		Ex. 5, p. 8
10/27/2016	Kelly Moore	Paint Supplies	\$26	\$26			\$26		Ex. 5, p. 8
11/3/2016	Home Depot	Paint Supplies	\$8	\$8			\$8		Ex. 5, p. 8
11/25/2016	Home Depot	Paint Supplies	\$50	\$50			\$50		Ex. 5, p. 9
11/18/2016	Home Depot	Paint Supplies	\$59	\$59		\$14	\$46	water	Ex. 5, p. 9
11/21/2016	Home Depot	Paint Supplies	\$117	\$117		\$36	\$81	driveway	Ex. 5, p. 9
11/10/2016	Home Depot	Paint Supplies	\$40	\$40			\$40		Ex. 5, p. 9
8/3/2016	One Dollar Only	?	n/a	\$19			\$0	No invoice	Ex. 5, p. 10
no date	Kelly Moore	Paint Supplies	\$13	\$13			\$13		Ex. 5, p. 10
10/12/2016	Home Depot	Paint Supplies	\$31	\$31			\$31		Ex. 5, p. 10
11/28/2016	Lowe's	Paint Supplies	\$26	\$26			\$26		Ex. 5, p. 10
9/29/2016	Kelly Moore	Paint Supplies	\$44	\$44			\$44		Ex. 5, p. 11
10/2/2016	Lowe's	Paint Supplies	\$34	\$34			\$34		Ex. 5, p. 11
9/28/2016	Home Depot	Paint Supplies	\$63	\$63			\$63		Ex. 5, p. 11
10/2/2016	Home Depot	Paint Supplies	\$193	\$193			\$193		Ex. 5, p. 11
8/21/2016	Lowe's	Paint Supplies	\$81	\$81			\$81		Ex. 5, p. 11
10/19/2015	Sherwin Williams	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 11
10/2/2016	Lowe's	Paint Supplies	\$243	\$243			\$243		Ex. 5, p. 12
6/2/2016	Home Depot	Paint Supplies	\$286	\$286		\$52	\$234	tools (hedge trimmer and squeegee)	Ex. 5, p. 12
8/4/2016	Lowe's	Paint Supplies	\$177	\$177		\$5	\$172	water	Ex. 5, p. 13
8/24/2016	Lowe's	Paint Supplies	\$413	\$413			\$413		Ex. 5, p. 13
8/31/2016	Lowe's	Paint Supplies	\$79	\$79			\$79		Ex. 5, p. 13
8/25/2016	Kelly Moore	Paint Supplies	\$15	\$15			\$15		Ex. 5, p. 13
10/19/2015	Sherwin Williams	Paint Supplies	\$93	\$93			\$93		Ex. 5, p. 14
8/20/2016	Lowe's	Paint Supplies	\$85	\$85			\$85		Ex. 5, p. 14
10/19/2015	Sherwin Williams	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 14

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
10/10/2016	Kelly Moore	Paint Supplies	\$13	\$13			\$13	water	Ex. 5, p. 14
9/16/2016	Home Depot	Paint Supplies	\$204	\$204		\$9	\$195		Ex. 5, p. 15
8/30/2016	Lowe's	Paint Supplies	\$251	\$251			\$251		Ex. 5, p. 15
5/20/2016	Home Depot	Paint Supplies	\$19	\$19			\$19		Ex. 5, p. 15
8/10/2016	Lowe's	Paint Supplies	\$12	\$12			\$12		Ex. 5, p. 15
9/19/2016	Lowe's	Paint Supplies	\$70	\$70			\$70		Ex. 5, p. 16
8/19/2016	Lowe's	Paint Supplies	\$175	\$175			\$175		Ex. 5, p. 16
12/8/2016	Lowe's	Paint Supplies	\$51	\$51			\$51		Ex. 5, p. 16
8/3/2016	Lowe's	Paint Supplies	\$86	\$86			\$86		Ex. 5, p. 16
Paint Subtotal:			\$4,076	\$4,126			\$2,597		
Owner Category: Miscellaneous I and II									
9/1/2015	Great Western	Miscellaneous	\$101	\$101			\$101	Furniture	Ex. 6, p. 8
12/6/2016	Ikea	Furnishings	\$87	\$87			\$0		Ex. 6, p. 5
12/4/2015	Home Depot	Miscellaneous	\$150	\$150			\$150		Ex. 6, p. 11
10/19/2016	Lowe's	Miscellaneous	\$74	\$74			\$74		Ex. 6, p. 12
unreadable	Harbor Freight Tools	Miscellaneous	\$73	\$73			\$0	Tools and no date	Ex. 6, p. 12
10/19/2016	Lowe's	Miscellaneous	\$80	\$80			\$80		Ex. 6, p. 12
4/1/2016	Home Depot	Miscellaneous	\$82	\$82			\$82		Ex. 6, p. 15
2/18/2016	Home Depot	Miscellaneous	\$61	\$61		\$1	\$60	water	Ex. 6, p. 16
3/4/2016	Ikea	Miscellaneous	\$77	\$77			\$0	décor	Ex. 6, p. 16
unreadable	Ikea	Miscellaneous	\$225	\$225			\$0	no date	Ex. 6, p. 17
7/4/2016	Harbor Freight Tools	Miscellaneous	\$110	\$110		\$110	\$0	tools (sanding belt, hammers etc.)	Ex. 6, p. 17
8/20/2015	Lumberman	Miscellaneous	\$91	\$91			\$91		Ex. 7, p. 2
12/29/2016	Lowe's	Miscellaneous	\$89	\$89			\$89		Ex. 7, p. 4
12/28/2016	Home Depot	Miscellaneous	\$64	\$64		\$14	\$50	tools (chisel)	Ex. 7, p. 4
1/5/2017	Sears	Miscellaneous	\$77	\$77		\$77	\$0	tools (miter Saw guide)	Ex. 7, p. 5
8/10/2016	Calply	Miscellaneous	\$50	\$50		\$299	\$50	car repair	Ex. 7, p. 6
12/11/2015	TLC Glass	Windshield	\$299	\$299		\$299	\$0	tools (rotating handle, 5 amp electrical cut out, etc)	Ex. 7, p. 14
10/27/2015	Harbor Freight Tools	Tools	\$79	\$79		\$79	\$0	tools (rotating handle, 5 amp electrical cut out, etc)	Ex. 7, p. 20
8/31/2015	Lowe's	Tools	\$76	\$76		\$76	\$0	tools (dremel)	Ex. 7, p. 20
11/18/2015	Home Depot	Miscellaneous	\$54	\$54			\$54		Ex. 7, p. 21
unreadable	Office Max	Miscellaneous	\$41	\$41		\$41	\$0	can't read date	Ex. 7, p. 22
7/28/2015	Harbor Freight Tools	Tools	\$232	\$232		\$232	\$0	tools (oil lube, gooseneck wrecking, pry bar, etc)	Ex. 7, p. 22
7/17/2016	Harbor Freight Tools	Tools	\$71	\$71		\$71	\$0	tools	Ex. 7, p. 22
9/21/2015	FedEx Office	Miscellaneous	\$91	\$91			\$91		Ex. 7, p. 25
11/9/2016	Lowe's	Miscellaneous	\$218	\$218			\$218		Ex. 7, p. 25
9/28/2015	City of Oakland Parking	Miscellaneous	\$58	\$0		\$58	\$0	no proof of payment and parking ticket	Ex. 7, p. 26
7/8/2015	Lowe's	Miscellaneous	\$106	\$106		\$76	\$30	tools	Ex. 7, p. 26
9/23/2016	Home Depot	Miscellaneous	\$60	\$60			\$60		Ex. 7, p. 27

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
7/31/2016	Lowe's	Miscellaneous	\$65	\$65			\$65		Ex. 7, p. 27
7/24/2016	Home Depot	Miscellaneous	\$145	\$145			\$145		Ex. 7, p. 28
8/20/2016	Home Depot	Miscellaneous	\$42	\$42			\$42		Ex. 7, p. 28
10/20/2016	Home Depot	Miscellaneous	\$107	\$107			\$107		Ex. 7, p. 28
12/15/2016	Ikea	Miscellaneous	\$94	\$94		\$50	\$44	décor	Ex. 7, p. 29
2/1/2016	KH Plumbing	Ice Maker	\$40	\$40			\$40		Ex. 6, p. 2
10/31/2016	KH Plumbing	Supplies	\$27	\$27			\$27		Ex. 6, p. 3
8/25/2016	American Emperor	Miscellaneous	\$7	\$7			\$7		Ex. 6, p. 4
11/10/2016	One Dollar Only	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 5
2/4/2016	One Dollar Only	Miscellaneous	\$19	\$19			\$19		Ex. 6, p. 5
unreadable	Harbor Freight Tools	Miscellaneous	\$15	\$15			\$15		Ex. 6, p. 5
8/14/2016	Lowe's	Miscellaneous	\$47	\$47			\$47		Ex. 6, p. 5
12/10/2016	Target	Décor	\$17	\$17			\$0	décor	Ex. 6, p. 5
7/23/2016	Center	Hardware	\$3	\$3			\$3		Ex. 6, p. 6
3/30/2015	Lowe's	Landscaping	\$42	\$42	sod		\$0	landscaping	Ex. 6, p. 7
4/26/2016	Home Depot	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 7
12/4/2015	Lowe's	Miscellaneous	\$23	\$23			\$23		Ex. 6, p. 7
9/20/2016	Home Depot	Miscellaneous	\$17	\$17			\$17		Ex. 6, p. 7
10/29/2016	Merritt Chevron	Propane Tank	\$24	\$24			\$24		Ex. 6, p. 8
9/22/2015	City of Oakland Parking	parking	\$8	\$8			\$0	parking fees	Ex. 6, p. 9
10/31/2016	Ikea	décor	\$29	\$29			\$0	décor	Ex. 6, p. 9
11/3/2016	Walgreens	Paper towels	\$9	\$9			\$9		Ex. 6, p. 9
unreadable	Harbor Freight Tools	Miscellaneous	\$38	\$38			\$38		Ex. 6, p. 9
9/17/2015	Lowe's	Miscellaneous	\$34	\$34			\$34		Ex. 6, p. 9
7/4/2016	Home Depot	Miscellaneous	\$49	\$49	drip irrigation	\$23	\$26	portion landscape	Ex. 6, p. 10
4/12/2016	Mission Dollar	Miscellaneous	n/a	\$15			\$0	No invoice	Ex. 6, p. 10
8/2/2016	Lowe's	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 10
8/5/2016	Lowe's	Miscellaneous	\$7	\$7			\$7		Ex. 6, p. 10
12/12/2016	CVS	Miscellaneous	\$23	\$23			\$23		Ex. 6, p. 10
10/27/2016	Home Depot	Miscellaneous	\$37	\$37			\$37		Ex. 6, p. 11
12/1/2015	Mt Pueblo	Food	\$14	\$14			\$0	water	Ex. 6, p. 11
1/16/2016	Dollar Store	unreadable	n/a	\$11			\$0	No invoice	Ex. 6, p. 11
4/3/2016	One Dollar Only	Food	\$3	\$3			\$0	food	Ex. 6, p. 11
1/24/2016	Lowe's	Miscellaneous	\$10	\$10			\$10		Ex. 6, p. 11
9/13/2016	Home Depot	Miscellaneous	\$16	\$16			\$16		Ex. 6, p. 12
8/29/2016	Lowe's	Tools	\$21	\$21			\$0	tools	Ex. 6, p. 12
11/11/2015	Lowe's	Tools	\$5	\$5			\$5		Ex. 6, p. 13
9/4/2015	Discount Builders	Tools	\$9	\$9		\$5	\$4	tools	Ex. 6, p. 13
unreadable	Lowe's	Tools	\$31	\$31			\$0	tools	Ex. 6, p. 13
unreadable	Office Max	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 14
11/21/2016	Home Depot	Miscellaneous	\$3	\$3			\$3		Ex. 6, p. 14
11/22/2016	Home Depot	Tools	\$11	\$11			\$0	tools	Ex. 6, p. 14
1/3/2016	Ashby Lumber	Hardware	\$3	\$3			\$3		Ex. 6, p. 14
unreadable	Dollar Tree Store	Miscellaneous	\$25	\$25			\$0	tools and food	Ex. 6, p. 14
1/21/2016	Lowe's	Key	\$2	\$2			\$0	car key	Ex. 6, p. 15
3/8/2016	Lowe's	Keys	\$8	\$8			\$0	car keys	Ex. 6, p. 15
10/14/2015	Office Max	Miscellaneous	unreadable	unreadable			\$0	unreadable	Ex. 6, p. 15
6/27/2016	Home Depot	Miscellaneous	\$8	\$8			\$8		Ex. 6, p. 15
unreadable	Home Depot	unreadable	\$15	\$15			\$0	unreadable	Ex. 6, p. 16
2/18/2016	Home Depot	drywall	\$12	\$12			\$12		Ex. 6, p. 16

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
2/18/2016	Home Depot	Miscellaneous	\$26	\$26			\$26		Ex. 6, p.16
5/17/2016	Home Depot	Miscellaneous	\$17	\$17			\$17		Ex. 6, p.17
10/12/2016	One Dollar Only	Miscellaneous	n/a	\$33			\$0	No invoice	Ex. 6, p.17
10/13/2016	Home Depot	Miscellaneous	\$5	\$5			\$5		Ex. 6, p.17
unreadable	Mission Dollar	Miscellaneous	n/a	\$12			\$0	No invoice	Ex. 7, p.3
10/20/2015	Home Depot	Tools	\$11	\$11			\$0	tools	Ex. 7, p.3
12/3/2015	Ace Hardware	Tools	\$15	\$15			\$2	tools	Ex. 7, p.3
9/22/2015	Office Max	Miscellaneous	\$10	\$10		\$13	\$10		Ex. 7, p.3
9/8/2015	Lowe's	Miscellaneous	\$8	\$8			\$8		Ex. 7, p.3
1/28/2016	Ace Hardware	Hardware	\$1	\$1			\$1		Ex. 7, p.4
11/16/2015	Walgreens	Batteries	\$4	\$4			\$4		Ex. 7, p.4
1/28/2016	Rubenstein	Miscellaneous	\$7	\$7			\$7		Ex. 7, p.7
1/28/2016	Rubenstein	Miscellaneous	\$11	\$11			\$11		Ex. 7, p.8
1/27/2016	Harbor Freight Tools	Tools	\$15	\$15			\$0	tools	Ex. 7, p.8
1/29/2016	Ashby Lumber	Miscellaneous	\$7	\$7			\$7		Ex. 7, p.9
8/6/2015	Center	Miscellaneous	\$4	\$4			\$4		Ex. 7, p.10
1/21/2016	Center	Hardware	\$10	\$10			\$10		Ex. 7, p.11
3/31/2016	Ashby Lumber	Miscellaneous	\$7	\$7			\$7		Ex. 7, p.12
8/24/2015	Lowe's	Miscellaneous	\$29	\$29			\$29		Ex. 7, p.13
12/30/2016	American Emperor	Miscellaneous	\$37	\$37			\$37		Ex. 7, p.15
9/16/2015	One Dollar Only	Miscellaneous	n/a	\$40			\$0	No invoice	Ex. 7, p.16
1/13/2016	Bayshore Builders	Miscellaneous	\$10	\$10			\$10		Ex. 7, p.16
2/19/2016	Home Depot	Miscellaneous	\$10	\$10		\$3	\$7	drinks	Ex. 7, p.17
5/7/2015	Center	Miscellaneous	\$1	\$1			\$1		Ex. 7, p.18
10/4/2016	Lowe's	Miscellaneous	\$17	\$17			\$17		Ex. 7, p.19
2/10/2016	Ashby Lumber	Miscellaneous	\$26	\$26			\$26		Ex. 7, p.19
2/19/2016	Home Depot	Miscellaneous	\$20	\$20			\$15	water	Ex. 7, p.20
10/20/2016	Los 3 Potrilos	Food	\$33	\$33		\$4	\$0	food	Ex. 7, p.20
12/21/2015	Office Max	Paper	\$9	\$9			\$9		Ex. 7, p.20
10/13/2015	Office Max	Miscellaneous	\$26	\$26			\$26		Ex. 7, p.21
8/7/2016	Home Depot	Tools	\$31	\$31			\$0	Tools	Ex. 7, p.21
7/21/2016	Lowe's	Miscellaneous	\$28	\$28			\$28		Ex. 7, p.21
unreadable	Office Max	Miscellaneous	\$41	\$41			\$41		Ex. 7, p.22
2/1/2016	KH Plumbing	Ice Maker	\$40	\$40			\$40		Ex. 7, p.23
unreadable	Office Max	Miscellaneous	\$5	\$5			\$5	unreadable	Ex. 7, p.23
12/17/2016	Digital Prints	Miscellaneous	unreadable	unreadable			\$0		Ex. 7, p.24
8/8/2016	Lowe's	Miscellaneous	\$15	\$15			\$15		Ex. 7, p.25
12/2/2015	Ace Hardware	Miscellaneous	\$15	\$15			\$15		Ex. 7, p.25
12/3/2015	Ace Hardware	Miscellaneous	\$19	\$19			\$19		Ex. 7, p.26
8/18/2015	Discount Builders	Miscellaneous	\$33	\$33			\$33		Ex. 7, p.26
7/31/2016	One Dollar Only	Miscellaneous	n/a	\$21			\$0	No invoice	Ex. 7, p.27
7/29/2016	Lowe's	Miscellaneous	\$34	\$34			\$34		Ex. 7, p.27
9/21/2016	Home Depot	Miscellaneous	\$23	\$23			\$23		Ex. 7, p.27
unreadable	One Dollar Only	Miscellaneous	n/a	\$27			\$0	No invoice	Ex. 7, p.28
unreadable	One Dollar Only	Miscellaneous	unreadable	\$3			\$0	unreadable	Ex. 7, p.28
12/20/2016	Home Depot	Miscellaneous	\$23	\$23			\$23		Ex. 7, p.29
11/20/2016	Home Depot	Hardware	\$34	\$34			\$34		Ex. 7, p.29
12/11/2015	Lowe's	Miscellaneous	\$21	\$21			\$21		Ex. 7, p.29
Miscellaneous Subtotal:			\$4,793	\$4,898			\$2,775		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
8/12/2016	Owner Category: Insulation Home Depot	Insulation	\$92	\$92			\$92		Ex. 8, p. 2
7/21/2016	SDI Insulation	Insulation	\$4,677	\$0			\$0	no proof of payment	Ex. 8, p. 3
5/31/2016	Home Depot	Insulation	\$49	\$49			\$49		Ex. 8, p. 2
6/8/2016	Home Depot	Insulation	\$135	\$135			\$135		Ex. 8, p. 3
	Insulation Subtotal:		\$4,953	\$276			\$276		
8/25/2016	Owner Category: Tile Best Tile	Tile	\$65	\$65			\$65		Ex. 9, p. 2
10/11/2016	Home Depot	Tile	\$146	\$146			\$146		Ex. 9, p. 2
6/10/2016	Home Depot	Tile	\$192	\$192			\$192		Ex. 9, p. 3
10/20/2016	UniStone	Tile	\$474	\$474			\$474		Ex. 9, p. 4
10/6/2016	Home Depot	Tile	\$106	\$106			\$106		Ex. 9, p. 5
10/22/2016	Home Depot	Tile	\$100	\$100			\$100		Ex. 9, p. 5
10/16/2016	Home Depot	Tile	\$74	\$74			\$74		Ex. 9, p. 5
10/6/2016	Home Depot	Tile	\$224	\$224		\$4	\$220	tools (trowel)	Ex. 9, p. 5
10/14/2016	Best Tile	Tile	\$142	\$142			\$142		Ex. 9, p. 6
10/16/2016	Home Depot	Tile	\$72	\$72			\$72		Ex. 9, p. 6
10/14/2016	UniStone	Tile	\$294	\$294			\$294		Ex. 9, p. 7
6/20/2016	Home Depot	Tile	\$91	\$91			\$91		Ex. 9, p. 7
10/26/2016	UniStone	Tile	\$334	\$334			\$334		Ex. 9, p. 8
10/27/2016	Home Depot	Tile	\$98	\$98		\$9	\$89	water	Ex. 9, p. 8
8/31/2016	Home Depot	Tile	\$179	\$0			\$0	no proof of payment	Ex. 9, p. 9
11/23/2016	Home Depot	Tile	\$53	\$53		\$44	\$10	tools (hole saw kit)	Ex. 9, p. 10
11/1/2016	Home Depot	Tile	\$69	\$69			\$69		Ex. 9, p. 11
10/23/2016	Home Depot	Tile	\$95	\$95			\$95		Ex. 9, p. 11
10/17/2016	Home Depot	Tile	\$183	\$183			\$183		Ex. 9, p. 11
10/17/2016	Home Depot	Tile	unreadable	unreadable			\$0	unreadable	Ex. 9, p. 12
8/7/2016	Home Depot	Tile	\$145	\$145			\$145		Ex. 9, p. 12
10/19/2016	Home Depot	Tile	\$126	\$126			\$126		Ex. 9, p. 12
10/28/2016	Home Depot	Tile	\$69	\$69			\$69		Ex. 9, p. 12
10/27/2016	UniStone	Tile	\$304	\$304			\$304		Ex. 9, p. 13
10/25/2016	UniStone	Tile	\$132	\$132			\$132		Ex. 9, p. 14
10/21/2016	Home Depot	Tile	\$49	\$49			\$49		Ex. 9, p. 2
10/27/2016	UniStone	Tile	\$6	\$6			\$6		Ex. 9, p. 3
10/27/2016	Home Depot	Tile	\$24	\$24			\$24		Ex. 9, p. 4
10/25/2016	Home Depot	Tile	\$53	\$53			\$53		Ex. 9, p. 14
6/23/2016	Home Depot	Tile	\$26	\$26			\$26		Ex. 9, p. 6
11/15/2016	Home Depot	Tile	\$13	\$13			\$13		Ex. 9, p. 9
11/1/2016	Granite Expo	Tile	\$26	\$26			\$26		Ex. 9, p. 10
12/10/2016	Home Depot	Tile	\$16	\$16			\$16		Ex. 9, p. 11
11/10/2016	Home Depot	Tile	\$34	\$34			\$34		Ex. 9, p. 13
	Tile Subtotal:		\$4,014	\$3,835			\$3,778		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence	
Owner Category: Curtains/Rods										
12/19/2016	Target	Curtains	\$413	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 2-3	
12/19/2016	Target	Curtain Rods	\$160	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp. 4-5	
12/19/2016	Target	Curtain Rods	\$224	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 6-7	
12/19/2016	Target	Curtain Rods	\$142	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 8-9	
12/9/2016	Target	Curtain Rods	\$176	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 10-11	
3/10/2017	Target	Curtain Rods	\$54	\$54			\$0	curtains and rods	Ex. 10, p 12	
			\$1,168	\$54			\$0			
			Curtains: subtotal							

Owner Category: Plumbing									
12/11/2015	Lowe's	Plumbing	\$52	\$52			\$0	Tools (bernzomatic)	Ex. 11, p. 2
2/23/2016	KH Plumbing Supply	Plumbing	\$94	\$94			\$94		Ex. 11, p. 3
12/7/2015	KH Plumbing Supply	Plumbing	\$404	\$404			\$404		Ex. 11, p. 4
12/11/2015	KH Plumbing Supply	Plumbing	\$140	\$140			\$140		Ex. 11, p. 5
12/10/2015	KH Plumbing Supply	Plumbing	\$178	\$178			\$178		Ex. 11, p. 6
12/9/2015	KH Plumbing Supply	Plumbing	\$49	\$49			\$49		Ex. 11, p. 7
12/9/2015	KH Plumbing Supply	Plumbing	\$74	\$74			\$74		Ex. 11, p. 8
2/23/2016	KH Plumbing Supply	Plumbing	\$18	\$18			\$18		Ex. 11, p. 9
12/4/2015	KH Plumbing Supply	Plumbing	\$22	\$22			\$22		Ex. 11, p. 10
12/8/2015	KH Plumbing Supply	Plumbing	\$130	\$130			\$130		Ex. 11, p. 11
12/8/2015	Pace Supply	Plumbing	\$51	\$51			\$51		Ex. 11, p. 12
12/2/2015	Globe Plumbing Center	Plumbing	\$70	\$70			\$70		Ex. 11, p. 13
1/7/2016	Center	Plumbing	\$2	\$2			\$2		Ex. 11, p. 14
1/5/2016	KH Plumbing Supply	Plumbing	\$59	\$59			\$59		Ex. 11, p. 15
12/4/2015	KH Plumbing Supply	Plumbing	\$146	\$146			\$146		Ex. 11, p. 16
12/18/2015	KH Plumbing Supply	Plumbing	\$32	\$32			\$32		Ex. 11, p. 17
10/18/2016	American Emperor	Plumbing	\$152	\$152			\$152		Ex. 11, p. 18
12/9/2015	KH Plumbing Supply	Plumbing	\$74	\$74			\$74		Ex. 11, p. 19
3/4/2016	KH Plumbing Supply	Plumbing	\$121	\$121			\$121		Ex. 11, p. 20
2/25/2016	KH Plumbing Supply	Plumbing	\$73	\$73			\$73		Ex. 11, p. 21
2/25/2016	KH Plumbing Supply	Plumbing	\$43	\$43			\$43		Ex. 11, p. 22
1/5/2016	KH Plumbing Supply	Plumbing	\$33	\$33			\$33		Ex. 11, p. 23
1/5/2016	KH Plumbing Supply	Plumbing	\$137	\$137			\$137		Ex. 11, p. 24
1/6/2016	KH Plumbing Supply	Plumbing	\$173	\$173			\$173		Ex. 11, p. 25

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
12/3/2015	Cal Steam	Plumbing	\$56	\$56		\$39	\$17	Tools (hole saws)	Ex. 11, p. 26
3/1/2016	KH Plumbing Supply	Plumbing	\$176	\$176			\$176		Ex. 11, p. 27
6/13/2016	Home Depot	Plumbing	\$2	\$2			\$2		Ex. 11, p. 27
6/14/2016	KH Plumbing Supply	Plumbing	\$398	\$398			\$398		Ex. 11, p. 28
		Plumbing Subtotal:	\$2,958	\$2,958			\$2,867		
		Owner Category: Hot Water							
11/16/2016	Home Depot	Hot Water	\$30	\$30			\$30		Ex. 12, p. 2
6/15/2016	Home Depot	Hot Water	\$14	\$14			\$14		Ex. 12, p. 2
11/2/2016	American Emperor	Hot Water	\$174	\$174			\$174		Ex. 12, p. 3
11/15/2016	Home Depot	Hot Water	\$87	\$87			\$87		Ex. 12, p. 3
11/6/2016	Home Depot	Hot Water	\$26	\$26			\$26		Ex. 12, p. 4
11/3/2016	American Emperor	Hot Water	\$100	\$100			\$100		Ex. 12, p. 4
6/15/2016	Calply	Hot Water	\$36	\$36			\$36		Ex. 12, p. 5
11/2/2016	Lowe's	Hot Water	\$1,297	\$1,297			\$1,297		Ex. 12, p. 5
9/9/2016	Home Depot	Hot Water	\$12	\$12			\$12		Ex. 12, p. 6
11/4/2016	American Emperor	Hot Water	\$117	\$117			\$117		Ex. 12, p. 6
11/2/2016	Home Depot	Hot Water	\$3	\$3			\$3		Ex. 12, p. 7
11/21/2016	American Emperor	Hot Water	\$72	\$72			\$72		Ex. 12, p. 7
		Hot Water Subtotal:	\$1,968	\$1,968			\$1,968		
		Owner Category: Trim							
10/5/2016	Lowe's	Trim	\$21	\$21			\$21		Ex. 13, p. 2
12/13/2016	Home Depot	Trim	\$40	\$40			\$40		Ex. 13, p. 2
10/16/2016	Home Depot	Trim	\$428	\$428			\$428		Ex. 13, p. 3
12/12/2016	Home Depot	Trim	\$137	\$137			\$137		Ex. 13, p. 4
12/7/2016	Home Depot	Trim	\$89	\$89			\$89		Ex. 13, p. 4
10/4/2016	Home Depot	Trim	\$30	\$30		\$7	\$23	Tools	Ex. 13, p. 4
12/12/2016	Home Depot	Trim	\$29	\$29			\$29		Ex. 13, p. 4
11/8/2016	Home Depot	Trim	\$118	\$118			\$118		Ex. 13, p. 5
11/14/2016	Home Depot	Trim	\$267	\$267			\$267		Ex. 13, p. 5
11/14/2016	Home Depot	Trim	\$139	\$139			\$139		Ex. 13, p. 5
12/7/2016	Home Depot	Trim	\$96	\$96		\$77	\$19	Tools (brad nailer)	Ex. 13, p. 5
11/7/2016	Home Depot	Trim	\$43	\$43			\$43		Ex. 13, p. 6
11/7/2016	Home Depot	Trim	\$31	\$31			\$31		Ex. 13, p. 6
11/7/2016	Home Depot	Trim	\$29	\$29			\$29		Ex. 13, p. 6
11/16/2016	Home Depot	Trim	\$105	\$105			\$105		Ex. 13, p. 6
		Trim Subtotal:	\$1,601	\$1,601			\$1,518		
		Owner Category: Electrical							
3/25/2016	Bayshore Supply	Electrical	\$171	\$171			\$171		Ex. 14, p. 2
3/28/2016	American Emperor	Electrical	\$11	\$11			\$11		Ex. 14, p. 3
1/25/2016	American Emperor	Electrical	\$82	\$82			\$82		Ex. 14, p. 4
11/2/2016	Lowe's	Electrical	\$55	\$55			\$55		Ex. 14, p. 4
1/18/2016	Bayshore Supply	Electrical	\$36	\$36			\$36		Ex. 14, p. 5
4/1/2016	Bayshore Supply	Electrical	\$21	\$21			\$21		Ex. 14, p. 6
3/28/2016	American Emperor	Electrical	\$836	\$836			\$836		Ex. 14, p. 7
3/31/2016	American Emperor	Electrical	\$4	\$4			\$4	credit	Ex. 14, p. 8
unreadable	American Emperor	Electrical	\$145	\$145			\$145		Ex. 14, p. 9
unreadable	American Emperor	Electrical	\$628	\$628			\$628		Ex. 14, p. 10
10/20/2016	Bayshore Supply	Electrical	\$123	\$123			\$123		Ex. 14, p. 11
3/30/2016	Bayshore Supply	Electrical	\$92	\$92			\$92		Ex. 14, p. 12

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
3/25/2016	Bayshore Supply	Electrical	\$1,882	\$1,882			\$1,882		Ex. 14, p. 13
2/5/2016	Bayshore Supply	Electrical	\$58	\$58			\$58		Ex. 14, p. 14
9/23/2016	Lowe's	Electrical	\$45	\$45			\$45		Ex. 14, p. 15
unreadable	American Emperor	Electrical	\$146	\$146			\$146		Ex. 14, p. 15
1/4/2016	Home Depot	Electrical	\$424	\$424			\$424		Ex. 14, p. 16
3/16/2016	Bayshore Supply	Electrical	\$156	\$156			\$156		Ex. 14, p. 16
4/13/2016	Best Way	Electrical	\$114	\$114			\$114		Ex. 14, p. 17
1/20/2015	Miles Construction	Electrical	\$300	\$0			\$0	no proof of payment (and before permit)	Ex. 14, p. 18
11/4/2016	Home Depot	Electrical	\$6	\$6		\$31	\$0	Tools (voltage tester)	Ex. 14, p. 19
4/1/2016	American Emperor	Electrical	\$202	\$171			\$171	credit	Ex. 14, p. 19
3/25/2016	Bayshore Supply	Electrical	\$171	\$171			\$171		Ex. 14, p. 20
12/3/2015	Home Depot	Electrical	\$89	\$89			\$89		Ex. 14, p. 20
1/20/2016	Electrical Supply	Electrical	\$304	\$304			\$304		Ex. 14, p. 21
8/16/2016	Home Depot	Electrical	\$45	\$45			\$45		Ex. 14, p. 21
1/11/2016	American Emperor	Electrical	\$10	\$10			\$10		Ex. 14, p. 22
11/21/2016	Lowe's	Electrical	\$38	\$38			\$38		Ex. 14, p. 22
unreadable	American Emperor	Electrical	\$212	\$212			\$212		Ex. 14, p. 23
1/27/2016	Home Depot	Electrical	\$170	\$170		\$12	\$158	tools (keyhole saw)	Ex. 14, p. 23
2/23/2016	Bayshore Supply	Electrical	\$17	\$17			\$17		Ex. 14, p. 24
10/14/2016	Home Depot	Electrical	\$68	\$68			\$68		Ex. 14, p. 24
2/25/2016	Bayshore Supply	Electrical	\$10	\$10		\$4	\$5	Tools (nut setter)	Ex. 14, p. 25
11/5/2016	Home Depot	Electrical	\$23	\$23			\$0	Tools (voltage tester)	Ex. 14, p. 25
7/23/2016	Bayshore Supply	Electrical	\$145	\$145			\$145		Ex. 14, p. 26
8/2/2016	Bill Singh	Electrical	\$0	\$1,150		\$1,150	\$0	no invoice	Ex. 14, p. 27
11/17/2016	Home Depot	Electrical	\$62	\$62		\$44	\$18	tools (wire tracer)	Ex. 14, p. 27
12/23/2016	Home Depot	Electrical	\$31	\$31			\$31		Ex. 14, p. 28
3/30/2016	Bill Singh	Electrical	\$0	\$2,500		\$2,500	\$0	no invoice	Ex. 14, p. 28
4/21/2016	Bill Singh	Electrical	\$0	\$611		\$611	\$0	no invoice	Ex. 14, p. 29
unreadable	Fruit Ridge Tools	Electrical	\$132	\$0		\$132	\$0	no proof of payment	Ex. 14, p. 29
Electrical Subtotal:			\$7,181	\$10,862		\$4,483	\$6,512		
Owner Category: Appliances									
11/11/2016	Best Buy	Appliances (range)	\$639	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (range)	\$639	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer)	\$657	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$1,095	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dishwasher)	\$438	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (microwave)	\$142	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (washer)	\$656	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer vent)	\$30	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer cord)	unreadable	see below	includes tax		\$0	Unreadable	Ex. 15, p. 2

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
11/11/2016	Best Buy	Appliances (fridge)	unreadable	see below			\$0	Unreadable and	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (unreadable)	\$33	see below	includes tax		\$0	appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$657	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge delivery)	\$30	see below			\$0	Delivery Charge	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$493	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dishwasher install)	\$33	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (Dishwasher)	\$278	\$6,292			\$0	Appliance	Ex. 15, p. 2
11/18/2016	Home Depot	Appliances (Dishwasher)	\$278	\$278			\$0	Appliance	Ex. 15, p. 3
		Appliances Subtotal:	\$5,927	\$6,570			\$0		
	Owner Category: Stucco								
4/11/2016	Gerbert Lopez	Stucco	\$8,500	\$19,500			\$8,500	No invoice for more than \$8,500	Ex. 16, pp 1-9
		Stucco Subtotal:	\$8,500	\$19,500			\$8,500		
	Owner Category: HVAC								
3/29/2016	Bayshore Supply	HVAC	-\$152	-\$152			-\$152		Ex. 17, p. 1
3/1/2016	Bayshore Supply	HVAC	\$736	\$736			\$736		Ex. 17, p. 2
3/16/2016	Bayshore Supply	HVAC	\$186	\$186			\$186		Ex. 17, p. 3
1/11/2016	American Emperor	HVAC	\$4	\$4			\$4		Ex. 17, p. 4
3/2/2016	American Emperor	HVAC	\$114	\$114			\$114		Ex. 17, p. 5
3/4/2016	American Emperor	HVAC	\$19	\$19			\$19		Ex. 17, p. 6
3/31/2016	American Emperor	HVAC	\$117	\$117			\$117		Ex. 17, p. 7
3/2/2016	Bayshore Supply	HVAC	\$496	\$496			\$496		Ex. 17, p. 8
		HVAC Subtotal:	\$1,520	\$1,520			\$1,520		
	Owner Category: Lumber								
9/19/2016	Lowe's	Lumber	\$121	\$121			\$121		Ex. 18, p. 1
11/17/2015	Home Depot	Lumber	\$198	\$198			\$198		Ex. 18, p. 2
3/29/2016	Ashby Lumber	Lumber	\$69	\$69			\$69		Ex. 18, p. 2
11/15/2015	Lowe's	Lumber	\$191	\$191			\$191		Ex. 18, p. 3
8/19/2015	Lumberman	Lumber	\$13	\$13			\$13		Ex. 18, p. 3
6/29/2016	Home Depot	Lumber	\$166	\$166			\$166		Ex. 18, p. 4
11/13/2016	Ashby Lumber	Lumber	\$105	\$105			\$105		Ex. 18, p. 4
8/20/2015	Lumberman	Lumber	\$51	\$51			\$51		Ex. 18, p. 5
12/15/2016	Home Depot	Lumber	\$614	\$614			\$614		Ex. 18, p. 5
8/13/2016	Home Depot	Lumber	\$281	\$281			\$281		Ex. 18, p. 6
8/27/2016	Golden State Lumber	Lumber	\$89	\$89			\$89		Ex. 18, p. 6
7/20/2016	Lowe's	Lumber	\$159	\$159			\$159		Ex. 18, p. 7
9/9/2015	Golden State Lumber	Lumber	\$114	\$114			\$114		Ex. 18, p. 7
7/27/2016	Home Depot	Lumber	\$116	\$116		\$11	\$105	tools (tape measure)	Ex. 18, p. 8
8/19/2015	Lowe's	Lumber	\$78	\$78			\$78		Ex. 18, p. 8
1/5/2016	Discount Builders	Lumber	\$155	\$155			\$155		Ex. 18, p. 8
11/12/2015	Lowe's	Lumber	\$209	\$209			\$209		Ex. 18, p. 8
1/8/2016	Lowe's	Lumber	\$210	\$210			\$210		Ex. 18, p. 9
1/8/2016	Ashby Lumber	Lumber	unreadable	unreadable			unreadable		Ex. 18, p. 9
7/21/2016	Golden State Lumber	Lumber	n/a	\$390			\$0	no invoice	Ex. 18, p. 10
8/31/2016	Lowe's	Lumber	\$866	\$866			\$866		Ex. 18, p. 10
2/11/2016	Ashby Lumber	Lumber	\$14	\$14			\$14		Ex. 18, p. 11

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
8/15/2016	Home Depot	Lumber	\$28	\$28			\$28		Ex. 18, p. 11
11/17/2015	Ashby Lumber	Lumber	\$457	\$457			\$457		Ex. 18, p. 12
7/26/2016	Lowe's	Lumber	\$50	\$50		\$11	\$40	water	Ex. 18, p. 12
3/31/2016	Ashby Lumber	Lumber	\$24	\$24			\$24		Ex. 18, p. 13
8/1/2016	Lowe's	Lumber	\$113	\$113			\$113		Ex. 18, p. 13
1/15/2016	Ashby Lumber	Lumber	\$34	\$34			\$34		Ex. 18, p. 14
9/22/2016	Lowe's	Lumber	\$68	\$68			\$68		Ex. 18, p. 14
11/23/2015	Home Depot	Lumber	\$16	\$16			\$16		Ex. 18, p. 15
11/12/2015	Economy Lumber	Lumber	\$26	\$26			\$26		Ex. 18, p. 15
7/9/2015	Lowe's	Lumber	\$171	\$171		\$152	\$18		Ex. 18, p. 16
8/26/2015	Golden State Lumber	Lumber	\$440	\$440			\$440		Ex. 18, p. 16
9/9/2015	Golden State Lumber	Lumber	\$196	\$196			\$196	tools (dewalt)	Ex. 18, p. 17
3/29/2016	Lowe's	Lumber	\$1	\$1			\$1		Ex. 18, p. 18
1/14/2016	Ashby Lumber	Lumber	\$72	\$72			\$72		Ex. 18, p. 18
1/21/2016	Lowe's	Lumber	\$108	\$108			\$108		Ex. 18, p. 19
11/16/2015	Home Depot	Lumber	\$63	\$63			\$63		Ex. 18, p. 19
2/18/2016	Lowe's	Lumber	\$90	\$90			\$90		Ex. 18, p. 19
11/17/2015	Lowe's	Lumber	\$428	\$428		\$5	\$422	water	Ex. 18, p. 19
6/30/2016	Lowe's	Lumber	\$8	\$8			\$8		Ex. 18, p. 20
1/13/2016	Lowe's	Lumber	\$261	\$261			\$261		Ex. 18, p. 20
11/17/2015	Lowe's	Lumber	\$90	\$90			\$90		Ex. 18, p. 20
1/15/2016	Lowe's	Lumber	\$433	\$433			\$433		Ex. 18, p. 20
8/17/2015	Lumberman	Lumber	\$262	\$262			\$262		Ex. 18, p. 21
11/17/2015	Lowe's	Lumber	\$120	\$120			\$120		Ex. 18, p. 21
9/23/2016	Ashby Lumber	Lumber	\$191	\$191			\$191		Ex. 18, p. 22
12/1/2015	Lowe's	Lumber	\$269	\$269			\$269		Ex. 18, p. 22
8/15/2016	Home Depot	Lumber	\$63	\$63			\$63		Ex. 18, p. 23
11/17/2015	Ashby Lumber	Lumber	\$61	\$61			\$61		Ex. 18, p. 23
7/29/2016	Lowe's	Lumber	\$346	\$346			\$346		Ex. 18, p. 24
11/17/2015	Ashby Lumber	Lumber	\$61	\$61			\$61		Ex. 18, p. 24
8/19/2016	Lowe's	Lumber	\$13	\$13			\$13		Ex. 18, p. 25
11/12/2015	Economy Lumber	Lumber	\$7	\$7			\$7		Ex. 18, p. 25
6/10/2016	Home Depot	Lumber	\$53	\$53			\$53		Ex. 18, p. 26
12/20/2016	Home Depot	Lumber	\$40	\$40			\$40		Ex. 18, p. 26
12/11/2015	Lowe's	Lumber	\$60	\$60			\$60		Ex. 18, p. 26
7/31/2016	Home Depot	Lumber	\$238	\$238		\$96	\$142	water and tools (diablo 14 pc set, makita gold bit set, extension pole, snips)	Ex. 18, p. 26
unreadable	Home Depot	Lumber	\$27	\$27			\$27		Ex. 18, p. 27
7/18/2016	Home Depot	Lumber	\$81	\$81			\$81		Ex. 18, p. 27
8/18/2015	Lowe's	Lumber	\$103	\$103			\$103		Ex. 18, p. 27
7/18/2015	Lowe's	Lumber	\$94	\$94			\$94		Ex. 18, p. 27
		Lumber Subtotal:	\$9,085	\$9,475			\$8,809		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Labor, Prof Services									
11/6/2015	Pablo Felipe	Demo Work	n/a	\$450			\$0	No invoice, no check	Ex. 19, p. 1
7/17/2015	Pablo Felipe	Demo Work	n/a	\$2,600			\$0	No invoice	Ex. 19, p. 2
12/18/2015	Val Pizzini	Structural Engineer	n/a	\$800			\$0	No invoice	Ex. 19, p. 3
10/12/2016	Jesus Martinez	Loan	n/a	\$500			\$0	No invoice and loan	Ex. 19, p. 3
12/22/2016	Jesus Martinez	Labor	n/a	\$1,020			\$0	No invoice	Ex. 19, p. 4
12/15/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 5
12/9/2016	Jesus Martinez	Labor	n/a	\$689			\$0	No invoice	Ex. 19, p. 6
12/2/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 7
11/29/2016	Jesus Martinez	Labor	n/a	\$300			\$0	No invoice	Ex. 19, p. 8
11/25/2016	Jesus Martinez	Labor	n/a	\$732			\$0	No invoice	Ex. 19, p. 9
11/18/2016	Jesus Martinez	Labor	n/a	\$897			\$0	No invoice	Ex. 19, p. 10
11/10/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 11
11/4/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 12
10/28/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 13
10/21/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 14
10/14/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice and its also a debit receipt without a name on it	Ex. 19, p. 15
10/7/2016	Jesus Martinez	Labor	n/a	\$732			\$0	No invoice	Ex. 19, p. 16
9/30/2016	Jesus Martinez	Labor	n/a	\$851			\$0	No invoice	Ex. 19, p. 17
9/27/2016	Jesus Martinez	Labor	n/a	\$1,000			\$0	No invoice	Ex. 19, p. 18
9/23/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 19
8/5/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 20
5/2/2016	Geber Lopez	Plastering	n/a	\$2,000			\$0	No invoice	Ex. 19, p. 21
Labor Subtotal:			\$0	\$20,051			\$0		
Owner Category: Gas									
3/28/2016	American Emperor	Gas	\$93	\$93			\$93	No invoice	Ex. 19a, p. 1
10/18/2016	American Emperor	Gas	n/a	\$173			\$0	No invoice	Ex. 19a, p. 1
3/14/2016	American Emperor	Gas	\$60	\$60			\$60	No invoice	Ex. 19a, p. 2
3/2/2016	American Emperor	Gas	\$72	\$72			\$72	No invoice	Ex. 19a, p. 3
3/1/2016	American Emperor	Gas	\$168	\$168			\$168	No invoice	Ex. 19a, p. 4
3/3/2016	American Emperor	Gas	\$36	\$36			\$36	No invoice	Ex. 19a, p. 5
3/3/2016	American Emperor	Gas	\$35	\$35			\$35	No invoice	Ex. 19a, p. 6
3/3/2016	American Ace Supply	Gas	\$29	\$29			\$29	No invoice	Ex. 19a, p. 7
7/2/2016	American Ace Supply	Gas	\$34	\$34			\$34	No invoice	Ex. 19a, p. 7
11/2/2016	American Emperor	Gas	\$28	\$28			\$28	No invoice	Ex. 19a, p. 8
3/31/2016	American Emperor	Gas	\$13	\$13			\$13	No invoice	Ex. 19a, p. 9
5/10/2016	Home Depot	Gas	\$13	\$13			\$13	No invoice	Ex. 19a, p. 9
Gas Subtotal:			\$581	\$754			\$581		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Bath									
6/27/2016	Home Depot	Bath	\$174	\$174			\$174		Ex. 20, p. 1
3/31/2016	Home Depot	Bath	\$142	\$142			\$142		Ex. 20, p. 1
11/2/2016	Lowe's	Bath	\$257	\$257			\$257		Ex. 20, p. 1
10/6/2016	Home Depot	Bath	\$9	\$9			\$9		Ex. 20, p. 2
12/22/2015	Unreadable Packing Slip	Bath	unreadable	unreadable			\$0		Ex. 20, p. 2
2/7/2016	Wayfair	Bath	\$116	\$116			\$116		Ex. 20, p. 3
1/6/2016	Home Depot	Bath	\$454	\$454			\$454		Ex. 20, p. 3
		Bath Subtotal:	\$1,153	\$1,153			\$1,153		
Owner Category: Kitchen, Ironwork									
8/31/2016	Xiong Xin Liu	Kitchen	n/a	\$1,650			\$0	No invoice	Ex. 21, p. 1
8/27/2016	East Star Building Supply	Kitchen	\$1,753	\$0	States "unpaid"		\$0	No proof of payment	Ex. 21, p. 2
9/8/2016	East Star Building Supply	Kitchen	\$88	\$0	States "unpaid"		\$0	No proof of payment	Ex. 21, p. 3
8/25/2016	East Star Building Supply	Kitchen	\$64	\$64			\$64		Ex. 21, p. 4
10/16/2016	Lowe's	Kitchen	\$175	\$175			\$175		Ex. 21, p. 5
8/10/2016	East Star Building Supply	Kitchen	\$11	\$11			\$11		Ex. 21, p. 5
2/3/2016	Iron Works	Railing	\$550	\$0			\$0	No proof of payment	Ex. 21, p. 6
		Kitchen/Ironwork Subtotal:	\$2,640	\$1,900			\$250		
Owner Category: Windows									
11/3/2016	Alexander	Windows	\$2,970	\$2,970			\$2,970		Ex. 22, pp. 1-2
10/19/2016	Sherwin Williams	Windows	n/a	\$59			\$0	No invoice	Ex. 22, p. 3
10/19/2016	Sherwin Williams	Windows	n/a	\$93			\$0	No invoice	Ex. 22, p. 3
10/19/2016	Sherwin Williams	Windows	n/a	\$59			\$0	No invoice	Ex. 22, p. 3
		Windows Subtotal:	\$2,970	\$3,180			\$2,970		
Owner Category: Tolls/Travel									
various	Bridge Tolls		\$1,168	\$1,168			\$0	transportation	Ex. 23, pp. 2-14
various	Driving Expenses		\$1,610				\$0	transportation	Ex. 23, p. 1
		Travel/Tolls Subtotal:	\$2,778	\$1,168			\$0		
Owner Category: Sheetrock, Labor									
various	Jorge	Sheetrock	n/a	\$16,500			\$0	no invoice	Ex. 24
		Sheetrock Subtotal:					\$0		
Owner Category: Hardwood Floors									
12/2/2016	Specialty Hardwood	Hardwood Floors	n/a	\$2,739			\$0	no invoice	Ex. 25, p. 1
11/29/2016	Specialty Hardwood	Hardwood Floors	n/a	\$5,000			\$0	no invoice	Ex. 25, p. 2
		Hardwood Floors Subtotal:		\$7,739			\$0		
Owner Category: Construction Insurance									
5/4/2015	Lexington Insurance	Insurance	\$7,249	n/a			\$0	No proof of payment, no insurance	Ex. 26, p. 1
		Insurance Subtotal:	\$7,249	\$0			\$0		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Permits/Fees									
2/10/2016	City of Oakland Business Tax	Fees	\$30	\$30			\$0	no business tax	Ex. 27, p. 1
9/28/2015	City of Oakland Permit Fee	Fees	\$4,369	\$4,369	Job Value=\$80,000		\$4,369		Ex. 27, p. 2, Ex. 34, p. 1
10/15/2015	City of Oakland Permit Fee	Fees	\$2,036	\$2,036	Job Value=\$10,000		\$2,036		Ex. 27, p. 3, Ex. 34, p. 3
Permit/Fees Subtotal:			\$6,435	\$6,435			\$6,405		
Owner Category: General Contractor									
unknown	JTM Development	General Contractor	n/a	\$19,451			\$0	no invoice	Ex. 27, p. 1
3/4/2016	JTM Development	General Contractor	\$24,381	\$24,381			\$24,381		Ex. 27, p. 1, 7
12/10/2015	JTM Development	General Contractor	\$10,198	\$10,198			\$10,198		Ex. 27, p. 1, 5
12/9/2015	JTM Development	General Contractor	\$1,200	\$1,200			\$1,200		Ex. 27, p. 1, 4
12/3/2015	JTM Development	General Contractor	\$8,362	\$8,362			\$8,362		Ex. 27, pp. 2, 8
9/5/2016	JTM Development	General Contractor	\$8,308	n/a			\$8,308	Combined these two invoices and payments	Ex. 27, p. 3
7/1/2016	JTM Development	General Contractor	n/a	\$15,000			\$0		Ex. 28, p. 6
General Contractor Subtotal:			\$52,449	\$78,592			\$52,449		
Owner Category: Fireplace Servicing									
12/15/2016	Kidd Fireplace	Fireplace	\$748	\$748			\$748		Ex. 29, pp. 1-2
12/27/2016	Kidd Fireplace	Fireplace	\$253	\$253			\$253		Ex. 29, p. 3
Fireplace Subtotal:			\$1,001	\$1,001			\$1,001		
Owner Category: Online Purchases									
12/17/2016	Ebay	Fireplace	\$95	\$0			\$0	No proof of payment	Ex. 30, p. 1
unknown	Craigslist	Ladders	\$0	\$0			\$0	No invoice or proof of payment (also, tools)	Ex. 30, p. 1
unknown	Craigslist	Spray Foam	\$333	\$0			\$0	No proof of payment	Ex. 30, p. 1
11/20/2016	Ebay	Caster Wheels	\$3	\$0			\$0	No proof of payment (also furniture)	Ex. 30, p. 2
12/13/2016	Ebay	Carpet Tape	\$14	\$0			\$0	No proof of payment	Ex. 30, p. 2
11/13/2016	Ebay	Extension Kit	\$16	\$0			\$0	No proof of payment	Ex. 30, p. 2
10/20/2016	Ebay	Switch Toggle	\$24	\$0			\$0	No proof of payment	Ex. 30, p. 2
10/19/2016	Ebay	brackets	\$2	\$2			\$0	No proof of payment	Ex. 30, p. 2
11/20/2016	Ebay	Barn Door	\$120	\$0			\$0	No proof of payment	Ex. 30, p. 2
unknown	Ebay	Faucet	\$311	\$0			\$0	No proof of payment	Ex. 30, p. 2
11/20/2016	Amazon	Bulbs	\$20	\$20			\$0	No proof of payment	Ex. 30, p. 3
10/23/2016	Amazon	Shop Towels	\$30	\$30			\$30	Furnishings	Ex. 30, p. 3

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
10/4/2016	Amazon	Outlets	\$98	\$98			\$98		Ex. 30, p. 3
10/18/2016	Amazon	Faucet	\$163	\$163			\$163		Ex. 30, p. 3
11/12/2016	Amazon	Door Hardware	\$210	\$210			\$210		Ex. 30, p. 4
11/27/2016	Amazon	Laptop cord and screw remover	\$26	\$26			\$0	tools	Ex. 30, p. 4
11/23/2016	Amazon	Toilet Plunger	\$33	\$33			\$0	tools	Ex. 30, p. 4
11/12/2016	Amazon	Door Hardware	\$8	\$8			\$8		Ex. 30, p. 4
10/14/2016	Amazon	Electric Hardware	\$136	\$136			\$136		Ex. 30, p. 5
10/11/2016	Amazon	Electric Hardware	\$33	\$33			\$33		Ex. 30, p. 5
9/23/2016	Amazon	Kitchen Hardware	\$4	\$4			\$4		Ex. 30, p. 5
9/12/2016	Amazon	Bulbs	\$7	\$7			\$0	Furnishings	Ex. 30, p. 5
9/25/2016	Amazon	Electric Hardware	\$195	\$195			\$195		Ex. 30, p. 6
8/25/2016	Amazon	Bulbs	\$18	\$18			\$0	Furnishings	Ex. 30, p. 6
8/13/2016	Amazon	Tampons	\$20	\$20			\$0	Personal Items	Ex. 30, p. 6
7/18/2016	Amazon	Curtains	\$26	\$26			\$0	Personal Items	Ex. 30, p. 6
6/16/2016	Amazon	Timer/Hose	\$38	\$38			\$0	Furnishings	Ex. 30, p. 7
6/17/2016	Amazon	Garden Hose	\$7	\$7			\$0	Landscape	Ex. 30, p. 7
6/21/2016	Amazon	Soaker Hose	\$15	\$15			\$0	Landscape	Ex. 30, p. 7
6/16/2016	Amazon	Water timer	\$38	\$38			\$0	Landscape	Ex. 30, p. 7
6/7/2016	Amazon	HDMI cable	\$34	\$34			\$34	Tools	Ex. 30, p. 8
6/12/2015	Amazon	Cleaners	\$34	\$34			\$34		Ex. 30, p. 8
9/24/2015	Amazon	Plumbing	\$199	\$199			\$199		Ex. 30, p. 8
6/4/2015	Amazon	Cleaning Cloths	\$41	\$41			\$0	Personal items (prior to permit)	Ex. 30, p. 9
6/4/2015	Amazon	Cloths and microplane grater	\$22	\$22			\$0	Personal items (prior to permit)	Ex. 30, p. 9
3/12/2015	Amazon	Bulbs	\$9	\$9			\$0	Furnishings	Ex. 30, p. 9
1/16/2015	Amazon	Faucet	\$141	\$141			\$0	prior to permit	Ex. 30, p. 9
12/7/2014	Amazon	Dustpan/Cleaner	\$27	\$27			\$0	prior to permit (and personal items)	Ex. 30, p. 10
12/8/2014	Amazon	Household Supplies	\$36	\$36			\$0	prior to permit and personal items	Ex. 30, p. 10
1/11/2015	Amazon	Stools	\$78	\$78			\$0	Tools	Ex. 30, p. 10
9/3/2014	Amazon	Humidity Monitor	\$33	\$33			\$0	Prior to permit and tools	Ex. 30, p. 11
9/2/2014	Amazon	Moisture Meter	\$27	\$27			\$0	Prior to permit and tools	Ex. 30, p. 11
Online Subtotal:			\$2,724	\$1,808			\$1,146		
Owner Category: Toilet Rental									
6/16/2016	United Site Services	Toilet Rental	\$262	\$0			\$0	No proof of payment	Ex. 31
Toilet Subtotal:			\$262	\$0			\$0		

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Lighting									
10/19/1960	Paypal (Andres Orphanopoulos)	Lighting	\$0	\$90			\$0	No invoice	Ex. 32, p. 1
12/15/2016	Houzz	Lighting	\$54	\$54			\$54		Ex. 32, p. 2
12/19/2016	Home Depot	Blinds	\$56	\$56			\$56		Ex. 32, p. 2
12/16/2016	Home Depot	Lighting	\$180	\$180			\$180		Ex. 32, p. 2
12/4/2016	Lowe's	Lighting	\$60	\$60			\$60		Ex. 32, p. 3
11/9/2016	Lowe's	Lighting	\$124	\$124			\$124		Ex. 32, p. 3
11/1/2016	Lowe's	Lighting	\$135	\$135			\$135		Ex. 32, p. 3
11/28/2016	Lowe's	Lighting	\$43	\$43			\$43		Ex. 32, p. 3
		Lighting Subtotal:	\$653	\$743			\$653		
Owner Category: Miscellaneous									
1/11/2017	Ikea	Miscellaneous	\$96	\$96			\$33	Unknown except lighting fixture	Ex. 33, p. 1
1/13/2017	Home Depot	Misc. Supplies	\$221	\$221			\$221		Ex. 33, p. 1
11/5/2016	Home Depot	Misc. Supplies	\$182	\$182		\$14	\$168	Tools	Ex. 33, p. 2
1/2/2017	Lowe's	Paint	\$40	\$40			\$40		Ex. 33, p. 3
1/11/2017	Home Depot	Electric Hardware	\$8	\$8			\$8		Ex. 33, p. 3
1/17/2017	Home Depot	Hardware	\$25	\$25			\$25		Ex. 33, p. 4
1/14/2017	Lowe's	Paint	\$38	\$38			\$38		Ex. 33, p. 4
1/18/2017	Home Depot	Electric Hardware	\$40	\$40			\$40		Ex. 33, p. 5
1/18/2017	City of Oakland	Parking fees	\$1	\$1			\$0	Parking fees	Ex. 33, p. 6
1/18/2017	City of Oakland	Parking fees	\$1	\$1			\$0	Parking fees	Ex. 33, p. 6
1/17/2017	Home Depot	Hardware	\$67	\$67		\$24	\$42	Tools and candy	Ex. 33, p. 6
7/7/2015	Lowe's	Hardware	\$22	\$22			\$0	Tools	Ex. 33, p. 7
9/23/2016	Pak'n Save	Food	\$14	\$14			\$0	Food	Ex. 33, p. 7
8/2/2016	Lowe's	Hardware	\$53	\$53			\$53		Ex. 33, p. 8
1/9/2017	Home Depot	Electric Hardware/Toilets	\$260	\$260			\$260		Ex. 33, p. 8
1/11/2017	Home Depot	Electrical	\$6	\$6			\$6		Ex. 33, p. 8
1/18/2017	Home Depot	Electrical	\$8	\$8			\$8		Ex. 33, p. 9
3/16/2016	Bayshore Builders	unknown	\$0	\$156			\$0	No invoice	Ex. 33, p. 10
1/17/2017	Home Depot	Handrails	\$47	\$47			\$47		Ex. 33, p. 10
9/22/2016	East Star Building Supply	Vanity	\$944	\$944			\$944		Ex. 33, p. 11
8/13/2016	Bayshore Builders	Auger Bit	\$31	\$31			\$31		Ex. 33, p. 12
8/19/2016	Uni-Stone	Tile	\$4	\$4			\$4		Ex. 33, p. 13
1/9/2017	American Emperor	bolts	\$3	\$3			\$3		Ex. 33, p. 14
3/2/2017	JTM Development	Contractor	\$4,746	\$0			\$0	No proof of payment	Ex. 33, p. 15
		Miscellaneous Subtotal:	\$6,855	\$2,266			\$1,970		
		Total:					\$116,007		

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**City of Oakland
Bureau of Building
Construction Valuation¹
For Building Permits⁴
Effective May 1, 2015**

Planning and Building Department
Dalziel Administration Building
250 Frank Ogawa Plaza - 2nd Floor
Oakland, CA 94612
510-238-3891

Occ.	Description ³	Construction Type	Level Ground		Hillside Construction ²		Marshall & Swift April 2015
			New	Remodel	New	Remodel	
R3	Single Family Residence	V	\$234.17	\$121.77	\$304.42	\$158.30	Section 12 pg 25 (C/e)
	Duplex/Townhouse	V	\$193.69	\$100.72	\$251.79	\$130.93	Section 12 pg 25 (C/vg)
	Factory/Manufactured home	V	\$73.06	\$37.99	\$94.98	\$49.39	Section 63 pg 9 (Exc)
	Finished Habitable Basement Conversion	V	\$124.09	\$64.52	\$161.31	\$83.88	Section 12 pg 26 (CDS/g)
	Convert non-habitable to habitable	V	N/A	\$48.57	N/A	\$63.14	Section 12 pg 26 (CDS/g)
	Partition Walls	V	N/A	\$17.23	N/A	\$22.39	Section 52 pg. 2 (6" wall)
	Foundation Upgrade (l.f.)	V	\$107.90	NA	\$140.27	NA	Section 51 pg. 2 (R/24x72.)
	Patio/Porch Roof	V	\$27.76	\$14.43	\$36.08	\$18.76	Section 66 pg 2 (Wood)
	Ground Level Decks	V	\$33.80	\$17.58	\$43.94	\$22.85	Section 66 pg 2 (100sf/avg)
	Elevated Decks & Balconies	V	\$44.14	\$22.95	\$57.38	\$29.84	Section 66 pg 2 (100sf/+1 story)
U1	Garage	V	\$43.30	\$22.52	\$56.29	\$29.27	Section 12 pg 35 (C/a600)
	Carport	V	\$28.74	\$14.95	\$37.37	\$19.43	Section 12 pg 35 (D/a4car)
	Retaining wall (s.f.)	III	\$35.75	NA	\$46.48	NA	Section 55 pg 3 (12"reinf./h)
R2	Apartment (>2 units)	I & II	\$191.10	\$99.37	\$248.43	\$129.18	Section 11 pg 18 (B/g)
		III	\$149.01	\$77.48	\$193.71	\$100.73	Section 11 pg 18 (Dmill/g)
		V	\$145.07	\$75.43	\$188.59	\$98.07	Section 11 pg 18 (D/g)
Non-Residential Occupancy							
A	Church/Auditorium	I & II	\$301.54	\$156.80	\$392.00	\$203.84	Section 16 pg 9 (B/g)
		III	\$220.22	\$114.51	\$286.29	\$148.87	Section 16 pg 9 (B/a)
		V	\$203.15	\$105.64	\$264.10	\$137.33	Section 16 pg 9 (S/g)
A	Restaurant	I & II	\$260.56	\$135.49	\$338.73	\$176.14	Section 13 pg 14 (A-B/g)
		III	\$200.51	\$104.27	\$260.67	\$135.55	Section 13 pg 14 (C/g)
		V	\$188.49	\$98.01	\$245.03	\$127.42	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	\$144.99	\$75.39	\$188.49	\$98.01	Section 13 pg 17 (C/a)
B	Bank	I & II	\$258.31	\$134.32	\$335.80	\$174.62	Section 15 pg 21 (B/a)
		III	\$206.61	\$107.44	\$268.59	\$139.67	Section 15 pg 21 (C/a)
		V	\$194.87	\$101.33	\$253.33	\$131.73	Section 15 pg 21 (D/a)
B	Medical Office	I & II	\$289.61	\$150.60	\$376.50	\$195.78	Section 15 pg 22 (A/g)
		III	\$281.19	\$146.22	\$365.55	\$190.08	Section 15 pg 22 (B/g)
		V	\$227.88	\$118.50	\$296.24	\$154.04	Section 15 pg 22 (C/g)
B	Office	I & II	\$191.17	\$99.41	\$248.51	\$129.23	Section 15 pg 17 (B/a)
		III	\$137.10	\$71.29	\$178.23	\$92.68	Section 15 pg 17 (C/a)
		V	\$130.01	\$67.61	\$169.02	\$87.89	Section 15 pg 17 (D/a)
E	School	I & II	\$244.37	\$127.07	\$317.69	\$165.20	Section 18 pg 14 (A-B/g)
		III	\$188.85	\$98.20	\$245.51	\$127.66	Section 18 pg 14 (C/g)
		V	\$181.97	\$94.63	\$236.57	\$123.01	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	\$212.03	\$110.26	\$275.64	\$143.33	Section 14 pg 33 (MSG 527C/e)
		III	\$205.70	\$106.96	\$267.41	\$139.05	Section 14 pg 33 (MLG 423C/e)
		V	\$197.94	\$102.93	\$257.32	\$133.81	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	\$215.02	\$111.81	\$279.53	\$145.35	Section 15 pg 22 (B/a)
		III	\$172.71	\$89.81	\$224.52	\$116.75	Section 15 pg 22 (C/a)
		V	\$165.20	\$85.91	\$214.77	\$111.68	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	\$168.68	\$87.71	\$219.28	\$114.02	Section 13 pg 26 (A/g)
		III	\$134.90	\$70.15	\$175.37	\$91.19	Section 13 pg 26 (C/g)
		V	\$127.88	\$66.50	\$166.25	\$86.45	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	\$180.88	\$94.06	\$235.15	\$122.28	Section 14 pg 15 (B/a)
		III	\$141.69	\$73.68	\$184.19	\$95.78	Section 14 pg 15 (C/a)
		V	\$126.46	\$65.76	\$164.40	\$85.49	Section 14 pg 15 (D/a)
S	Warehouse	I & II	\$112.65	\$58.58	\$146.44	\$76.15	Section 14 pg 26 (A/g)
		III	\$105.50	\$54.86	\$137.14	\$71.31	Section 14 pg 26 (B/g)
		V	\$103.45	\$53.80	\$134.49	\$69.93	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	\$89.44	\$46.51	\$116.27	\$60.46	Section 14 pg 34 (A/g)

¹ Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); includes 1.3 regional multiplier (see Sec. 99 pg 6 April 2015 Marshall & Swift)

² Hillside construction = slope >20%; multiply by additional 1.3 multiplier

³ Remodel Function of New Construction is a 0.52 multiplier.

⁴ Separate structures or occupancies valued separately.

⁵ Separate fees assessed for E/P/M permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

Exhibit "B"

000090

PROOF OF SERVICE

Case Number L16-0094

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

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

Tenants

Alisa Highfill
3515 Brighton Ave #1
Oakland, CA 94602

Bernadette Quattrone
3515 Brighton Ave #1
Oakland, CA 94602

Collin Quillian
3515 Brighton Ave #1
Oakland, CA 94602

Marvin Gleaton
3515 Brighton Ave #2
Oakland, CA 94602

Steve Arnwine
3515 Brighton Ave #3
Oakland, CA 94602

Taylor Campion
3515 Brighton Ave #3
Oakland, CA 94602

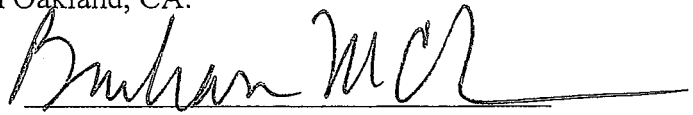
Owner

William Wiebe
278 Connecticut St
San Francisco, CA 94107

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

000091

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 05, 2017 in Oakland, CA.

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

Barbara M. Cohen

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

For date stamp.

RECEIVED
 CITY OF OAKLAND
 RENT ARBITRATION PROGRAM

2016 DEC 19 PM 3:44

LANDLORD PETITION
FOR CERTIFICATE OF EXEMPTION
 (OMC §8.22.030.B)

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name WILLIAM WIEBE		Complete Address (with zip code)		Telephone Day: 415 994-3647	
Your Representative's Name		Complete Address (with zip code)		Telephone Day:	
Property Address 3515 Brighton Ave Oakland CA 94602				Total number of units in bldg or parcel. 3	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	Apartment or Room		
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No		
Assessor's Parcel No. 23-488-14					

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt.

NO Tenants. Currently vacant for 2+ years

Section 3. Claim(s) of Exemption: A Certificate of Exemption may be granted only for dwelling units that are permanently exempt from the Rent Adjustment Ordinance.

New Construction: This may apply to individual units. The unit was newly constructed and a certification of occupancy was issued for it on or after January 1, 1983.

Substantial Rehabilitation: This applies only to entire buildings. An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), 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 a notice of rent increase under 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 current 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?
8. When did the tenant move into the unit?

I (We) petition for exemption on the following grounds (Check all that apply):

	New Construction
✓	Substantial Rehabilitation
	Single Family Residence or Condominium (Costa-Hawkins)

Section 4.
must sign this

Verification Each petitioner section.

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

Walter K. Webb
Owner's Signature

12/19/2016
Date

Owner's Signature

Date

Important Information

Burden of Proof The burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

File Review Your tenant(s) will be given the opportunity to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only. For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the tenant's response time before scheduling a file review.

Will provide supplemental documents of expenses prior to hearing.

CHRONOLOGICAL CASE REPORT

Case No.: L16-0048

Case Name: Truckee Zurich Place LLC v. Tenants

Property Address: 695-701 30th St., 4 units, Oakland, CA

Parties:

Justin Wallway	(Owner)
Briannah Wilson	(Tenant)
Clinton Womach	(Tenant)
Colleen Saver	(Tenant)
Elizabeth Garcia	(Tenant)
Grant Rich	(Tenant)
Helen Corley	(Tenant)
Helene Papaloukas	(Tenant)
Johanna Sprague	(Tenant)
Waylan Russell	(Tenant)
Joshua Shepherd	(Tenant)
Marc Lichterman	(Tenant)
Remy Beatty	(Tenant)
Julia Langer	(Tenant)
Thomas Deckert	(Tenant)
Lawrence Edwards	(Tenant)

OWNER APPEAL

<u>Activity</u>	<u>Date</u>
Owner Petition filed	July 14, 2016
Tenant Responses filed	August 21, 2016 August 24, 2016
Corrected Hearing Decision issued	April 3, 2017
Owner Appeal filed	April 21, 2017

000095

2017 APR 21 PM 2:55

APPEAL

City of Oakland Residential Rent Adjustment Program 100 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (415) 238-3721	
--	--

Petitioner's Name TRUCKEE ZURICH PLACE, LLC	Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>
--	--

Property Address (Include Unit Number) 695-701 30th STREET, OAKLAND, CA.

Petitioner's Mailing Address (For receipt of notices) 3871 PIEDMONT AVE, #311 OAKLAND, CA. 94611	Case Number 116-0048
	Date of Decision appealed APRIL 3, 2017

Name of Representative (if any) JUSTIN WALLWAY	Representative's Mailing Address (For notices) 3871 PIEDMONT AVE #311 OAKLAND, CA. 94611
---	--

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.)

- 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.
- 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.
- 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.
- The decision is not supported by substantial evidence. You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
- I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.
- 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 APRIL 21st, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	(SEE PROOF OF SERVICE CASE #116-0048)
Address	ATTACHED
City, State Zip	
Name	
Address	
City, State Zip	

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE 21 APRIL 2017
--	---------------------------

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.

PROOF OF SERVICE

Case Number L16-0048

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

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

Tenants

Briannah Wilson
697 30th St
Oakland, CA 94609

Clinton Womach
701 30th St
Oakland, CA 94609

Colleen Saver
695 30th St
Oakland, CA 94609

Elly Garcia
701 30th St
Oakland, CA 94609

Grant Rich
697 30th St
Oakland, CA 94609

Helen Corley
695 30th St
Oakland, CA 94609

Helene Papaloukas
697 30th St
Oakland, CA 94609

Johanna Sprague
701 30th St
Oakland, CA 94609

Owner

Truckee Zurich Place LLC
3871 Piedmont Ave #311
Oakland, CA 94611

Case Number: L16-0048, Truckee Zurich Place, LLC v. Tenants

Property Address: 695-701 30th Street, Oakland, CA

Date of Decision: April 3, 2017

Issue: Is the subject building exempt from the Rent Adjustment Ordinance on the basis of "Substantial Rehabilitation"?

Appeal #7 Other:

In reviewing the decision, there are a number of misinterpretations that ultimately lead to the wrong decision.

First, the Evidence is *incorrect* in stating that JDW Enterprises, Inc. is the contractor as well as the owner of the property. The property is owned by Truckee Zurich Place, LLC. Truckee Zurich Place, LLC contracted with JDW Enterprises, Inc. (A California Licensed General Contractor, independent legal entity, and business with a separate City of Oakland business license that paid City of Oakland Business Tax based upon the revenue from this project) to provide construction and rehabilitation services on the property. While JDW Enterprises, Inc. and Truckee Zurich Place, LLC have some common ownership, they operate independently.

In this case, Truckee Zurich Place, LLC contracted with JDW Enterprises, Inc. on a Lump Sum Contract for \$455,000 dated September 9, 2008 (Exhibit #6). In the case of a lump sum contract, the contract defines the cost and scope of the work. The copies of the cashed checks that were provided are proof of payment on the contract (Exhibit #10). With a lump sum contract, the general contractor is not required to provide any further documentation on the cost of the work. The contractor does the work. The owner pays the price.

To further substantiate the value of the work completed, the Owner provided a bid for the work from another general contractor, KD Builders (Exhibit #5) for \$484,550 dated September 19, 2008.

Second, under the Finding of Fact and Conclusions of the Law, the ruling states that the work must be completed in a two year period as required unless the owner shows good cause for the work to exceed (2) years.

The owner had good cause as the work was substantial and the owner was not in a position to pay for the work all at once. Financing options were very limited during this period of time due to the financial crisis. Thus, the work was done in stages. The information provided shows that almost the entirety of the work *was completed* within 2 years of the various permits that were pulled in 2009 and 2015 as referenced in the Exhibit #9.

In this case, there were numerous permit payments shown (exhibit #9, Cost Code 5157 Permits-government) on the following dates:

1/17/2009 – Cost of Goods Sold - \$5157 Permits-Government - \$3800.24

3/12/2009 – Cost of Goods Sold - \$5157 Permits-Government - \$794.18

5/27/2009 – Cost of Goods Sold - \$5157 Permits-Government - \$496.67

6/12/2015 – Cost of Goods Sold - \$5157 Permits-Government - \$1264.53

10/9/2015 – Cost of Goods Sold - \$5157 Permits-Government - \$3912.17

11/18/2015 – Cost of Goods Sold - \$5157 Permits-Government - \$3568.80

6/8/2016 – Cost of Goods Sold - \$5157 Permits-Government - \$509.28

6/8/2016 – Cost of Goods Sold - \$5157 Permits-Government - \$206.55

In conclusion, based upon the rent control exemption requirement of rehab costs exceeding 50% of the cost of new construction for this Type V construction on flat ground, the required expenditure for 695-701 30th St would be 4739 sf x \$63.5/sf= \$300,926.50.

In this case, the total expenditure of \$549,191.40 well exceeds the \$300,926.50 threshold, and we request that 695-701 30th St be exempted from rent control.

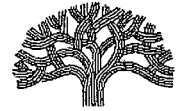
Thank you for your attention to this matter.

Justin Wallway

Manager

Truckee Zurich Place, LLC (Owner)

CITY OF OAKLAND



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

Housing and Community Development Department
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
TDD (510)238-7629

HEARING DECISION

CASE NUMBER: L16-0048, Truckee Zurich Place LLC v. Tenants

PROPERTY ADDRESS: 695-701 30th Street
Oakland, CA

APPEARANCES:	Justin Wallway	Owner*
	Lin Mayr	Owner Representative
	Martina Cucullu-Lim	Tenant Representative
	Marc Lichterman	Tenant
	Grant Rich	Tenant
	Waylan Russell	Tenant
	Colleen Saver	Tenant
	Joshua Shepherd	Tenant

DATE OF HEARING: December 12, 2016
February 17, 2017*- Justin Wallway only

DATE OF DECISION: April 3, 2017

SUMMARY OF DECISION: The owner’s petition is DENIED. The subject building is not exempt from the Rent Ordinance on the basis of substantial rehabilitation.

INTRODUCTION

Truckee Zurich Place, LLC, filed a petition on July 14, 2016, requesting an exemption from the Rent Adjustment Ordinance on the basis of substantial rehabilitation on July 14, 2016. Notice of the petition was sent to all tenants at the subject building. Several tenants filed timely tenant responses which contests the exemption. They include the following tenants:

- Helen Corley
- Grant Rich
- Helen Papaloukas

000101

- Marc Lichterman
- Joshua Shepherd
- Briannah Wilson
- Lawrence Edwards
- Colleen Sauer
- Remy Beatty
- Thomas Deckert
- Julia Langer
- Johanna Sprague
- Clinton Womack
- Elizabeth Garcia

ISSUE

1. Is the subject building exempt from the Rent Adjustment Ordinance on the basis of "substantial rehabilitation"?

EVIDENCE

The owner testified that the subject property consists of two buildings with a square footage ranging from 4,638 square feet to 4,739 square feet and provided an appraisal report from Velco Appraisal Services and a Metroproperty scan.¹

The subject buildings are Type V, wood frame construction on level ground,² and the owner claims expenses totaling \$549,191.40. JDW Enterprises is the contractor as well as the owner of the subject property. He provided a copy of an Owner-Contractor Lump Sum Construction Contract for \$455,000, dated January 28, 2009, for the following work:

"Rehabilitate, repair, and remodel the entire property including termite repairs per John Taylor Termite Report dated September 9, 2008, and Home Integrity home Inspection dated September 9, 2008, as well as complete City of Oakland Compliance Plan #0803495."³

He provided an itemization summary of the costs by vendor.⁴ He did not provide any itemized invoices from vendors or proof of payment by vendor for any of the expenses claimed in the itemization. The owner's explanation for the lack of proof of payment for each vendor's work on the subject buildings was that he was unable to separate the costs for each vendor because he was working on multiple projects and was unable separate the costs for the subject buildings.

¹ Ex. Nos. 1 and 2

² Ex. No. 1

³ Ex. No. 6

⁴ Ex. No. 8

He provided an invoice from JDW Enterprises dated June 13, 2016, which stated that his expenses were \$518,999.14, of which \$192,005.00 had been paid, leaving a balance of \$326,994.14.⁵ He also provided a profit and loss statement dated June 22, 2016, which stated that the total repairs were \$518,999.14 and there was a balance owing of \$326,994.14.⁶ He also provided a copy of a cashier's check totaling \$326,994.14 payable to JDW Enterprises dated June 14, 2016.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Substantial rehabilitated buildings

In order to qualify for the substantial rehabilitation exemption, the rehabilitation work must be completed within a two (2) year period after the issuance of the building permit for the work done unless the Owner demonstrates good cause for the work exceeding (2) years.

(b) For the substantial rehabilitation exemption, the entire building must qualify for the exemption and not just individual units.

Construction work was not completed within a two year period and the owner has not provided any invoices for the work done or proof of payment to the vendors. Finally, there are no copies of City Building Permit Records regarding the work performed on these buildings which makes it difficult to ascertain what work was done by which vendor.

It has been the Rent Board policy to require invoices, agreements, and proof of payment to substantiate costs. The owner was unable to provide any invoices, agreements, or proof of payment for specific work that was done on the subject building by individual vendors and work was not performed within a two year period. The subject property is not entitled to an exemption from the Rent Adjustment Program in the absence of proof of the specific costs of construction by vendor, especially in light of the fact that this is an owner-contractor arrangement.

The rental units in the subject buildings are not exempt from the Rent Ordinance.

ORDER

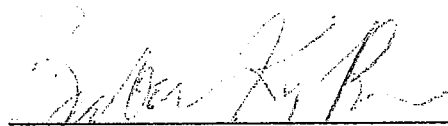
1. The owner's petition is denied.
2. The subject building is not a "substantially rehabilitated" building exempt from the Rent Adjustment Ordinance.

⁵ Ex. No. 8

⁶ Ex. No. 7

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

Dated: April 3, 2017



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

PROOF OF SERVICE

Case Number L16-0048

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

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

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Oakland, CA 94609

Colleen Saver
695 30th St
Oakland, CA 94609

Elly Garcia
701 30th St
Oakland, CA 94609

Grant Rich
697 30th St
Oakland, CA 94609

Helen Corley
695 30th St
Oakland, CA 94609

Helene Papaloukas
697 30th St
Oakland, CA 94609

Johanna Sprague
701 30th St
Oakland, CA 94609

Owner

Truckee Zurich Place LLC
3871 Piedmont Ave #311
Oakland, CA 94611

000105

Joshua Shepherd
699 30th St
Oakland, CA 94609

Julia Langer
701 30th St
Oakland, CA 94609

Lawrence Edwards
697 30th St
Oakland, CA 94609

Remy Beatty
701 30th St
Oakland, CA 94609

Sheena McCormack
699 30th St
Oakland, CA 94609

Thomas Deckert
701 30th St
Oakland, CA 94609

Waylan Russell
695 30th St
Oakland, CA 94609

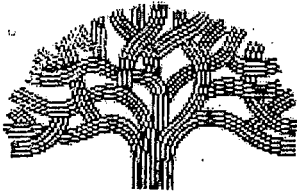
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on April 06, 2017 in Oakland, CA.



Maxine Visaya

000106



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Dates Only
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 21 AM 9:10

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Helen Corley</i>	Complete Address (with Zip Code) <i>695 30th St. Oakland, CA 94609</i>	Telephone <i>510-501-5988</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:
a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?	
		From	To	Yes	No
3/15/16	5/1/16	\$ 1767.97 ^{+60 fee}	\$ 1798.02 ^{+60 fee}	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <i>notice to change terms of that agreement</i>
8/03/15	9/1/16	\$ 1767.97 ^{(1767.97 never paid) fee}	\$ 60 ^{New Rent \$1827.97}	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <i>Utility Fee (\$60)</i>
3/29/15	5/1/15	\$ 1735	\$ 1767.97	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No <i>received two notices</i>
2/28/15	5/1/15	\$ 1735	\$ 1767	<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

** Listed above are just what I have documents for**

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

[Signature]
 Tenant's Signature

8/18/16
 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.



L Mayr <eastbayspaces@gmail.com>

Water / Sewer Utility Fees

1 message

L Mayr <eastbayspaces@gmail.com>
To: L Mayr <eastbayspaces@gmail.com>

Mon, Aug 3, 2015 at 10:58 AM

Formula we use is consistent with State of CA., R.U.B.S.

2014 EBMUD Bill total for the year
divide by 12.
divide by # of Bedrooms at entire property.
multiply by # of bedrooms in your unit.
= Your new Utility Fee per month for Water/ Sewer service.

Every year we will re-do this calculation. This is your opportunity to potentially save money by reducing water consumption. Of course EBMUD could raise rates and that is what they have done the last 2 years.

FOR: 695 30th STREET
Oakland CA 9460 9

\$ 60.00 NEW UTILITY FEE PER MONTH FOR EBMUD

EFFECTIVE SEPTEMBER 2015

Please submit new utility fee with your rent for SEPTEMBER 2015

If you have never paid a EBMUD Utility Fee before, please look at page 2 of your Lease/Rental Agreement and note where the boxes have been checked off and you are to pay the Water / Sewer.

Thank you.

L. Mayr, CCRM Broker Associate
JDW ENTERPRISES INC

JDW ENTERPRISES INC
3871 PIEDMONT AVE # 311
OAKLAND, CA 94611

000109

30-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: TROESTER / HELEN CORLEY + TRAVIS CHILD, Resident(s) and all others in possession of Apt. No. _____, located at (Street Address) 695 - 30TH STREET in the city of Oakland, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that thirty (30) days after service upon you of this notice or beginning MAY 1ST, 2015, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows:

YOUR MONTHLY RENT shall be increased from \$ 1735 per month to \$ 1767 per month, an increase of \$ 32- per month.

YOUR SECURITY DEPOSIT shall be increased from \$ _____ to \$ _____, an increase of \$ _____.

TOTAL AMOUNT DUE and payable by the above stated time period:

New Monthly Rent:	\$ <u>1767-</u>
Security Deposit Increase:	\$ _____
Other:	\$ _____
Total Due:	\$ <u>1767-</u>

OTHER CHANGES:

- No BBQ within 25 ft of any structure. No Prepare BBQ at all.
- No Dogs THE DOG MUST GO
- Must have Renters Insurance

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) Feb 28th, 2015

[Signature], OWNER(S)
By: JDW Enterprises Inc, AGENT



30-DAY NOTICE TO CHANGE THE TERMS OF YOUR RENTAL AGREEMENT

To: TRAVIS, HELEN, CHILD, Resident(s) and all others in
possession of Apt. No. _____, located at (Street Address) 695 30th street
in the city of Oakland, California

PLEASE TAKE NOTICE that in accordance with the governing State and local laws and ordinances, that thirty (30) days after service upon you of this notice or beginning May 1st, 2015, whichever is later, the terms of your rental agreement for the above described property are hereby changed as follows:

YOUR MONTHLY RENT shall be increased from \$ 1,735.00 per month to \$ 1,767.97 per month, an increase of \$ 32.97 per month.

YOUR SECURITY DEPOSIT shall be increased from \$ _____ to \$ _____, an increase of \$ 0.

TOTAL AMOUNT DUE and payable by the above stated time period:

New Monthly Rent:	\$ <u>1,767.97</u>
Security Deposit Increase:	\$ <u>0</u>
Other:	\$ <u>0</u>
Total Due:	\$ <u>1,767.97</u>

OTHER CHANGES:

No Dogs are allowed.

No Gas BBQ Grills are allowed. You must maintain and have Renters Insurance policy.

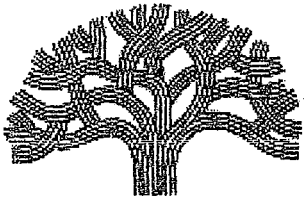
No storage outside. No indoor furniture outside.

Except for the above changes, all other terms of your Rental Agreement shall remain in full force and effect.

Dated: (Month/Day) March 29th, 2015

_____, OWNER(S)
By: JDW Enterprises Inc, AGENT





**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date **RECEIVED**
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 21 AM 9:09

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name GRANT RICH	Complete Address (with Zip Code) 697 30TH STREET OAKLAND, CA 94609	Telephone (616) 516-2897
Your Representative's Name N/A	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

4

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

08/01/2012

Date you moved into this unit:

08/01/2012

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

UPON INFORMATION AND BELIEF, OWNER HAS NOT MET HIS BURDEN TO PROVE THAT HE HAS SPENT THE REQUIRED AMMOUNT TO ESTABLISH AN EXEMPTION FOR SUBSTANTIAL REHABILITATION

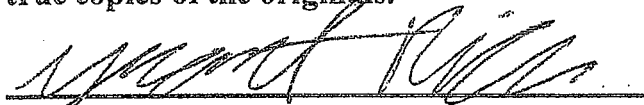
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
9/29/2016	8/01/2015	\$ 1,808.73	\$ 1,839.47	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12/01/2014	04/01/2015	\$ 1,775	\$ 1,808.73	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



 Tenant's Signature

8/18/2016

 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

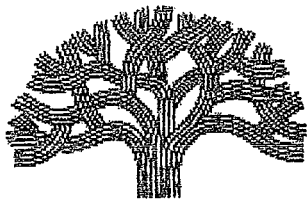
You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp **RECEIVED**
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 21 AM 9:09

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Helene Papnopoulos</i>	Complete Address (with Zip Code) <i>647 30th St. Oakland CA 94609</i>	Telephone <i>508-262-4941</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

0 1

The unit I rent is:

a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

9/25/2015

Date you moved into this unit:

9/25/2015

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish a exemption for substantial rehabilitation.

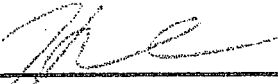
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent 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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



5/12/200

Tenant's Signature

Date

Tenant's Signature

Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

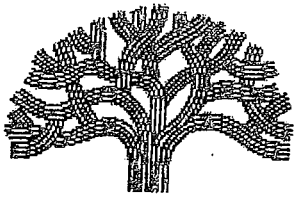
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File Review

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For an appointment to review a file call (510) 238-3721.

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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 21 AM 9:09

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Marc Lichterman</i>	Complete Address (with Zip Code) <i>699 30th St Oakland, CA 94609</i>	Telephone <i>925-305-0017</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit: ***

Date you moved into this unit:

*on or about
October 2015*

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

upon information and belief owner has not met his burden to prove that he has spent the required amount to establish an exemption for a substantial rehabilitation.

** Tenant is informed and believes owner was aware of his tenancy no later than February 2016.*

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): *Never*

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent 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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Marc Lichterman

Tenant's Signature

8/18/16

Date

Tenant's Signature

Date

Important Information

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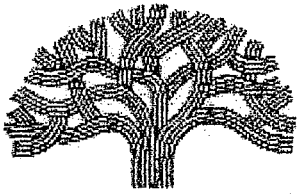
You cannot get an extension of time to file your Response by telephone.

File Review

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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

RECEIVED
for Day
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 21 AM 9:02

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <u>JOSHUA SHEPHERD</u>	Complete Address (with Zip Code) <u>699 30th STREET OAKLAND, CA 94609</u>	Telephone <u>415-819-1045</u>
Your Representative's Name <u>N/A</u>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is:
 a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: * Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption for a substantial rehabilitation.

*Tenant believes landlord knew no later than 6/1/2012 that my tenancy began.

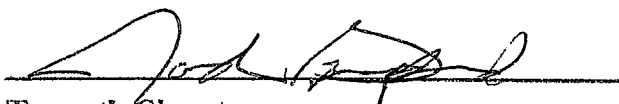
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent 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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



 Tenant's Signature

8/19/2016

 Date

 Tenant's Signature

 Date

Important Information

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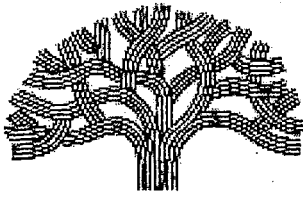
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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Received Only
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 21 AM 9:10

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name Briannah Wilson	Complete Address (with Zip Code) 697 30th St. Oakland, CA, 94609	Telephone (619) 750-6464
Your Representative's Name N/A	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

4

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

25/9/2015

Date you moved into this unit:

11/9/2015

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

upon information and belief owner has not met his burden to prove he has spent required amount to establish an exemption for substantial rehabilitation.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): ~ 25/9/2016

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent 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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Bianca Wilson
 Tenant's Signature

8/17/2016
 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

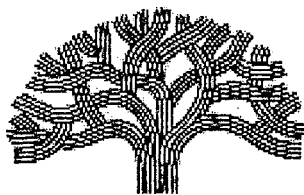
You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Drop-Stamp-Only
RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 21 AM 9:10

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name LAWRENCE EDWARDS	Complete Address (with Zip Code) 697 30TH ST. OAKLAND, CA, 94609	Telephone 510-725- 2726
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

4

The unit I rent is:

a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

10/01/2015

Date you moved into this unit:

10/01/2015

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption per substantial rehabilitation.


Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent 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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



 Tenant's Signature

08/18/2016

 Date

 Tenant's Signature

 Date

Important Information

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You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.

**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

230 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
(510) 238-3721

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 21 AM 9:10

CASE NUMBER L16-0048

**TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION**

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

Your Name <i>Waylan Russell</i>	Complete Address (with Zip Code) <i>695 30th ST Oakland, CA, 94609</i>	Telephone <i>650-600-4526</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

4

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

oral Agreement
10/06

Date you moved into this unit:

10/06

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, caret has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAF Notice):

List all increases you received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo./Day/Year)	Rate Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
3-16-16	\$1.16	\$1767.97	\$1798.02	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

 Tenant's Signature

8-17-16

 Date

 Tenant's Signature

 Date

Important Information

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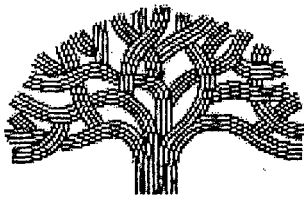
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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for **RECEIVED** Only
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 21 AM 9:10

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Colleen Sauer</i>	Complete Address (with Zip Code) <i>695 30th St. Oakland, CA, 94609</i>	Telephone <i>510-774-5039</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is: a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: *oral agreement* Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation.

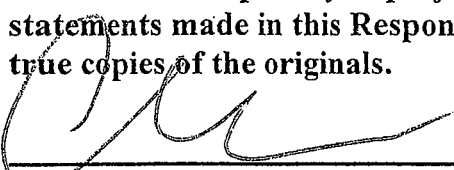
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
1/25/2016	2/25/2016	\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
3/15/2016	5/1/2016	\$ 1707.97	\$ 1798.02	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



 Tenant's Signature

8/17/2016

 Date

 Tenant's Signature

 Date

Important Information

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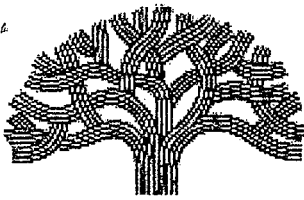
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File Review

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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 24 AM 10:42

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Remy Beatty</i>	Complete Address (with Zip Code) <i>701 30th St Oakland, CA 94609</i>	Telephone <i>510-695-6970</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:
a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, the owner has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation


Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): 7/25/2016

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
<u>N/A</u> <u>New Lease</u>	<u>6/1/2016</u>	<u>\$ 5495</u>	<u>\$ —</u>	<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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.


 Tenant's Signature

8/23/2016
 Date

 Tenant's Signature

 Date

Important Information

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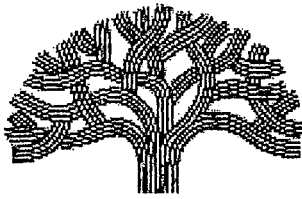
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File Review

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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

RECEIVED
for Date Started
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 24 AM 10:41

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Thomas Deckert</i>	Complete Address (with Zip Code) <i>701 30th St Oakland, CA 94609</i>	Telephone <i>510-502-6737</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation

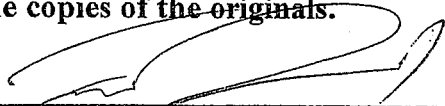
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): 7/25/16

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
New Lease ↓		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
6/1/16 - 5/31/17		\$ 5495	\$ —	<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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



 Tenant's Signature

8/23/16

 Date

 Tenant's Signature

 Date

Important Information

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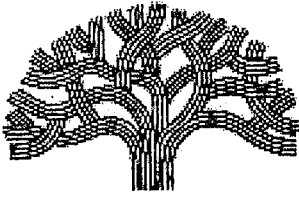
You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 24 AM 10:42

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Julia Langer</i>	Complete Address (with Zip Code) <i>701 30th Street Oakland, CA, 94607</i>	Telephone <i>301-385-5909</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is:
 a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

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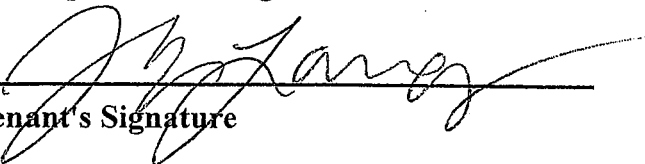
Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): July 25 2016

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
<u>N/A (New lease)</u>		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
<u>6/1/16 5/31/17</u>		\$ <u>5495</u>	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
<u>(current lease)</u>		\$	\$	<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

Verification

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 Tenant's Signature

8/23/16
 Date

 Tenant's Signature

 Date

Important Information

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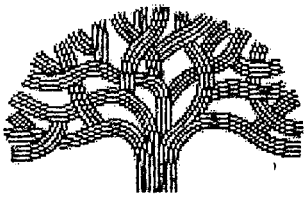
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**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 24 AM 10:42

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Johanna Sprague</i>	Complete Address (with Zip Code) <i>701 30th Street</i>	Telephone <i>617-678-5354</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:

a house

an apartment

a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent?

Yes

No

Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation.

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
NA → (new lease)		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
6/1/16	5/31/17	\$ 5495	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
(current lease)		\$	\$	<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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

J. Spagnone
 Tenant's Signature

8/23/16
 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

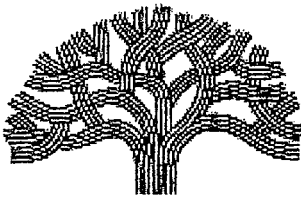
You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2016 AUG 24 AM 10:46

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Clinton Womack</i>	Complete Address (with Zip Code) <i>701 30th St. Oakland, CA 94609</i>	Telephone <i>601-832-2242</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel:

The unit I rent is:
a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit:

Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>

¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spent the required amount to establish an exemption for substantial rehabilitation

Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice):

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
New Lease		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
6/1/16 - 5/31/17		\$ 54.95	\$ —	<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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

[Handwritten Signature]

Tenant's Signature

8/23/16

Date

Tenant's Signature

Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

You cannot get an extension of time to file your Response by telephone.

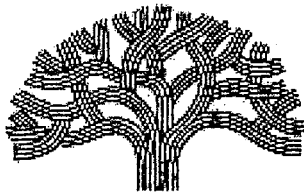
File Review

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000137



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp **RECEIVED**
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
2016 AUG 24 AM 10:46

CASE NUMBER L16-0048

TENANT RESPONSE TO
CLAIM OF PERMANENT EXEMPTION

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

Your Name <i>Elizabeth Garcia</i>	Complete Address (with Zip Code) <i>701 36th street Oakland, CA 94607</i>	Telephone <i>786-359-6291</i>
Your Representative's Name <i>N/A</i>	Complete Address (with Zip Code)	Telephone

Number of Units on the parcel: The unit I rent is: a house an apartment a condo

Rental History:

Date you entered into the Rental Agreement for this unit: Date you moved into this unit:

Are you current on your rent? Yes No Lawfully Withholding Rent

If you are lawfully withholding rent, attach a written explanation of the circumstances.

Exemption Contested

For the detailed text of the exemptions, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

The property owner has the burden of proving the right to exemption for the unit. Explain below why you believe your landlord's claim that your unit is exempt is incorrect.

Upon information and belief, owner has not met his burden to prove that he has spend the required amount to establish an exemption for substantial rehabilitation.


Please list the date you first received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice): 7/25/16

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
<u>6/1/16</u>	<u>5/31/17</u>	<u>\$ 5495</u>	<u>\$ -</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<u>(new lease)</u>		\$	\$	<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

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.



 Tenant's Signature

8/23/16

 Date

 Tenant's Signature

 Date

Important Information

This form must be received at the Rent Adjustment Offices by the date and time limits prescribed by Oakland Municipal Code, Chapter 8.22. The offices are located at City of Oakland, Rent Adjustment Program, Dalziel Building, 250 Frank H. Ogawa Plaza Suite 5313, Oakland, CA 94612. The mailing address is PO Box 70243, Oakland, CA 94612-0243. For more information, please call: 510-238-

You cannot get an extension of time to file your Response by telephone.

File Review

You should have received with this letter a copy of the landlord petition.

For an appointment to review a file call (510) 238-3721.

Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment.

000139

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), 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 a notice of rent increase under 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 current 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?
8. When did the tenant move into the unit?

I (We) petition for exemption on the following grounds (Check all that apply):

	New Construction
✓	Substantial Rehabilitation
	Single Family Residence or Condominium (Costa-Hawkins)

Section 4.
must sign this

Verification Each petitioner
section.

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

Owner's Signature MANABIZ TRUCKEE ZORCH FARE, LLC

12 July 2016
Date

Owner's Signature _____

Date _____

Important Information

Burden of Proof The burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

File Review Your tenant(s) will be given the opportunity to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only. For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the tenant's response time before scheduling a file review.

000140

L.R. 6640 MK DMD

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

For date stamp.

LANDLORD PETITION
FOR CERTIFICATE OF EXEMPTION
(OMC §8.22.030.B)

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name TILCKEE ZURICH RUCK, LLC		Complete Address (with zip code) 3871 PIEDMONT AVE #311 OAKLAND, CA. 94611		Telephone Day: _____
Your Representative's Name		Complete Address (with zip code)		Telephone Day: _____
Property Address 695-701 30th ST, OAKLAND			Total number of units in bldg or parcel. 4	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	<u>Apartment</u> or Room	
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No	
Assessor's Parcel No. 009-0696-023				

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt.

Section 3. Claim(s) of Exemption: A Certificate of Exemption may be granted **only** for dwelling units that are **permanently** exempt from the Rent Adjustment Ordinance.

New Construction: This may apply to individual units. The unit was newly constructed and a certification of occupancy was issued for it on or after January 1, 1983.

Substantial Rehabilitation: This applies only to entire buildings. An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

695-701 30th Street Tenants and Occupants

695 30th Street, Oakland, CA 94609

1. Helen Corley Original Tenant
2. Waylan Russell Subsequent Occupant
3. Colleen Saver Subsequent Occupant

697 30th Street, Oakland, CA 94609

1. Grant Rich Original Tenant
2. Lawrence Edwards Subsequent Occupant
3. Helene Papaloukas Subsequent Occupant
4. Briannah Wilson Subsequent Occupant

699 30th Street, Oakland, CA 94609

1. Joshua Shepherd Original Tenant
2. Sheena McCormack Subsequent Occupant

701 30th Street, Oakland, CA 94609

1. Clinton Womach Original Tenant
2. Thomas Deckert Original Tenant
3. Julia Langer Original Tenant
4. Elly Garcia Original Tenant
5. Remy Beatty Original Tenant
6. Johanna Sprague Original Tenant

June 22, 2016

2016 JUN 23 PM 12:57

Truckee Zurich Place, LLC
3871 Piedmont Ave, #311
Oakland, CA 94611

Rent Adjustment Program
Department of Housing and Community Development
P.O. Box 70243
Oakland, CA 94612-0243

**Re: Substantial Rehab Exemption from Rent Control
695-701 30th Street, Oakland**

To Whom it May Concern:

Please find the following attached:

1. Appraisal Document for 695-701 30th Street showing Gross Building Area of 4739 Sf
2. P&L showing rehab costs expended with details
3. Summary of Construction Costs from Contractor
4. Copy of Cashier's check to Contractor for final payment
5. Copy of City of Oakland Business Tax Certificate

Based upon the rent control exemption requirement of rehab costs exceeding 50% of the cost of new construction, the required expenditure for 695-701 30th St would be $4739 \text{ Sf} \times \$63.5/\text{sf} = \$300,926.50$.

In this case, the total expenditure of \$549,191.40 well exceeds the \$300,926.50 threshold, and we request that 695-701 30th St be exempted from rent control.

Thank you for your attention to this matter.

Truckee Zurich Place, LLC
Property Owner

000143

Small Residential Income Property Appraisal Report

File No. 101111Resln

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

Property Address **695-701 30th Street** City **Oakland** State **CA** Zip Code **94609**
 Borrower **Truckee Zurich Place LLC** Owner of Public Record **Truckee Zurich Place LLC** County **Alameda**
 Legal Description **See Copy in Addendum**
 Assessor's Parcel # **009-0696-023** Tax Year **2011** R.E. Taxes \$ **3,123.58**
 Neighborhood Name _____ Map Reference **649-G2** Census Tract **4014.00**
 Occupant Owner Tenant Vacant Special Assessments \$ **N/A** PUD HOA \$ _____ per year per month
 Property Rights Appraised Fee Simple Leasehold Other (describe) _____
 Assignment Type Purchase Transaction Refinance Transaction Other (describe) _____
 Lender/Client **Community Bank of the Bay** Address **1750 Broadway, Oakland, CA 94612**
 Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? Yes No
 Report data source(s) used, offering price(s), and date(s). **Per MLS, the subject has not been listed for sale within the last 12 months.**
 I did did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.
N/A
 Contract Price \$ _____ Date of Contract _____ Is the property seller the owner of public record? Yes No Data Source(s) _____
 Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? Yes No
 If Yes, report the total dollar amount and describe the items to be paid. **N/A**

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics		2-4 Unit Housing Trends			2-4 Unit Housing		Present Land Use %	
Location <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural	Property Values <input type="checkbox"/> Increasing <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Declining	PRICE	AGE	One-Unit	40 %			
Built-Up <input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%	Demand/Supply <input type="checkbox"/> Shortage <input checked="" type="checkbox"/> In Balance <input type="checkbox"/> Over Supply	\$(000)	(yrs)	2-4 Unit	35 %			
Growth <input type="checkbox"/> Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow	Marketing Time <input type="checkbox"/> Under 3 mths <input checked="" type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths	100 Low	10	Multi-Family	20 %			
Neighborhood Boundaries North - Alcatraz Avenue; South - 7th Street; East - Broadway; and West - Adeline Street.		750 High	115	Commercial	5 %			
		450 Pred.	75	Other	%			

Neighborhood Description **The subject is located in an established area in Oakland which is predominantly residential with a mixture of duplexes, multi-family units, and single family homes. There are also small commercial/retail properties, churches and schools in close proximity. Support services and employment area are located nearby. Police and fire protection are provided by the city and are considered adequate.**
 Market Conditions (including support for the above conclusions) **See Addendum for Market Conditions Comments**

Dimensions **50 x 140** Area **7,000 SF** Shape **Rectangular** View **None**
 Specific Zoning Classification **R-36** Zoning Description **Single Family Residential - Multi-Family Dwelling**
 Zoning Compliance Legal Legal Nonconforming (Grandfathered Use) No Zoning Illegal (describe) _____
 Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? Yes No If No, describe. _____
 Utilities - Public Other (describe) _____ Public Other (describe) _____ Off-site Improvements--Type Public Private
 Electricity _____ Water _____ Street **Asphalt** _____
 Gas _____ Sanitary Sewer _____ Alley _____
 FEMA Special Flood Hazard Area Yes No FEMA Flood Zone **X** FEMA Map # **065048-0059G** FEMA Map Date **8/3/2009**
 Are the utilities and off-site improvements typical for the market area? Yes No If No, describe. _____
 Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? Yes No If Yes, describe. **No adverse easements or encroachments were observed at the time of the inspection. It is assumed there are no adverse easements or encroachments.**

GENERAL DESCRIPTION		FOUNDATION		EXTERIOR DESCRIPTION		INTERIOR	
Units <input type="checkbox"/> Two <input type="checkbox"/> Three <input checked="" type="checkbox"/> Four	<input checked="" type="checkbox"/> Concrete Slab <input checked="" type="checkbox"/> Crawl Space	Foundation Walls	Concrete/average	Floors	Hwd/tile/cpt/good		
<input type="checkbox"/> Accessory Unit (describe below) _____	<input type="checkbox"/> Full Basement <input type="checkbox"/> Partial Basement	Exterior Walls	Wood/average	Walls	Drywall/good		
# of Stories 3 # of bldgs. 2	Basement Area _____ sq. ft.	Roof Surface	Comp.Shgl/good	Trim/Finish	Wood/good		
Type <input checked="" type="checkbox"/> Det. <input checked="" type="checkbox"/> Att. <input type="checkbox"/> S-Det./End Unit	Basement Finish _____ %	Gutters & Downspouts	Metal/good	Bath Floor	Tile/good		
<input checked="" type="checkbox"/> Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Under Const.	<input type="checkbox"/> Outside Entry/Exit <input type="checkbox"/> Sump Pump	Window Type	Dual/wood/good	Bath Wainscot	Tile/good		
Design (Style) Tri-plex plus Detached	Evidence of <input type="checkbox"/> Infestation	Storm Sash/Insulated	N/A	Car Storage			
Year Built 1890	<input type="checkbox"/> Dampness <input type="checkbox"/> Settlement	Screens	Some/good	<input checked="" type="checkbox"/> None			
Effective Age (Yrs) 15 years	Heating/Cooling _____	Amenities		<input type="checkbox"/> Driveway # of Cars			
Attic <input type="checkbox"/> None <input checked="" type="checkbox"/> FWA <input type="checkbox"/> HWBB <input type="checkbox"/> Radiant	<input type="checkbox"/> Other _____ Fuel _____	Fireplace(s) # _____	WoodStove(s) # _____	Driveway Surface			
<input type="checkbox"/> Drop Stair <input type="checkbox"/> Stairs	<input type="checkbox"/> Other _____	<input checked="" type="checkbox"/> Patio/Deck	<input checked="" type="checkbox"/> Fence	Garage # of Cars			
<input type="checkbox"/> Floor <input checked="" type="checkbox"/> Scuttle <input type="checkbox"/> Central Air Conditioning	<input type="checkbox"/> Individual <input type="checkbox"/> Other	<input type="checkbox"/> Pool	<input checked="" type="checkbox"/> Porch	Carport # of Cars			
<input type="checkbox"/> Finished <input type="checkbox"/> Heated		<input type="checkbox"/> Other		Att. <input type="checkbox"/> Det. <input type="checkbox"/> Built-in			
# of Appliances Refrigerator 4 Range/Oven 4 Dishwasher 4 Disposal 4 Microwave _____ Washer/Dryer _____ Other (describe) _____							
Unit # 1 contains: 6 Rooms 4 Bedroom(s) 2 Bath(s) 1,100 Square feet of Gross Living Area							
Unit # 2 contains: 6 Rooms 4 Bedroom(s) 1.5 Bath(s) 1,242 Square feet of Gross Living Area							
Unit # 3 contains: 7 Rooms 5 Bedroom(s) 1.5 Bath(s) 1,166 Square feet of Gross Living Area							
Unit # 4 contains: 5 Rooms 3 Bedroom(s) 1 Bath(s) 1,231 Square feet of Gross Living Area							

Additional features (special energy efficient items, etc.) **Units 1-3 are attached/stacked. Unit 4 is a detached unit. The units were all updated in 2009. See Addendum for details.**

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.) **The subject was partially updated in 2009 and has been adequately maintained. The two buildings currently need exterior paint (chipping & peeling). See Addendum for additional comments.**

000144

Small Residential Income Property Appraisal Report

File No. 101111ResIn

FEATURE	SUBJECT	COMPARABLE SALE NO. 4			COMPARABLE SALE NO. 5			COMPARABLE SALE NO. 6		
695-701 30th Street Address Oakland		463 41st Street Oakland			709 40th Street Oakland			439 37th Street Oakland		
Proximity to Subject		0.88 miles NE			0.70 miles N			0.61 miles ENE		
Sale Price		\$ 492,000			\$ 430,000			\$ 610,000		
Sale Price/Gross Bldg. Area	\$ 0.00 sq. ft	\$ 142.57 sq. ft			\$ 127.90 sq. ft			\$ 231.41 sq. ft		
Gross Monthly Rent	\$ 5,225	\$ 4,500			\$ 3,700			\$ 4,541		
Gross Rent Multiplier	0.00	109.33			116.22			134.33		
Price Per Unit	\$ 87,500	\$ 123,000			\$ 107,500			\$ 152,500		
Price Per Room	\$ 19,444	\$ 35,143			\$ 35,833			\$ 43,571		
Price Per Bedroom	\$ 35,000	\$ 82,000			\$ 107,500			\$ 101,667		
Rent Control	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Data Source(s)		MLS#40515608; Doc.#152232			MLS#40533436; Pending			MLS#40546529; Listing		
Verification Source(s)		List Price: \$500,000			County Records			County Records		
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) Adjustment		DESCRIPTION	+(-) Adjustment		DESCRIPTION	+(-) Adjustment	
Sale or Financing		Conventional			Conventional			Conventional		
Concessions		None; DOM 39			None; DOM 59			None; DOM 9		
Date of Sale/Time		5/26/2011			Pending -5%	-21,500		Listing -10%	-61,000	
Location	Suburban	Superior	-50,000		Offset			Similar		
Leasehold/Fee Simple	Fee Simple	Fee Simple			Fee Simple			Fee Simple		
Site	7,000 SF	4,400 SF	+50,000		5,000 SF	+25,000		3,450 SF	+50,000	
View	None	None			None			None		
Design (Style)	Four-plex	Four-plex			Four-plex			Four-plex		
Quality of Construction	Good	Similar			Similar			Similar		
Actual Age	119 (updated)	98 (Similar)			87 (Inferior)	+75,000		104 (Similar)		
Condition	Good	Similar			Similar			Similar		
Gross Building Area 75	4,739 SF	3,451 SF	+96,600		3,362 SF	+103,300		2,636 SF	+157,700	
Unit Breakdown	Total Bdrms. Baths	Total Bdrms. Baths			Total Bdrms. Baths			Total Bdrms. Baths		
Unit # 1	6 4 2	4 2 1.5	+25,000		3 1 1	+40,000		4 2 1	+30,000	
Unit # 2	6 4 1.5	4 2 1	+25,000		3 1 1	+35,000		4 2 1	+25,000	
Unit # 3	7 5 1.5	3 1 1	+45,000		3 1 1	+45,000		3 1 1	+45,000	
Unit # 4	5 3 1	3 1 1	+20,000		3 1 1	+20,000		3 1 1	+20,000	
Basement Description	Unfinished	Similar			Similar			Similar		
Basement Finished Rooms										
Functional Utility	Average	Similar			Similar			Similar		
Heating/Cooling	FWA; No AC	Similar			Similar			Similar		
Energy Efficient Items	Typical	Similar			Similar			Similar		
Parking On/Off Site	Street Only	2 Spaces	-20,000		1 Space/unit	-40,000		Street Only		
Porch/Patio/Deck	Porch/deck	Similar			Similar			Similar		
Landscaping	Front/rear	Similar			Similar			Similar		
Net Adjustment (Total)		<input checked="" type="checkbox"/> + <input type="checkbox"/> -	\$ 191,600		<input checked="" type="checkbox"/> + <input type="checkbox"/> -	\$ 281,800		<input checked="" type="checkbox"/> + <input type="checkbox"/> -	\$ 266,700	
Adjusted Sale Price of Comparables		Net Adj. 38.9% Gross Adj. 67.4%	\$ 683,600		Net Adj. 65.5% Gross Adj. 94.1%	\$ 711,800		Net Adj. 43.7% Gross Adj. 63.7%	\$ 876,700	
Adj. Price Per Unit (Adj. SP Comp / # of Comp Units)		\$ 170,900			\$ 177,950			\$ 219,175		
Adj. Price Per Room (Adj. SP Comp / # of Comp Rooms)		\$ 48,829			\$ 59,317			\$ 62,621		
Adj. Price Per Bdrm. (Adj. SP Comp / # of Comp Bedrooms)		\$ 113,933			\$ 177,950			\$ 146,117		
ITEM	SUBJECT	COMPARABLE SALE NO. 4			COMPARABLE SALE NO. 5			COMPARABLE SALE NO. 6		
Date of Prior Sale/Transfer	See Comments Below	None per County Records			None per County Records			None per County Records		
Price of Prior Sale/Transfer		Within last 12 months			Within the last 12 months			Within the last 12 months		
Data Source(s)										
Effective Date of Data Source(s)	Updated Daily									
Summary of Sales Comparison Approach.										

Small Residential Income Property Appraisal Report

File No. 101111ResIn

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? Yes No If Yes, describe The subject experienced updating in 2009. See Addendum

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? Yes No If No, describe The subject is similar to other updated properties in the area in terms of size, quality and condition.

Is the property subject to rent control? Yes No If Yes, describe _____

The following properties represent the most current, similar, and proximate comparable rental properties to the subject property. This analysis is intended to support the opinion of the market rent for the subject property.

FEATURE	SUBJECT	COMPARABLE RENTAL NO. 1	COMPARABLE RENTAL NO. 2	COMPARABLE RENTAL NO. 3					
Address	695-701 30th Street Oakland	749 37th Street Oakland	556 30th Street Oakland	1935 Filbert Street Oakland					
Proximity to Subject		0.47 miles N	0.20 miles E	0.69 miles SW					
Current Monthly Rent	\$ 6,920	\$ 3,400	\$ 4,380	\$ 2,850					
Rent/Gross Bldg. Area	\$ 1.46 sq. ft.	\$ 1.48 sq. ft.	\$ 1.68 sq. ft.	\$ 1.31 sq. ft.					
Rent Control	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
Date Source(s)	County Records	MLS#40514220; County Rec.	MLS#40522508; County Rec.	MLS#40502875; County Rec.					
Date of Lease(s)	Month to Month	Month to Month	Month to Month	Month to Month					
Location	Suburban	Similar	Similar	Similar					
Actual Age	121 years	87 years	105 years	111 years					
Condition	Good	Similar	Similar	Similar					
Gross Building Area	4,739 SF	2,296 SF	2,603 SF	2,170 SF					
Unit Breakdown									
	Rm Count Tot Br Ba	Size Sq. Ft.	Monthly Rent	Rm Count Tot Br Ba	Size Sq. Ft.	Monthly Rent	Rm Count Tot Br Ba	Size Sq. Ft.	Monthly Rent
Unit # 1	6 4 2	1,100	\$ 1,500	6 3 2	1,300	\$ 2,100	5 3 2	1,085	\$ 1,350
Unit # 2	6 4 1.5	1,242	\$ 950	3 1 1	600	\$ 1,100	5 2 2	1,085	\$ 1,500
Unit # 3	7 5 1.5	1,168	\$ 950	4 2 1	703	\$ 1,600			
Unit # 4	5 3 1	1,231							
Utilities Included	Trash	Trash	Trash	Trash	Trash	Trash	Trash	Trash	Trash
Parking	Street Only	Street Only	1 space/unit	Street Only	Street Only	Street Only	Street Only	Street Only	Street Only
Quality	Above Average	Similar	Similar	Similar	Similar	Similar	Similar	Similar	Similar

Analysis of rental data and support for estimated market rents for the individual subject units reported below (including the adequacy of the comparables, rental concessions, etc.)
 Rental information is supplied by MLS data or previous appraisals which we have performed. This represents the most accurate data available. Based on this survey, market rents on a price per square foot basis ranges from \$1.31 to \$1.68/SF. On a price per room basis the range is from \$261 to \$337. The rent comps provide good indications of market rent for the subject units. (Subject rent includes market rent estimate for vacant unit).

Rent Schedule: The appraiser must reconcile the applicable indicated monthly market rents to provide an opinion of the market rent for each unit in the subject property.

Unit #	Leases		Actual Rents			Opinion Of Market Rent		
	Lease Date		Per Unit		Total Rents	Per Unit		Total Rents
	Begin Date	End Date	Unfurnished	Furnished		Unfurnished	Furnished	
1	Vacant		\$ 0	\$ 0	\$ 0	\$ 1,695	\$ 1,695	\$ 1,695
2	Month to Month		1,775	1,775	1,775	1,775	1,775	1,775
3	July 2011	June 2012	1,650	1,650	1,650	1,650	1,650	1,650
4	Month to Month		1,800	1,800	1,800	1,800	1,800	1,800
Comment on lease data			Total Actual Monthly Rent	\$ 5,225	Total Gross Monthly Rent	\$ 6,920		
			Other Monthly Income (itemize)	\$	Other Monthly Income (itemize)	\$		
			Total Actual Monthly Income	\$ 5,225	Total Estimated Monthly Income	\$ 6,920		

Utilities included in estimated rents Electric Water Sewer Gas Oil Cable Trash collection Other (describe)

Comments on actual or estimated rents and other monthly income (including personal property) The market rent for Unit 1 is estimated at \$1,695/month (\$1.54/SF and \$282/room); the market rent for Unit 2 is estimated at \$1,775/month (\$1.43/SF and \$296/room); the market rent for Unit 3 is estimated at \$1,650/month (\$1.42/SF and \$235/room); and the market rent for Unit 4 is estimated at \$1,800/month (\$1.46/SF and \$360/room). The projected market rents fall within the indicated range of the comparables and are considered to be reasonable (The price/room for Unit 3 is slightly low due to the large number of small bedrooms & a very small living room off the kitchen).

I did did not research the sale or transfer history of the subject property and comparable sales. If not, explain _____

My research did did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.
 Data source(s) County Records & MLS
 My research did did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.
 Data source(s) County Records & MLS

Report the results of the research and analysis of the prior sale history of the subject property and comparable sales (report additional prior sales on page 4).

ITEM	SUBJECT	COMPARABLE SALE NO. 1	COMPARABLE SALE NO. 2	COMPARABLE SALE NO. 3
Date of Prior Sale/Transfer	See Comments Below	None per County Records	None per County Records	None per County Records
Price of Prior Sale/Transfer		Within last 12 months	Within last 12 months	Within last 12 months
Data Source(s)				
Effective Date of Data Source(s)	Updated Daily			

Analysis of prior sale history for the subject property and comparable sales Per County Records, the subject was purchased 1/23/2009 for \$125,000; this was prior to the update/remodel. There have been no other transfers of the subject within the last 3 years. The comparables, unless otherwise noted, have not transferred within the year prior to the current transaction.

Truckee Zurich Place, LLC
PROFIT AND LOSS
All Dates

	TOTAL
Income	
Rental Income	
695-701 30th St, Oakland	439,529.80
Total Rental Income	439,529.80
Total Income	\$439,529.80
Expenses	
Cleaning	1,185.00
Depreciation Expense	12,953.00
Insurance	5,763.00
Liability Insurance	7,843.59
Total Insurance	13,606.59
Interest Expense	32,818.32
Loan Interest	160,353.96
Total Interest Expense	193,172.28
Landscape	2,267.00
Licenses and Permits	30.00
Management Fees	39,834.23
Professional Fees	
Legal Fees	9,285.00
Total Professional Fees	9,285.00
Repairs	
Building Repairs	549,191.40
Total Repairs	549,191.40
Supplies	
Office	48.79
Total Supplies	48.79
Taxes	
Local	4,976.20
Property	33,614.52
Total Taxes	38,590.72
Utilities	
Garbage	9,312.58
Gas and Electric	463.23
Water	9,685.13
Total Utilities	19,460.94
Total Expenses	\$879,624.95
Net Operating Income	\$ -440,095.15
Net Income	\$ -440,095.15

Wednesday, Jun 22, 2016 03:12:43 PM PDT GMT-7 - Cash Basis

000147

Truckee Zurich Place, LLC TRANSACTION REPORT All Dates

DATE	TRANSACTION TYPE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
Repairs								
Building Repairs								
12/31/2009	Journal Entry	jw			Repairs:Building Repairs	-Split-	2,241.35	2,241.35
12/31/2010	Journal Entry	jw			Repairs:Building Repairs	-Split-	8.56	2,249.91
12/31/2010	Journal Entry	jw			Repairs:Building Repairs	-Split-	3,769.30	6,019.21
12/31/2011	Journal Entry	jw			Repairs:Building Repairs	-Split-	39.45	6,058.66
12/31/2011	Journal Entry	jw			Repairs:Building Repairs	-Split-	11,532.98	17,591.64
12/30/2012	Check	1316	JDW Enterprises, Inc.		Repairs:Building Repairs	Bank of America Checking	5,000.00	22,591.64
12/31/2012	Journal Entry	jw			Repairs:Building Repairs	-Split-	28,748.00	51,339.64
12/31/2012	Journal Entry	jw			Repairs:Building Repairs	-Split-	112.45	51,452.09
12/31/2013	Journal Entry	jw			Repairs:Building Repairs	-Split-	1,620.84	53,072.93
09/30/2014	Check	2225	JDW Enterprises, Inc.		Repairs:Building Repairs	Bank of America Checking	2,500.00	55,572.93
12/31/2014	Journal Entry	5		to record 2014 profit and loss	Repairs:Building Repairs	-Split-	3,163.19	58,736.12
12/31/2015	Journal Entry	14		JDW Enterprises, Inc.	Repairs:Building Repairs	-Split-	138,461.14	197,197.26
05/19/2016	Check	1589	JDW Enterprises, Inc.	Draw to JW to pay respective 2015 income taxes	Repairs:Building Repairs	Bank of America Checking	25,000.00	222,197.26
06/14/2016	Check	2226	JDW Enterprises, Inc.	Check 2226	Repairs:Building Repairs	Bank of America Checking	326,994.14	549,191.40
Total for Building Repairs							<u>\$549,191.40</u>	
Total for Repairs							<u>\$549,191.40</u>	
TOTAL							<u>\$549,191.40</u>	

695-701 30th TOTAL REHAB =

Wednesday, Jun 22, 2016 03:09:35 PM PDT GMT-7 - Cash Basis

000148



JDW Enterprises, Inc.
CA Lic. Contractor #776098

June 13, 2016

Truckee Zurich Place, LLC
3871 Piedmont Ave, #311
Oakland, CA 94611

RE: Rehab Cost for 695-701 30th Street, Oakland

Truckee Zurich Place, LLC,

Please find below costs to date on your property at 695-701 30th Street, Oakland, the amount you have paid to date, and balance owed:

Cost of Goods Sold

5000 . Cost of Goods Sold

5001. Demolition	9,996.00
5002. Clearing/Hauling	21,367.90
5007. Water meter	528.00
5008. De-water/damproofing	6,266.23
5010. Electrical/gas hook-up	76.46
5015. Landscaping	7,634.04
5016. Fencing	2,012.86
5025. Foundation Labor	35,000.00
5026. Foundation concrete	5,452.26
5027. Flatwork labor	900.00
5028. Flatwork concrete	5,585.93
5030. Re-enforcing steel	497.63
5032. Concrete/drive	376.44
5033. Foundation materials	5,408.68
5034. Pump truck	1,079.00
5041. Iron railings	322.42
5045. Rough hardware	715.16
5050. Framing lumber/materials	15,173.53
5051. Framing labor	43,959.66
5052. Siding lumber/stucco	13,816.41
5053. Siding labor/stucco	2,397.00

JDW Enterprises, Inc.
jdwent@hotmail.com

282 Whitmore Street, Ste B
Oakland, CA 94611

Tel: 510/ 698-6610
Fax: 510/ 808-4063

000149

JDWenterprises

JDW Enterprises, Inc.
CA Lic. Contractor #776098

5054. Deck lumber	11,098.05
5055. Deck labor	6,335.00
5056. Finish labor	36,862.20
5058. Cabinets	9,375.97
5059. Interior door/millwork	5,433.46
5065. Roofing materials	11,165.22
5066. Roofing labor	7,046.00
5070. Insulation	3,205.41
5080. Entry doors	1,231.50
5081. Windows/glass	13,761.31
5083. Specialty windows	1,806.36
5085. Shelving	1,568.04
5090. Drywall	18,085.63
5091. Painting	20,250.83
5092. Underlayment	266.05
5093. Vinyl	2,215.97
5094. Hardwood	8,913.13
5095. Granite counters	3,641.22
5096. Tile	17,650.45
5097. Carpet	106.67
5100. Bath hardware	1,463.89
5101. Millwork hardware	1,747.40
5102. Pick-up labor	33,281.00
5103. House cleaning	340.00
5112. Appliances	1,957.92
5113. Draperies	1,092.42
5116. Temporary utilities	26.19
5125. Plumbing materials	20,752.51
5126. Plumbing labor	29,034.00
5130. Heating/air/gas	9,057.79
5140. Electrical materials	14,147.34
5141. Electrical labor	16,220.00
5149. Interior design consult	1,362.50
5151. Architectural services	1,806.58
5152. Blue prints	10.90
5153. Consulting engineer	525.00
5156. Structural engineer	1,250.00
5157. Permits- government	11,836.59
5162. Temporary facilities	403.77
5163. Tool/Equipment	421.83
5165. Supervision	6,366.02

JDW Enterprises, Inc.
jdwent@hotmail.com

282 Whitmore Street, Ste B
Oakland, CA 94611

Tel: 510/ 698-6610
Fax: 510/ 808-4063

000150



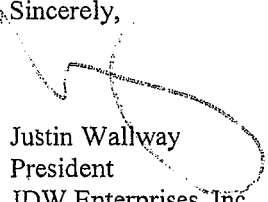
JDW Enterprises, Inc.
CA Lic. Contractor #776098

5167. Interim Clean-up	1,783.81
5204. Construction interest	4,527.60
5213. Construction loan fees	1,000.00
	<hr/>
Total 5000 . Cost of Goods Sold	\$ 518,999.14

Total Cost of Goods Sold: \$518,999.14
Less Paid to Date: -\$192,005.00
Balance Owed: \$326,994.14

Please let me know if you have any questions or require clarification.

Sincerely,



Justin Wallway
President
JDW Enterprises, Inc.

JDW Enterprises, Inc.
jdwent@hotmail.com

282 Whitmore Street, Ste B
Oakland, CA 94611

Tel: 510/ 698-6610
Fax: 510/ 808-4063

000151



Cashier's Check

No. 0893002221

Notice to Purchaser - In the event that this check is lost, misplaced or stolen, a sworn statement and 90-day waiting period will be required prior to replacement. This check should be negotiated within 90 days.

Void After 90 Days

91-170/1221

Date 06/14/16 10:50:45 AM

NAZ

PIEDMONT

0007 0002360 0038

Pay



***\$326,994.14

To The Order Of JDW ENTERPRISES INC

Remitter (Purchased By): TRUCKEE ZURICH PLACE LLC

Bank of America, N.A.
PHOENIX, AZ

[Handwritten Signature]
AUTHORIZED SIGNATURE

⑈0893002221⑈

THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

000152

BC-CHK: Account Activity Transaction Details


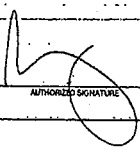
Check number: 00000001589

Post date: 05/19/2016

Amount: -25,000.00

Type: Check

Description: Check

TRUCKEE ZURICH PLACE, LLC 15849 DONNER PASS RD. TRUCKEE, CA 96161 (530) 582-1861		Bank of America  11-35-1210	1589
PAY TO THE ORDER OF	JDN ENTERPRISES, INC	19 MAY 2016	
	TWENTY-FIVE THOUSAND AND ⁰⁰ / ₁₀₀	\$25,000	
		DOLLARS	
MEMO	AUTHORIZED SIGNATURE 		

000153

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

**CITY OF OAKLAND
BUSINESS TAX CERTIFICATE**

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. Per Section 85.04.190A, of the O.M.C. you are allowed a renewal grace period until March 1st the following year.

**ACCOUNT
NUMBER**
28005340

TRUCKEE ZURICH PLACE LLC

EXPIRATION DATE
12/31/2016

BUSINESS LOCATION
699 30TH ST
OAKLAND, CA 94609-2962

BUSINESS TYPE M Rental Residential



NAME IDW ENTERPRISE
MAILING ADDRESS 3871 PIEDMONT AVE # 311
OAKLAND, CA 94611-5378



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

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

YOU MAY BE REQUIRED
TO OBTAIN A VALID
ZONING CLEARANCE TO
OPERATE YOUR BUSINESS
LEGALLY. RENTAL OF
REAL PROPERTY IS
EXCLUDED FROM ZONING.

PUBLIC INFORMATION
ABOVE THIS LINE TO BE
CONSPICUOUSLY POSTED!

000154

CHRONOLOGICAL CASE REPORT

Case No.: L15-0073

Case Name: 525, 655 Hyde St. CNML Properties LLC. v. Tenants

Property Address: 3921 Harrison St., Oakland, CA
(Units 101, 202, 204, 301, 302, 303, 304)

Parties: 525, 655 Hyde Street CNML Prop. LLC (Owner)
Liz Hart c/o Fried & Williams LLP (Owner Representative)
Stanley L. Amberg (Tenant Representative)
Mari Oda and Todd McMahon (Tenants, #304)
Julie Amberg (Tenant, #302)
Fernando and Kate Garcia (Tenants, #202)
Bianca Penalzoza (Tenant, #204)
Jilleun and Lexie Eglin (Tenants, #101)
A. Vasilescu and Z. Bridges (Tenants, #301)
Tyler Ritter (Tenant, #303)

TENANT APPEAL (Units 304, 302, 202, 204)

LANDLORD APPEAL (Units 101, 202, 204, 301, 302, 303, 304)

<u>Activity</u>	<u>Date</u>
Owner's Petition filed	December 18, 2015
Tenant Response filed	January 25, 2016 (Vasilescu #301) January 25, 2016 (Garcia #202) January 25, 2016 (McMahon #304)
Hearing Decision issued	July 19, 2017
Tenant Appeal filed	August 10, 2017 (McMahon #304) August 10, 2017 (Amberg #302) August 10, 2017 (Garcia #202) August 16, 2017 (Penalzoza #204)
Owner Appeal filed	August 15, 2017

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. 2017 AUG 18 PM 4:14 Requesting Waiver OF 25 page limit MOTION in <u>APPEAL</u>
--	--

MOTION pursuant to RAP Regulation 8.22 -120 (4) (5)

Appellant's Name Fernando & Kate Garcia; Julie Amberg; Todd McMahon and Mari Oda		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
Property Address (Include Unit Number) 3921 Harrison Street, Oakland, CA 94611 Units 202, 302 & 304		
Appellant's Mailing Address (For receipt of notices) 3921 Harrison Street, Oakland, CA 94611	Case Number L15-0073	
Date of Decision appealed July 19, 2017; mailed July 27, 2017		
Name of Representative (if any) Stanley L. Amberg	Representative's Mailing Address (For notices) 11 Carolyn Lane, Chappaqua, NY 10514	

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

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

For more information phone (510) 238-3721.

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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 2.

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 AUG 18, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Rockridge Real Estate, LLC
Address	1373 Clay Street
City, State Zip	San Francisco, CA 94109
Name	Clifford Fried, Esq.
Address	1901 Harrison Street, 14th Floor
City, State Zip	Oakland, CA 94612

 (For Stan Amberg)	AUG 18 2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

BACKGROUND OF L15-0073 CASE

On August 10, 2017, the three named tenants filed their appeal in the (Oakland Rent Adjustment Program ("RAP") case number L15-0073. Thereafter, on August 15, 2017, original owner, and true party to the hearing officer's decision in the case, 525, 655 Hyde Street CNML Prosperities filed its owner's appeal. The case has not yet been set for a hearing date in front of the RAP Appeals Board.

MOTION TO REQUESTING THE DIRECTOR OF THE RENT ADJUSTMENT PROGRAM TO WAIVE THE 25-PAGE LIMIT DOCUMENT SUBMISSION TO THE RAP APPEALS BOARD

This motion is filed pursuant to RAP Regulations 8.22.120 (4) and (5). First, subsection (4) sets the 25-pages limitation covering all documents submitted to the Appeal Board per appellant party. However, this 25-page limit may be waived or modified under subsection (5), which states: "[RAP] Staff, in its discretion, may modify or waive the above requirements [referring to the 25-page limit in subsection 4] for good cause. The good cause must be provided in writing by the party seeking a waiver or modification."

L15-0073 presents a complexity of factual and legal issues. The hearing officer heard over 12 full hours of testimony spread over one and half months. Both sides in the dispute submitted numerous exhibits and provided testimony on factually challenging issues dealing with capital improvements, deferred maintenance, and proper notice among others. The tenants raised issues of interpretation of the RAP Ordinance, and state and federal due process requirements. The fact that the hearing officer was unable to issue a decision until 90 days plus after submission of parties' briefs evidences the complex questions of law and fact presented.

Three tenants of filed an appeal seeking reversal of certain portions of the hearing officer's decision. The three tenants raise similar questions of fact and law; except, one of the tenants has raised a legal and factual issues particular to her circumstances.

Given the primary overlay and connection among the tenants' questions of fact and law, as well as key supporting documents presented at the hearing, the proper approach would be to permit the consolidation of the tenants' aggregate 75-page limit in order to achieve and produce one document brief (i.e., the appellant's briefs and supporting exhibits) that will better present a documents that will be more easily understood by the Appeals Board members, whose time is limited. Providing three separate documents, from each of the tenant parties, will only add to the confusion of trying to understand the overlapping facts, forcing Board members to the time-consuming task of cross-referencing each item presented in one of the tenant's brief with the other two tenant's submissions.

CONCLUSION AND ORDER

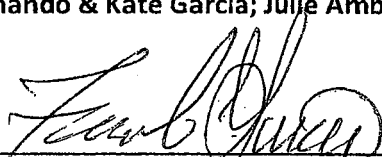
Therefore, under the discretion provided to the staff and Director of RAP, we ask for the following:

ORDER: The three appealing tenants in L15-0073 will be permitted to allocate among themselves their aggregate 75 pages limit, as they see fit to do, so long as the documents submitted by them to the Board does not exceed the 75 pages total.

Respectfully submitted on behalf of Tenants:

Fernando & Kate Garcia; Julie Amberg; Todd McMahon and Mari Oda

BY:



Fernando Garcia

DATE: August 18, 2017

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2017 AUG 15 PM 4:52
For Date Stamp



CITY OF OAKLAND

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

APPEAL

Appellant's Name 525, 655 Hyde Street CNML Properties LLC & Rockridge Real Estate, LLC		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3921 Harrison Street, Units 101, 202, 204, 301, 302, 303, and 304			
Appellant's Mailing Address (For receipt of notices) Rockridge Real Estate, LLC 1373 Clay Street San Francisco, CA 94109		Case Number L15-0073	
		Date of Decision appealed July 19, 2017	
Name of Representative (if any) Clifford E. Fried Liz Hart		Representative's Mailing Address (For notices) Fried & Williams LLP 1901 Harrison Street, 14th Floor Oakland, CA 94612	

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

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

For more information phone (510) 238-3721.

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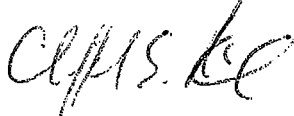
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

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

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 15, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	See attached service list page
<u>Address</u>	
<u>City, State Zip</u>	
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	08-15-2017
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SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

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Service List for Case Number L15-0073

Name	Address
Jilleun Eglin Lexie Eglin	3921 Harrison Street, #101 Oakland, CA 94611
Fernando Garcia Kate Flick Garcia	3921 Harrison Street, #202 Oakland, CA 94611
Bianca Penaloza	3921 Harrison Street, #204 Oakland, CA 94611
Alexandru Vasilescu Zoe Bridges	3921 Harrison Street, #301 Oakland, CA 94611
Julie E. Amberg	3921 Harrison Street, #302 Oakland, CA 94611
Tyler Ritter	3921 Harrison Street, #303 Oakland, CA 94611
Todd McMahon Mari Oda	3921 Harrison Street, #304 Oakland, CA 94611
Stanley L. Amberg Tenant Attorney Representative	11 Carolyn Lane, Chappaqua, NY 10514

EXPLANATION PAGE

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TO APPEAL RE 3921 HARRISON STREET, L15-0073

1) The Decision Has Clerical and Calculation Errors That Require the Hearing Decision be Updated.

The justified allowable unit-specific improvements as stated in the Decision are not correct. The Decision included an attached Capital Improvements table which, due to formatting, omitted justified unit-specific improvement for units 302, 303 and 304. In addition, there are clerical and calculation errors among the justified unit-specific capital improvements as listed per unit on page 8 of the Decision.

For unit 204, the correct allowable unit-specific should be \$600.00. The dollar value amounts stated on page 8 are not added correctly, include items specific to unit 304 (\$12.50 & \$6.25) and do not include the \$56.67 from new sliding glass door.

For unit 302, the correct allowable unit-specific should be \$203.34. The dollar value amounts stated on page 8 do not include the \$56.67 from new sliding glass door.

For unit 303, the correct allowable unit-specific should be \$600.00. The dollar value amounts stated on page 8 include items specific to unit 304 (\$6.25) and do not include the \$56.67 from new sliding glass door.

For unit 304, the correct allowable unit-specific should be \$618.75. The dollar value amounts stated on page 8 do not include the (\$6.25) item specific only to unit 304 or the \$56.67 from new sliding glass door.

Attached to this Appeal is a 2 page Capital Improvements table corrected to show only those units impacted by this Decision and with altered formatting for cell F:37 to make visible all of the units allocated the justified expense of a new sliding glass door.

The Hearing Officer made a factual error when calculating the total amount of allowable expenses.

2) Additional Grounds for Appeal

a) The decision is inconsistent with OMC Chapter 8.22, RAP Regulations or prior decisions of the Board.

The Decision is inconsistent with OMC Chapter 8.22, RAP Regulations or prior decisions of the Board because it fails to allow the landlord a full 24 month period of capital improvements [see Explanation for Ground d) below] and disallowed other capital improvements. [see Explanation for Ground e) below]

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

The policy issue is whether or not the RAP should have procedural safeguards in place that avoid or minimize delays between the time a landlord files a petition for rent increase and the time a Decision is issued. In this case, the landlord's petition for a capital improvement passthrough was filed on **December 18, 2015**. A Decision was issued on **July 19, 2017**. Various tenants in the building have filed appeals which guarantees that no final Decision will be made until 2018 on the Landlord's petition.

d) The decision violates federal, state or local law.

RAP Regulations, Addendum 10.2.1 provides that "Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period prior to the date the petition for a rent increase based on the improvements is filed." Approximately \$100,000.00 in capital improvements claimed by the landlord were disallowed by the Decision due to

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an improper use of the unpublished decision in *Barango v. City of Oakland* (Alameda County Superior Court No. RG14732655) and by not allowing for all capital improvements incurred during the 24 months immediately prior to the landlord filing its petition in this matter. The Decision violates due process concerns about notice and opportunity to petition based on express language of the RAP regulations.

State law permits a landlord to increase rents with a 30 or 60 day notice of rent increase. However, the RAP Regulations have no provisions for allowing a retro-active rent increase after a Decision is rendered. The Decision in this case doesn't provide a remedy for the landlord to collect rent for a rent increase request that has been pending for the past 19 months.

e) The decision is not supported by substantial evidence.

Because of calculations and formatting errors, the Decision is not supported by the Evidence. See Explanation for Ground 1) above. In addition, approximately \$100,000.00 in capital improvements claimed by the landlord were not allowed and for which the landlord provided substantial evidence of. See Explanation for Ground d) above. And approximately \$10,000.00 in capital improvements were disallowed as capital improvements of which the landlord provided substantial evidence.

h) Other: The Rent Adjustment Ordinance and Regulations are Constitutionally deficient in that they withhold powers by which the RAP could adjust maximum rents without unreasonable delays and instead requires the Board to follow an adjustment procedure which would make such delays inevitable. The Decision in this case demonstrates the constitutional deficiency.

In *Birkenfeld v. the City of Berkeley* (1976) 17 Cal.3d 129, The California Supreme Court recognized that a rent board could unreasonably delay a decision on a landlord petition for a maximum rent increase as a result of constitutional deficient rent

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ordinances and regulations. Id. at page 169. Here, the landlord has been denied a prompt maximum rent increase due to the lack of sufficient procedures. The RAP's procedures, or lack thereof, make it inevitable that a landlord will suffer unconstitutionally long delays in any rent increase.

The delays at the RAP include, but are not limited to, (1) not having express procedures as to when hearings must be held after a landlord petition is filed, (2) setting hearings long after petitions are filed, (3) allowing long continuances in the middle of hearings that can last weeks, and (4) Permitting delays in rent increases pending appeals.

These delays can, and did in this case, lead to confiscatory rent rates that are unconstitutional.

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A			B	C	D	E	F	G
CAPITAL IMPROVEMENTS			Effective Date of Increase	Number of Residential Units on Property	20-Dec-15			
1	2	3	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	VALIDITY CHECKS	
Improvements and repairs benefitting all units								
IMPROVEMENT OR REPAIR								
5	Roof Replacement		20-Dec-13	\$0.00	16	\$0.00	OK	
6	Deck Removal & Scaffolding Installation		16-Jan-14	\$0.00	16	\$0.00	OK	
7	Paint Invoice		27-Jan-14	\$0.00	16	\$0.00	OK	
8	Lead Abatement/Stucco Removal Proj		13-Feb-14	\$0.00	16	\$0.00	OK	
9	A/G Serv's Light fixture installation etc.		21-Feb-14	\$0.00	16	\$0.00	OK	
10	Copper Waterline Replacement for front units		21-Feb-14	\$0.00	16	\$0.00	OK	
11	Sewer Lateral Replacement with EBMUD & Oakland permits fees		17-Apr-14	\$7,500.00	16	\$7.81	OK	
12	Paint Supplies		21-Apr-14	\$0.00	16	\$0.00	OK	
13	Exterior Painting and Interior Hallway Painting		15-May-14	\$40,000.00	16	\$41.67	OK	
14	Globe Plumbing Supplies - shower remodeling kit, pipe, etc		22-May-14	\$0.00	16	\$0.00	OK	
15	Globe Plumbing Supplies		11-Jun-14	\$0.00	16	\$0.00	OK	
16	Partial Tree Trimming due to exterior painting		11-Jun-14	\$0.00	16	\$0.00	OK	
17	Replacement of 15 balconies		17-Jun-14	\$180,000.00	16	\$187.50	OK	
18	New Plywood Siding installation for seismic work		20-Jun-14	\$85,946.16	16	\$89.53	OK	
19	Stucco Installation including plastic sheeting		20-Jun-14	\$110,000.00	16	\$114.58	OK	
20	Piston Seal ordered on July 23, 2014		21-Aug-14	\$0.00	16	\$0.00	OK	
21	Original Stucco removal		20-Jun-14	\$37,500.00	16	\$39.06		
22	Permits		17-Jun-14	\$7,700.50	16	\$8.02		
23								
24					Subtotal	\$488.17	OK	
25			Place X in box if property is mixed use.					
26								
27								
28			Residential square footage					
29			Other use square footage					
30			Percent residential use					
31			INCREASE ALLOCATED TO RESIDENTIAL USE			\$488.17		
32								
Improvements and repairs benefitting particular units								
34	IMPROVEMENT OR REPAIR							
35	New Windows at 6,600 per unit		9-Apr-14	\$19,800.00	3	\$110.00	204, 303, 304	
36	New Windows at 8,800 per unit		15-Apr-14	\$26,400.00	3	\$146.67	101, 202, 302	
37	New Sliding Glass Door at 3,400 each		10-Apr-14	\$20,400.00	6	\$56.67	101, 202, 204, 302, 303, 304	
38	26,000 K & BA Reno - new Cabinets, appliances, tile floors, install		20-Jun-14	\$78,000.00	3	\$433.33	204, 303, 304	
39	15,500 K - Cabinets, new tile floor, appliances, backsplash, hood, F		17-Jun-14	\$15,500.00	1	\$258.33	101	
40	new garbage disposal		17-Apr-14	\$0.00	1			
41	Paint invoice		27-Jan-14	\$0.00	1			
42	Carpet Replacement		27-Jan-14	\$0.00	1			
43	installed new range		12-Feb-14	\$0.00	1			
44	Installation of new granite countertops		21-Feb-14	\$0.00	1			
45	Installation of new electronic Range		26-Feb-14	\$0.00	1			
46	Repainted unit		26-Feb-14	\$0.00	1			
47	installation of new plumbing lines for sink and bathtub		20-May-14	\$750.00	1	\$12.50	304	
48	50% of cost for new shower valves		11-Jun-14	\$375.00	1	\$6.25	304	

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ALLOCATION OF CAPITAL IMPROVEMENTS TO INDIVIDUAL UNITS

UNIT NUMBER-->	101	102	103	104	105	201	202	203	204	205	301	302	303	304	305
Increases applied to all units-->>	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17	488.17
New Windows at 6,600; pe							146.67					146.67			
New Windows at 8,800; pe							56.67					56.67			
New Sliding Glass Door at									433.33				433.33		
26,000 K&BA Reno=new															
15,500 K Cabinets, new							258.33								
new garbage disposal															
Paint Invoice															
Carpet Replacement															
Installed new range															
Installation of new granite															
Installation of new electron															
Repainted unit															
Installation of new plumbin															
50% of cost for new showe															
	949.84	488.17	488.17	488.17	488.17	488.17	691.51	488.17	1,088.17	488.17	488.17	691.51	1,088.17	1,106.92	488.17
					976	976	1383	976	2176	976	976	1383	2176	2214	976

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

APPEAL

Appellant's Name Bianca Calderon-Penalozza/David Preciado		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3921 Harrison Street, Apt 204, Oakland, CA 94611			
Appellant's Mailing Address (For receipt of notices) 3921 Harrison Street, Apt 204, Oakland, CA 94611		Case Number L15-0073	
		Date of Decision appealed 08/16/2017	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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For more information phone (510) 238-3721.


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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 2

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 16, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	525, 655 Hyde St. CNML Properties, L
<u>Address</u>	2350 Broadway St.
<u>City, State Zip</u>	San Francisco, CA 94115
<u>Name</u>	Michael Bykhovsky, Manager
<u>Address</u>	2350 Broadway St.
<u>City, State Zip</u>	San Francisco, CA 94115

	8/16/17
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SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

For more information phone (510) 238-3721.

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

August 16, 2017

The appeal decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations and thus inconsistent with local law based on the following:

The Oakland Rent Ordinance § 8.22.080 - Rent increases following vacancies. Rent Increases After Setting an Initial Rent Without Restriction. After the owner sets an initial rent without restriction pursuant to Costa-Hawkins, the owner may only increase rent in conformance with the requirements of Section 8.22.070, *based on circumstances or cost increases that arise after the beginning of the new tenancy*. The owner may not increase rents based on banking, cost increases, capital improvements, or other circumstances that arose before the new tenancy began.

Capital Improvement passthroughs are covered in the Oakland Rent Board Regulations Appendix A § 10.2.

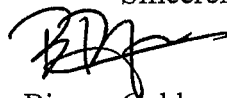
The date of tenancy for Unit 204 commenced on ~~June~~ ^{July} 1, 2014.

Based on the above ordinance, capital improvements substantially completed before ~~June~~ ^{July} 1, 2014, cannot be passed on. The rental increase proposed should have been factored in at the time the lease was executed.

We implore you to consider this appeal because the proposed increase from \$1,575 to \$2,236.09 violates Oakland Rent Ordinance § 8.22.080 for rent increases following vacancies.

Thank you for your time and careful consideration.

Sincerely,



Bianca Calderon-Penalosa

David Preciado



Received from:

Bianca Penaloza

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(individually / jointly and severally) hereinafter referred to as Tenant, the sum of: \$2,075.00, evidenced by CASHIER'S CHECK or MONEY ORDER, as a deposit which upon acceptance of this rental agreement, the Owner of the premises, hereinafter referred to as Owner/Agent, c/o Lapham Company, Inc. shall apply said deposit as follows:

Payable Prior to Occupancy:		received \$500
Rent: <u>\$1,575.00</u>	Other:	now due \$1575
Parking	Total: <u>\$2,075.00</u>	RECEIVED
Deposit: <u>\$500.00</u>		received \$1595 JUL 01 2014

Pro-Rated Rent due for the second month: 1575 - 20 = 1555, due: 08/01/14 overpaid by \$20.00

Tenant hereby offers to rent from the Owner upon the following terms and conditions, the premises situated in the City of Oakland, County of Alameda, State of California, commonly known as:

3921 Harrison Street 94611

unit # **204**

consisting of: 1 bedrooms/ 1 bathrooms.

1. **TERMS:** The term hereof shall commence on:

July 1, 2014

and continue for 12 months, thereafter either party can terminate this agreement by Tenant giving 30 days advance written notice to Lapham Co. Inc. and Lapham Co. Inc. giving 60 days advance written notice to the Tenant. Tenant must pay rent during the notice period and cannot apply security deposit to rent. In the event this lease is broken by the Tenant prior to the end of the first 12 months, then Tenant agrees to pay advertising costs & administrative fees equal to 1/2 of one month's rent of the subject premises and Tenant is responsible for all rent payments due until the commencement date of a new lease. Tenant is also responsible to refund any rent concession. Rental rate may adjust after the initial 12 month term pursuant to local ordinance.

2. **RENT:** Rent shall be: \$1,575.00 per month + parking: {Parking is not available at this time} parking space # n/a }, payable in advance, upon the 1st day of each calendar month to the Owner or authorized agent, at the following address: **The Lapham Company, 4844 Telegraph Avenue, Oakland CA, 94609, 510-594-7600**, or at such other places as may be designated by the Owner from time to time. In the event rent is not received by the fifth (5th) day of the month, Tenant agrees to pay a late charge of \$50.00. The parties agree that this late fee is presumed to be the amount of damage sustained by late payment of rent. It would be impracticable or extremely difficult to fix the actual damage. This sum represents a reasonable endeavor by the Owner/Agent to estimate fair average compensation for any loss or cost that may be sustained as a result of late payment of rent. Pursuant to California law, if Tenant passes a check on insufficient funds, Tenant will be liable to Owner/Agent for the amount of the check and a service charge of \$25.00 for each check passed on insufficient funds. After move-in funds are paid in certified funds, monthly rent is payable by personal check or certified funds.

Cash is not accepted. Rent payments may be mailed or delivered to the main office listed above during normal business hours. Monday - Friday, 9:00am - 12:00pm and 1:00pm - 5:00pm. There shall be a charge of \$25.00 for any three-day notice to pay rent that is served on Tenant. Dishonored checks will not be re-deposited and must be replaced with cashiers check or certified funds only. In the event of a second dishonored check, all subsequent payments must be made in Certified Funds. All funds for a given month paid after the 15th must be in certified funds. Rental payments are first applied toward past due rent, late fees, legal service fees, damages during occupancy and interest, and then applied toward current rent.

3. **SECURITY DEPOSIT TERMS:** Owner/Agent hereby acknowledges receipt of a security deposit in the amount of \$ \$500.00 which, when combined with all other advanced deposits herein, does not exceed two months rent for and unfurnished unit or three months rent for a furnished unit. The security deposit shall cover: defaults in the payment of rent, cost to repair damages to the premises caused by Tenant, exclusive of ordinary wear and tear and/or to clean the premises, if necessary, upon termination of the tenancy in order to return the unit to the same level of cleanliness it was in at the inception of the tenancy, and/or to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear. Owner may, but shall not be obligated to apply all or portions of said deposit on account of Tenant's obligations hereunder. **Tenant shall not have the right to apply the Security Deposit in payment of any or the last month's rent.** See Paragraph 15 for instructions regarding refund of Security Deposit.

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4. **UTILITIES:** Tenant shall be responsible for all utilities and services and agrees to make full payment for same, except **Water and Garbage**

Water and Garbage shall be the responsibility of the Owner/Agent. Tenant shall also be responsible for any phone installation. (Tenant should understand that phone service is provided by a third party and is not included in the rent.)
In the event that electric and/or natural gas service is charged to Owner/Agent due to meter malfunction, then Tenant...

Proof of Service (Continued)

Rockridge Real Estate, LLC
1373 Clay Street
San Francisco, CA 94109

Clifford Fried, Esq.
Fried & Williams, LLP
1901 Harrison St. 14th Floor
Oakland, CA 94612

Liz Hart
1801 University Ave., #308
Berkeley, CA 94703

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Department of Housing and Community Development

2017 AUG 24 PM 2:43

RENT ADJUSTMENT PROGRAM

525, 655 Hyde Street CNML Properties, LLC v. Tenants
Case No. L15-0073

TENANTS BRIEF ON APPEAL

INTRODUCTION

This is an appeal by tenants Julie E. Amberg, Fernando Garcia, Kate Garcia, Todd McMahon and Mari Oda (“tenants”) from a Hearing Decision in Case No. L15-0073, in the Housing and Community Development Department, Rent Adjustment Program (“RAP”). The Hearing Decision is dated July 19, 2017 and it was served on July 27, 2017. Tenants timely filed and served their Appeals, with Attachments, on August 10, 2017.

The Hearing Decision granted, in part, a landlord’s petition to pass through to tenants certain alleged capital improvements to the building in which they reside, located at 3921 Harrison Street, Oakland, CA.

Without objection, certified transcripts from official recordings of the hearings (on January 12, 2017, January 13, 2017 and March 24, 2017) are in the record. For the convenience of the Board, all citations to witness testimony and colloquy with the Hearing Officer will be to the transcripts, relevant pages of which are attached to this brief.

With the consent of landlord’s attorney at the hearing and with permission of the Hearing Officer, written briefs were submitted to the Hearing Officer in lieu of oral closing arguments.

TENANTS POST-HEARING BRIEF is in the record.

ARGUMENT

A.

The Hearing Decision On the Question Of
The “Two-Year Time Limit for Capital Improvements”
Must Be Reversed Because It Is Not Supported by Substantial Evidence,
Relies On Clearly Erroneous Findings of Fact, and Relies On An Outdated Regulation.

Clearly Erroneous Findings Of Fact by the Hearing Officer

The relevant part of the Hearing Decision is at its page 6, under the caption “Two-Year Time Limit for Capital improvements”.

At page 6, the Hearing Officer erroneously found as a fact that the owner’s petition, as it was filed on December 18, 2015, “**included** the breakdown of the improvements, the dates of completion, cost, payments, and allocation of the proposed rent increase per each unit.” The Hearing Decision said:

“The owner’s petition for approval of rent increase was filed on December 18, 2015. It **included** the breakdown of the improvements, the dates of completion, cost, payments, and allocation of the proposed rent increase per each unit.” [Emphasis added]

That finding is not supported by *any evidence*. The Hearing Officer’s finding is clearly erroneous because the “breakdown of improvements”, et al., were **not** included in or with the landlord’s petition dated December 18, 2015.

Lest there be any doubt, the Board is invited to inspect the petition, which is Tenants Exhibit TX-1, and which is attached to this appeal brief. The “breakdown of the improvements ...” is **not** in the petition nor is it attached to the petition. Therefore, the Hearing Decision’s finding that they were “included” is clear error.

The error is not trivial or harmless. The error is major and prejudicial to tenants’ two-year limitations defense, as will now be shown.

Landlord’s Capital Improvements Information and Documents
Were Not Filed With The RAP Until January 4, 2017.

Landlord’s statement of capital improvements and landlord’s supporting documents were **not** filed with the RAP **until January 4, 2017**, more than a year after the petition was submitted in December 2015. There can be no doubt about the January 4, 2017 date.

At the hearing, tenants' representative Mr. Amberg offered to prove that the owner's capital improvements information and documents were filed on January 4, 2017. Instead, the Hearing Officer stated on the record it was not necessary to do that, and the Hearing Officer would take judicial notice that the documents and information were filed with the RAP on January 4, 2017.

MR. AMBERG: I am Stanley Amberg representing Tenants Amberg, Garcia, Mahon, and Oda.

Madame Hearing Officer, Ms. Hart showed witnesses a packet of papers marked with numbers 1 of 137 to and including 137 of 137. There's no date stamp on these documents. I'm asking you, Madame Hearing Officer, would you take judicial notice that all of those documents were filed with the Rent Adjustment Program on January 4, 2017 or do I need to prove that?

THE COURT: No, we have the packet that Rent Adjustment Program received from the owner had a date stamp of January 4, so they were received that day.

MR. AMBERG: And you will take notice of that?

THE COURT: Yes. (January 13, 2017 transcript, page 4, lines 4-17)

Because the Hearing Officer took judicial notice that the information and documents were filed on January 4, 2017, the date cannot be disputed.

The Rent Regulations Require That The Actual And True Filing Date Of The Owner's Petition Is January 4, 2017.

Because the owner's capital improvements information and documents were not in or attached to the petition, and were not filed until January 4, 2017, the filing date of the petition is, by law, January 4, 2017. The relevant law is RAP Regulations 8.22.090(C)(1)(d) and (e). The Regulations clearly state that an owner petition is not considered filed until the owner has submitted to the RAP a substantially completed petition and documents justifying the rent increase.

"C. Owner Petitions and Response Requirements

1. An owner's petition or response to a petition is not considered filed until the following has been submitted:
 - d. A substantially completed petition or response on the form prescribed by the Rent Adjustment Program, signed under oath;
 - e. Organized documentation clearly showing the Rent increase justification and detailing the calculations to which the documentation pertains." [Emphasis added]

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The landlord's claim that he filed his petition on December 18, 2015 is without merit because the petition failed to comply with clear requirements of Regulation 8.22.090(C)(1)(d) and (e).

The petition was not substantially completed when it was submitted. A major omission from the petition was that it failed to give any tenant any notice of the amount of rent increase the tenant would be asked to pay because of capital improvements to the building or to the tenant's particular unit. Tenants were left completely in the dark.

Another major omission was the petition failed to attach or include documents that justified the rent increase. As just explained in the colloquy with the Hearing Officer, landlord did not reveal those documents to tenants until January 4, 2017 – more than a year after he submitted his petition in December 2015. Landlord's concealing the documents from tenants for more than a year is inexcusable.

Accordingly, under Regulations 8.22.090(C)(1)(d) and (e), the legally-effective filing date of the petition is January 4, 2017, when the landlord revealed to tenants the rent they would be expected to pay for capital improvements.

Credit May Only Be Given For
Capital Improvements That Were Completed
During The Time Period Between January 4, 2015 and January 4, 2017.

The January 4, 2017 filing date is significant. It establishes January 4, 2017 as the end date for determining the 24-month period during which credit may be given for capital improvements, under Regulations Appendix A 10.2.1.

Regulations Appendix A 10.2.1 specifies that credit for capital improvements “will only be given” for those improvements completed and paid for “within the twenty-four (24) month period prior to the date the petition for rent increase based on the improvements is filed.”
[Emphasis added]

As just explained, Regulation 8.22.090(C)(1)(d) and (e) requires that the petition be considered filed on January 4, 2017. Therefore, the 24-months time period for allowable capital improvement costs *ended* on January 4, 2017, and *began* on January 4, 2015.

Stated in another way, credit for capital improvements may only be given for improvements that were completed and paid for within the 24-month time period starting on

January 4, 2015 and ending on January 4, 2017. Consequently, capital improvements which were completed and paid *before* January 4, 2015 cannot be passed through to tenants.

Landlord May Not Be Credited For
Any Of Landlord's Capital Improvements
Because All Of Them Were Completed and Paid For Before January 4, 2015.

It is undisputed that all of the improvements at issue here were completed and paid for *before* January 4, 2015. In fact, all of them were completed before June 17, 2014. The completion dates are stated in the tables at the end of the Hearing Decision. It is therefore undisputed that **none** of the improvements at issue here were within the permissible 24-month period specified by Regulations Appendix A 10.2.1.

The Hearing Decision Should Be Reversed and Remanded
Because It Allowed The Landlord To Pass Through To Tenants
The Costs Of Improvements That Are Outside The Permissible 24-Month Period.

The Hearing Decision erroneously gave credit for alleged capital improvements completed during the period from April 15, 2014 to June 17, 2014. (See the tables at the end of the Hearing Decision.) However, those capital improvements fall outside of the time period (from January 4, 2015 to January 4, 2017) for allowable capital improvements. Therefore, Hearing Decision should be reversed and remanded, with instructions **not** to give credit for improvements or repairs that were completed prior to January 4, 2015.

Landlord's Failure To Submit Capital Improvements
Information And Documents With The Petition
Violated the Rent Ordinance, And Cannot Be Waived.

Landlord may assert that the petition's failure to submit capital improvement information and documents with the petition was inadvertent or accidental, and therefore can be waived. Any such assertion by landlord would be contrary to the Rent Ordinance, OMC 8.22.090(B). The failure cannot be waived. The ordinance says "*must*."

It expressly commands that "In order for an owner to file ... a petition seeking a rent increase, the owner *must* provide:

- d. A completed ... petition on a form prescribed by the Rent Adjustment Program. and

- e. Documentation supporting the owner's claimed justification(s) for the rent increase ..." [Emphasis added]

The words "In order to ... file" establish prerequisites that must be satisfied, or else one cannot file the petition. The use of a common analogy would be useful here: "In order to board an airplane, a person must first show a valid boarding pass."

Landlord's Failure To Submit Capital Improvements Information And Documents With The Petition Was Not Inadvertent or Accidental.

Any assertion by landlord that the petition's failure to submit the capital information and documents was inadvertent or accidental is not credible.

First, all of the invoices and payment checks for the alleged capital improvements are dated in 2013 and 2014. Every page of the document packet that landlord filed on January 4, 2017 was available to landlord on December 18, 2015 when the petition was submitted. Every page should have been attached to the petition.

Second, all of the information in the tables of capital improvements which landlord submitted to RAP on January 4, 2017 (as pages 130 and 131 of landlord's capital improvement packet) was known in December 2015. Clearly, the tables could have been prepared on December 18, 2015 and attached to the petition on that date. Landlord has no valid excuse for his failure to attach the documents and tables to his petition.

Landlord Knew Of The Requirements Of OMC 8.22.090(B).

Landlord cannot assert he was ignorant of the requirements of OMC 8.22.090(B). The petition itself (which the landlord signed) expressly told the landlord to "attach" to the petition an itemized, detailed schedule of claimed capital improvements. The petition said:

"You **must attach** an itemized schedule of claimed capital improvements, showing the affected units, the cost and completion date for each item."¹
[Emphasis supplied]

The petition expressly told the landlord to "attach" to the petition the "documents that prove your case."

¹ Tenants' Exhibit TX-1, second page.

*“Attach to this petition copies of the documents that prove your case.”*²

[Emphasis supplied]

We repeat what we said above: We invite the Board to examine the petition, Tenant Exhibit TX-1. The itemized schedule and the documents are not in or attached to the petition. The Hearing Decision’s finding that they are “included” is not supported by substantial evidence. The Hearing Decision’s finding that they are “included” is clear error. The Board should reverse the Hearing Decision and remand the case with instructions to the Hearing Officer to find the petition did not include an itemized schedule of capital improvements and did not include any documents that prove capital improvements were completed and paid for.

The Hearing Decision Recognized There Is A 24-Month Period Which Limits Capital Improvements Pass-Throughs To Tenants, But The Hearing Decision Erred In Determining The Correct 24-Month Time Period.

The Hearing Decision’s ruling, at page 6, on the two-year limit for capital improvements said:

“Prior to August 1, 2014, the Regulation allows for capital improvement costs to be passed on to the tenants only for those improvements completed and paid for within the 24-month period prior to the date of the proposed increase.” [Emphasis added]

The Hearing Decision’s ruling on the two-year time limit on capital improvements relied on an outdated version of section 10.2.1 of Appendix A, which pegged the 24-month time-limit period to “the date of the proposed rent increase.”

Section 10.2.1 was changed by the enactment of Oakland City Council Ordinance No. 13418 C.M.S. on February 7, 2017. The Ordinance’s change to section 10.2.1 applied immediately to all hearing decisions after February 7, 2017. The Hearing Decision in the present case was on July 19, 2017.

Section 10.2.1 pegs the end of the 24-month time-limit period to the date the petition is filed. For the reasons explained above, Regulation 8.22.090(C) requires the petition’s filing date to be January 4, 2017. The Hearing Officer should be directed, on remand, to follow the version of section 10.2.1 that was in effect on July 19, 2017.

² Tenants’ Exhibit TX-1, first page.

The Hearing Decision Erred By Relying On
An Unpublished Superior Court Decision
Which Is Being Appealed And Is Not Binding Precedent On The RAP,
And Which Is Factually Distinguishable From L15-0073.

The Hearing Decision relied, at page 6, on a Superior Court decision in *Baragano v. City of Oakland, et al.* However, that decision is not final. It is on appeal to the Court of Appeal, First District, California, No. A148852. Moreover, the decision in *Baragano* is factually not in point and is not controlling precedent because the owner's petition in that case did include capital improvements information, total costs, and unit costs, wherefore the effective date of the petition in *Baragano* was its actual filing date in the RAP.

By contrast, in the present case L15-0073, the petition omitted capital improvements information, which was not filed or revealed to tenants until January 4, 2017. Therefore under Regulation 8.22.90(C), the filing date of the petition in the present case is not earlier than January 4, 2017.

Even if the prior version of 10.2.1 were applicable, the date of any proposed rent increase in the present case could not be earlier than the petition's January 4, 2017 filing date, wherefore all capital improvements prior to January 4, 2015 are barred.

B.

The Hearing Decision Denied Tenants Due Process Of Law.

A person is deprived of due process of law if she or he is deprived of information that is necessary to understand a claim and to defend against it. Legal authority for this rule is the decision of the United States Supreme Court in *Mullane v. Cent. Hanover Bank & Trust Co*, 339 U.S. 306 (1950). Additional legal authority is *Nozzi v. Hous. Auth.*, 806 F.3d 1178 (9 Cir. 2015).

The Hearing Decision in the present case, L15-0073, denied tenants due process of law by sustaining a petition that deprived tenants of critical capital improvements information they needed to understand the petition and defend against it. The due process issue was raised and argued in Section I of Tenants Post-Hearing Brief. The Hearing Decision did not discuss or decide this critical issue. The Hearing Decision should be reversed and remanded, with an instruction to consider, discuss, and decide the issue.

Tenants' argument on the issue is as follows.

When, as here, a landlord files a petition seeking a rent increase on the basis of alleged capital improvements, the critical time period for determining whether a tenant has suffered denial of due process is the 35-day period between the petition's filing date and expiration of the time when tenants must respond to the petition. A fundamental purpose of the relevant sections of the OMC and the Regulations is to ensure that, within this time, tenants receive specific notice of the dollar amounts of capital improvements for which they could be liable, collectively and individually.

Armed with that information, tenants would then be able to make informed decisions whether:

- To mediate, and perhaps settle.
- To undertake the significant expense of retaining counsel.
- To oppose the petition.
- To vacate their units and seek affordable housing elsewhere.

As explained above in Section A, the petition in the present case L15-0073 (Tenant Exhibit TX-1) concealed from tenants the dollar amounts of capital improvements for which they could be liable, collectively and individually.

The failure to reveal was deliberate. There is no doubt about this. A page attached to the petition (Tenants Exhibit TX-1) said:

“Additional evidence documenting the Owner's claims including invoices, proof of payment and calculation worksheets will be provided prior to the date of the hearing.” [Emphasis added]

Landlord's statement that the information “will be provided” is an unambiguous admission that the information was **not** included in or with the petition when the petition was submitted to the RAP in December 2015. We again invite the Board to examine the petition. Not a single copy of an invoice, payment check, calculation worksheet or dollar amount of the proposed increase for each unit is included within or attached to the petition.

Landlord did not provide the invoices, proofs of payment and calculation worksheets to tenants until January 4, 2017, more than a year after the petition was submitted to the RAP.

The vacuum of capital improvements information during the critical time period had its predictable effect on tenants. The naked petition left tenants mystified and unable to protect their rights, as shown by their responses to the petition. This is not conjecture or hypothetical.

Actual tenants' responses to the petition are in evidence.³ One response put it this way:

"It is unfair, unreasonable and in violation of the Oakland rent arbitration program to request an increase for capital improvements when supporting details have not been provided. For example, no documentation has been provided of the expenses the landlord wishes to pass along and no information has been shown on how calculations were made to justify the increase. Without this information we are unable to understand or defend ourselves against this claim."⁴

Another tenant response said:

"C. Finally, Landlord's Petition lacks specificity and other evidence in support of their claims to support capital improvements pass-through, and as a result tenants are unable to properly respond to the Petition, and will not be able to respond, until such time that Landlord provides detailed breakdown of cost and expenses for capital improvements performed in Unit's 202 located at 3921 Harrison Street, Oakland."⁵

Yet another tenant response said:

"Further, it is unfair, unjust, and against RAP regulations for the owner to try to Petition the RAP for an increase based on capital improvements when they have not included evidence, the necessary notice, nor any calculations to substantiate the increase. Moreover, without this evidence, I cannot properly defend or accept any proposed rate increase."⁶

The petition's withholding of the critical capital improvements information was a denial of due process. *Mullane v. Cent. Hanover Bank & Trust Co*, 339 U.S. 306 (1950); *Nozzi v. Hous. Auth.*, 806 F.3d 1178 (9 Cir. 2015). Evidence in the record shows tenants were actually mystified and unable to protect their rights, as shown by their responses to the petition, quoted above.

A fundamental policy and purpose of the OMC and the RAP Regulations is to ensure that tenants receive timely specific notice of the dollar amounts of capital improvements for which they could be liable, collectively and individually. Thus, when the petition in L15-0073 was submitted to the RAP, in December 2015, the OMC and the Regulations gave owners of property a choice of procedure to notify tenants of a proposed rent increase for capital improvements.

³ Tenants' Exhibits TX-22, TX-26, TX-42.

⁴ Tenants' Exhibit TX-22, last page, paragraph No. 4.

⁵ Tenants' Exhibit TX-26, past page.

⁶ Tenants' Exhibit TX-42, last page.

One procedure was a notice by the landlord to tenants pursuant to OMC 8.22.070(H)(1)(d) (the “Notice”). Alternatively, a landlord could petition pursuant to OMC 8.22.090(B) (the “Petition”).

Those two procedures (Notice and Petition), taken together, supported the Oakland City Council’s policy to assure due process notice to tenants by timely delivering needed information to them. The two procedures are joined at the hip. They should never be treated as giving a landlord the choice to cherry pick a procedure (Notice or Petition) on the supposition that one procedure (Petition) allows the landlord to give tenants less information than another procedure (Notice). With that in mind, we next discuss the penalties for violating each procedure. The Board should not be reluctant to impose a penalty for violating the Petition procedure.

The Notice procedure had teeth. A proposed rent increase based on capital improvements pass-through was invalid unless the owner filed the notice and all relevant documents with the RAP within ten working days of serving the rent increase notice on a tenant.⁷ The penalty for violating the Notice procedure was invalidity of the notice.

The Petition procedure likewise had teeth. The OMC required that a petition had to be complete and had to include “documentation supporting the owner’s claimed justification for the rent increase.”⁸ The RAP Regulations said the penalty for violating the Petition procedure was loss of the petition’s filing date. The Regulations specifically said that a petition was “not considered filed until” the owner submitted “organized documentation clearly showing the rent increase justification and detailing the calculations to which the documentation pertains.”⁹ In the present case, L15-0073, the owner delayed doing that until January 4, 2017.

Because the landlord in L15-0073 deliberately failed to comply with the Petition procedures of the OMC and the RAP Regulations, landlord denied tenants due process by withholding the necessary capital improvements information and documents until January 4, 2017. The filing date of the petition in L15-0073 must therefore be January 4, 2017.¹⁰

The Hearing Decision did not discuss or decide the denial of due process issue. The Hearing Decision should be reversed and remanded, with an instruction to consider, discuss, and

⁷ OMC 8.22.070(H)(1)(d)(ii).

⁸ OMC 8.22.090(B)(1)(d) and (e).

⁹ Regulation 8.22.090(C)(1)(d) and (e).

¹⁰ Regulation 8.22.090(C)(1)(d) and (e).

decide the issue. The tenants are entitled as a legal right to be heard on the issue of due process; a denial of due process means a denial of justice for these tenants.

C.

The Owner's Deferred Maintenance Of The Building
Resulted in Extensive Wood Rot Damage Necessitating The Alleged Capital Improvements.

The OMC definition of "Capital improvements" excludes all "improvements or repairs required because of deferred maintenance". (OMC 8.22.020) The applicable RAP regulation is Appendix A, 10.2.2(4)(b) which states:

"The following may not be considered as capital improvements: Costs for work or portions of work that could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs after the landlord knew or should reasonably have known of the problem that caused the damage leading to the repair claimed as a capital improvement." [Emphasis added]

Tenants presented substantial testimonial and documentary evidence to support their argument that failure to properly maintain the L15-0073 property over three decades led to extensive rot damage to the property. Indeed, over ninety percent of the three-day hearing was directed to that issue.¹¹ The issue was fully briefed in sections V and VI of Tenants Post-Hearing Brief. Yet, the Hearing Decision totally failed to discuss deferred maintenance. The Hearing Decision is silent on the issue and evidence presented. The Hearing Decision should be reversed and remanded, with instructions to consider and adjudicate the issue of deferred maintenance.

To assist the Board, here is a summary of the deferred-maintenance facts which are in evidence in the record.

The property is a wood frame building whose sidewalls are covered with stucco. Each unit has a balcony whose floor is plywood. The building was constructed in 1963. For at least 33 years, the prior owner failed to paint or otherwise maintain the integrity of the waterproofing

¹¹ Witness testimony at the hearing included: McMahon transcript, page 54, line 11 to page 55, line 7; page 57, line 11 to page 60, line 20; page 63, line 12 to page 64, line 3; page 65, line 9 to page 66, line 11; page 68, lines 5-13; page 68, line 18 to page 69, line 2; page 70, line 20 to page 72, line 3; page 73, line 15 to page 74, line 18; page 75, lines 7-16; page 76, line 18 to page 78, line 12. Oda transcript, page 106, line 8 to page 108, line 5. Garcia transcript, page 120, lines 21-24.

on the sidewalls and on the balcony floors. As a consequence, serious dry rot infected the walls and the balconies. The dry rot was detected over 13 years ago, in 2004.

It is undisputed that the owner of the building had actual knowledge of the dry rot problem as early as 2004. On February 10, 2004, the owner applied for a building permit to “*remove portions of exterior stucco, repair dry rot wood with new*, repair in kind.” (Tenants Exhibit TX-36, last page) The work was done and completed on May 10, 2004.

However, the 2004 repair work was not done correctly. The contractor for the owner failed to trace the rot throughout the building, a common best practice in the industry. If he had done so, the repairs in 2013-2014 would not have been necessary. Mr. Gallagher (a contractor who was not the contractor in 2004) testified what a diligent contractor should have done when dry rot is discovered. He said during cross-examination by tenants’ representative:

Q Mr. Gallagher, you’ve testified this morning using a phrase called “trace the rot.” Do you recall that?

A Yes, so if you find rot then you must trace it to find out where it stops and then repair it.

Q How do you trace the rot?

A Well, if you remove something and you see rot, you’ve got to keep removing and keep removing and keep removing until it stops.

Q If you see rot, as I understand what you’ve just said, then you need to trace what? What did you do? You remove-- explain that again. I’m not with you.

A Okay, if you find dry rot, you must repair it. In order to repair it, you must know where it stops.

Q And how do you do that?

A By investigating and seeing where it is. And if it’s here and it’s behind something and you take it off and so forth until you find where it stops. (March 24, 2017 transcript, page 39, line 20 to page 30, line 11)

Importantly, the owner’s contractor’s failure in 2004 to “trace the rot” coupled with the deferred maintenance of not painting and waterproofing the balconies further sped up the decline of the property’s structural integrity. Notably, the balconies were supported by wood joists. The owner’s decades-long failure to paint or waterproof their plywood floors caused dry rot in the joists, weakening them and necessitating repairs to the balconies in 2013-2014. These repairs are now at the center of the alleged capital improvements. On the rotten joists, Mr. Gallagher testified:

MR. AMBERG: Does rotten cause a weakening of the joists?

MR. GALLAGHER: Oh, yes.

MR. AMBERG: Why?

MR. GALLAGHER: Because it's rotten.

MR. AMBERG: For a layperson, what does that mean?

MR. GALLAGHER: It means that there was -- before there was no air ventilation inside the balcony itself, which is about 12 inches deep, so if it failed because of inadequate waterproofing the water could get in and couldn't get out, so it causes rot.

MR. AMBERG: The water causes the rot?

MR. GALLAGHER: Yes, dry rot.

MR. AMBERG: And what is dry rot?

MR. GALLAGHER: It's just a failure of wood, like it's wet, dry, wet, dry over an extensive period of time and then it just turns to dust. (January 13, 2017 transcript, page 24, line 23 to page 25, line 15)

If the contractor had traced the rot in 2004 in the way Mr. Gallagher described, the rest of the rot would have been found in 2004, and the repairs to the exterior walls and balconies in 2013-2014 would not have been necessary.

We note that the owner of the property in 2004 sold the property in 2013 to the landlord-owner who filed the petition in the present case, L15-0073. He, in turn, sold the property in 2017 to the current owner.¹² The transfer of ownership does not affect the deferred maintenance issue. The current owner, as well as the landlord-owner who filed the petition, is, as a matter of law, responsible for damage resulting from deferred maintenance over the decades since 1963 when the building was built. The current owner is responsible for the lack of proper maintenance by prior owners and the lack of proper repair by the prior contractor. The current owner stands in the shoes of the prior owners. The law is summarized in a RAP hearing decision which was affirmed by the Board in a precedential decision. *McGhee v. Carraway-Brown*, T05-0220 (Amended Hearing Decision, Jan. 6, 2006); *aff'd*, HRRRB (precedential; Feb. 24, 2006).

Regulations, Appendix A, 10.2.2(4)(b) excludes the costs of fixing the dry rot problem from being a capital improvement. The Regulation states:

"The following may not be considered as capital improvements: Costs for work or portions of work that could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs, after the landlord knew or should reasonably have known of the problem that caused to damage leading to the repair claimed as a capital improvement," [Emphasis added]

¹² The owner who filed the petition in L15-0073 bought the property in November 2013 and paid \$2,051,000. He sold the property in June 2017 for \$5,750,000. His gross profit in less than four years was \$3,699,000.

Dry rot was the problem. The prior owner knew of the dry rot problem and failed to make timely proper repair. The costs to fix the dry rot problem may not be passed through to tenants as a capital improvement.

The Hearing Decision did not discuss the dry rot issue. The Hearing Decision did not discuss the issue of deferred maintenance. The Hearing Decision merely identified “rebuilding of 15 new balconies with structural reinforcement and up to code, seismic strengthening of exterior walls” as allowable capital improvements. (Hearing Decision, at page 7)

The Hearing Decision must be reversed. It **failed** to discuss the **problem** (dry rot) with the balconies and exterior walls, and **failed** to discuss **what caused the problem** an essential inquiry in order to determine whether the prior owner’s deferred maintenance created the problem.

Thus, the Hearing Decision must be reversed because it is **not supported by substantial evidence** and because it **failed to consider** the requirements of OMC 8,22,020 and Regulations, Appendix A, 10.2.2(4)(b).

D.

Landlord’s Expenses Fail To Qualify As Capital Improvements
Because Each Expense Fails To “Materially” Add To The Value Of The Property.

Landlord failed to satisfy his burden to prove that each of his expenses satisfies the Rent Ordinance’s definition of “Capital improvements” in OMC 8.22.020.

Section 8.22.020 states:

"Capital improvements" means those improvements to a covered unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the tenant rather than the owner." [Emphasis added]

The Ordinance’s definition imposes four requirements, all of which must be satisfied.

The improvement must:

1. be to a “covered unit or common areas”, and
2. “*materially* add to the value of the property”, and
3. “*appreciably* prolong its useful life” or “adapt it to new building codes”,
and

4. “*primarily* benefit the tenant rather than the owner” [Emphasis added]

Each alleged capital improvement cost must satisfy all of those four requirements. If a cost fails to satisfy any of those four requirements, the cost cannot qualify as a capital improvement, and the cost cannot be passed through to a tenant.

It is well established law that “Courts should give meaning to every word of a statute if possible, and should avoid a construction making any word surplusage.” *Arnett v. Dal Cielo*, 14 Cal.4th 2, 22 (1996). Under general rules of statutory interpretation, an interpretation which has the effect of making statutory language null and void is to be avoided. *People v. Woodhead*, 43 Cal.3d 1002, 1010 (1987); *Prager v. Israel*, 15 Cal.2d 89, 93 (1940).

This law means that the words “materially”, “appreciably” and “primarily” in the definition of “Capital improvements” are strong words and may not be ignored. A cost which does not “materially add to the value of the property” does not qualify as a capital improvement, and may not be passed on to a tenant. The same is true for any cost that does not “appreciably” prolong the useful life of the property, and for any cost that does not “primarily” benefit the tenant rather than the owner of the property.

The present argument focusses on the “materially add” requirement of the definition of a capital improvement.

It is well established law in California that a person who files a petition seeking a rent increase has the burden to prove each fact which is essential to his claim for rent increase.¹³ In the present case, L15-0073, landlord (not tenants) must prove as a fact that each alleged capital improvement expense materially adds to the value of the property at 3921 Harrison Street.

Landlord failed on two scores to make the required proof. First, landlord failed to prove the value of the property. Second, landlord failed to prove that each alleged capital improvement materially added to the property’s value. For those reasons, the Board should dismiss landlord’s petition.

Lest the Board think this would be a weak defense if the facts were known, tenants themselves proved the value of the property at 3921 Harrison Street. And, tenants themselves

¹³ "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." (Evidence Code section 500) [Emphasis added]

showed the landlord's expenses did not "materially add" to that value. Tenants argued the "materially add to the value of the property" issue in section VII of Tenants Post-Hearing Brief, at pages 19-21.

Here are the facts which were proved by tenants.

The value of the Harrison Street property in 2013 and 2014, when the alleged capital improvements were made, was a little over 2 million dollars. The property was sold in November 2013. The sale price was \$2,051,000. (Tenant Exhibit TX-33) The Hearing Decision in a contemporaneous case, L-14-0065, involving the same property, found the cost of construction of that property in 2014 would be \$2,148,694. (Tenant Exhibit TX-2)¹⁴ In short, tenants proved that \$2 million is a proper amount for the value of the property.

Tenants next showed that that landlord's alleged capital improvement expenses did not materially add to the property's \$2 million value. For example, landlord has asserted the \$7,500 cost of a "New sewer lateral" as an allowable capital improvement. However, arithmetic shows that \$7,500 is less than 1% of the \$2 million value of the property. In fact, that amount represents about 1/3 of one percent or 0.38 percent of the value of the property. An alleged capital improvement which increases the value of the property by a mere 0.38% cannot satisfy the "materially" requirement of OMC 8.22.020. As another example, landlord has asserted the \$40,000.00 cost of painting as a capital improvement. Again, arithmetic shows the \$40,000 painting cost was 2% of the value of the building. An alleged capital improvement which increases the value of the property by a mere 2% cannot satisfy the "materially" requirement of OMC 8.22.020.

The Hearing Decision did not give any reasoned analysis why each alleged capital improvement did or did not satisfy the "materially add to the value" requirement of OMC 8.22.020. The Hearing Decision just gave a grocery list of "construction projects", at page 7, and said they "qualify as capital improvements". Among the list were "new sewer lateral" and "painting".

The Hearing Decision should be reversed and remanded, with an instruction to evaluate each and every alleged capital improvement cost, to determine whether each alleged improvement "materially" added to the value of the property. The same instruction should be

¹⁴ The Hearing Decision was affirmed by this Board. The Board's decision is the subject of a pending petition in the California Superior Court.

given with respect to whether each alleged capital improvement “appreciably” prolonged the useful life of the property, and whether each alleged capital improvement “primarily” benefitted the tenants.

The “Materially” Add Question Raises A Policy Issue Which Should Be Decided By The Board.

Lack of a principled bright-line standard, in Board decisions, for what “materially” adds to the value of the property, creates unacceptable uncertainty for both landlords and tenants. That is bad policy. Landlords will not know the limits of what capital improvements can be passed through to tenants. Such uncertainty will lead landlords to file petitions for rent increases to test the water, so to speak, and see what the Board does. Tenants will be forced to spend scarce resources on attorney fees to defend against the petitions. Further, the lack of a principled standard undermines tenants’ ability to engage in mediation. Moreover, the lack of a principled standard may lead different owners of the same property not to charge tenants, or to charge tenants, for the same type of capital improvement.

This is not a hypothetical situation. For example, a prior owner of the property involved in this L15-0073 case did repairs to the property, to try to fix dry rot problems. (Tenants Exhibit TX-36, last page) And, that prior owner did not ask the tenants to pay for the repairs. However, the owner who brought the petition in L15-0073 is asking many of the same tenants to pay substantial money for fixing the dry rot problems which the prior owner failed to fix.

For these reasons, both landlords and tenants will benefit if the Board establishes meaningful certainty for what constitutes “materially” adding to the value of the property. The same is true for what constitutes “appreciably” prolongs the property’s useful life, and “primarily” benefit the tenant rather than the owner.

We respectfully suggest that, before deciding these policy issues in this appeal, the Board seek amicus briefing on these issues from both landlord and tenant entities. In the alternative, we ask the Board to remand the case to a hearing officer to address these important questions of law and fact.

E.

The Hearing Decision Erroneously Passed Through To Tenants
Many Costs That Fail To Qualify As Capital Improvements
Because They Include The Contractor's Profit.

The Hearing Decision is not supported by substantial evidence. It erroneously passed through to tenants numerous costs that fail to qualify as capital improvements because they include the contractor's profit.

A contractor's profit does not qualify as a capital improvement under the OMC definition of "Capital improvements". Tenants argued this issue in Tenants Post-Hearing Brief, at pages 20-21. But, the Hearing Decision did not discuss the profit issue.

Capital improvements are defined in OMC 8.22.020.

"Capital improvements" means those improvements to a covered unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the tenant rather than the owner." [Emphasis added]

A contractor's profits do not "materially add to the value of the property", nor do they "appreciably prolong its useful life." This law is grounded in the November 27, 2013 Hearing Decision in *Saldana et al. v. Gaines/Taplin*, T12-0256. At its pages 11-14, that decision disallowed costs for contractor's supplies and equipment, including hammers, wrecking bar, and hoses. If a contractor's supplies and equipment are disallowed as capital improvement expenses because they don't add to the value of the property or extend its useful life – and they were disallowed in the Saldana case – then without question a contractor's profits do not add to the value of the property or prolong the property's useful life, and must be disallowed

The Hearing Decision allowed, as capital improvements to be passed through to tenants, numerous alleged expenses which included the contractor's profits.¹⁵ The relevant facts are as follows.

Mr. Gallagher was the general contractor who was in charge of the work on the property at issue in this case, L15-0073. He did not bill separately for labor and materials. He chose to

¹⁵ Building-wide expenses are listed in the top table attached to the Hearing Decision. They were for: new sewer lateral, painting of exterior and interior, construction of 15 balconies, stucco removal & installation. The costs for particular units are in the bottom table. All of the expenses are to an even dollar amount and include the contractor's profit.

bill on a flat sum, even-dollar amount, basis which included his profits. He admitted, on cross-examination, that his invoices to an even dollar amount included his profits.

MR. AMBERG: Let me take Tenants' Exhibit 7, which is Production Number 2 of 137. It's your invoice number 1 that's for \$50,000.

MR. GALLAGHER: Mm-hmm.

MR. AMBERG: Now what was included in that \$50,000?

MR. GALLAGHER: I think I answered this question before. It was installation of a new roof.

MR. AMBERG: I know, but did this include materials, labor, and your profit?

MR. GALLAGHER: Installation of a new roof, yes.

MR. AMBERG: But it included the labor, materials, and your profit?

MR. GALLAGHER: Yes.

MR. AMBERG: And is that likewise true for all the other exhibits that were of an even dollar amount?

MR. GALLAGHER: Yeah, the -- definitely the labor and materials were all good, correct.

MR. AMBERG: And your profits as well?

MR. GALLAGHER: I don't think -- no, not profits.

MR. AMBERG: Did you lose money?

MR. GALLAGHER: No.

MR. AMBERG: Did you break even?

MR. GALLAGHER: No. You have to talk to my accounting department for that. I'm unable to answer those questions.

MR. AMBERG: Did you separately bill Lapham or Mr. Bykhovsky for your profits?

MR. GALLAGHER: No. When you're doing a price work, you price it out to make sure that everything's going to be covered. Again, it's not a time and material basis when you're supposed to record timesheets, time cards, invoicing on receipts. This is a price-based.

MR. AMBERG: I understand that, Mr. Gallagher. You have billed just in these invoices several hundred thousand dollars. Did you lose money on this work?

MR. GALLAGHER: Not that I can recall.

MR. AMBERG: Did you break even on this work?

MR. GALLAGHER: Not that I can recall.

MR. AMBERG: Did you make a profit on this work?

MR. GALLAGHER: I can't recall. I don't do my books. You got to talk to my accounting department.

MR. AMBERG: Do you generally try to make a profit on your work?

MR. GALLAGHER: Yes. That's the reason why we're in business.

(January 13, 2017 transcript, pages 41-42)

Mr. Gallagher chose to bill on a flat sum, even-dollar-amount basis, which included his profit. He should have billed labor and materials separately from profits. But he did not.

Landlord's evidence should have separately stated materials and labor. But, it did not. Mr. Gallagher and the landlord chose not to do that. They must bear the consequences of impermissibly trying to force tenants to pay for Mr. Gallagher's profit. Landlord failed to meet his burden to prove that his alleged expenses were solely for legitimate capital improvements.

Tenants believe that allowing a landlord to pass-through a contractor's profits to tenants could likely result in abuse of tenants. In the present case, the contractor's profits were not known to tenants. The profits were hidden in Mr. Gallagher's even-dollar invoices. They should have been revealed, allowing tenants to challenge them.

The Hearing Decision allowed four, even-dollar-amount, building-wide, expenses, and allowed numerous, unit-specific, even-dollar-amount expenses, as capital improvements to be passed through to tenants. The expenses included the contractor's profits. Because the Hearing Decision passed those costs through to tenants, the Hearing Decision should be reversed and remanded, with instructions to disallow those expenses.

F.

The Definition Of Capital Improvements In OMC 8.22.020
Is Unenforceable and Invalid Because It Is Internally Inconsistent.

The definition of "Capital improvements" in OMC 8.22.020 is internally inconsistent. The definition is therefore vague, unenforceable, invalid and unconstitutional.

As explained above, the definition of capital improvements imposes four requirements, all of which must be satisfied, or a cost cannot qualify as a capital improvement.

The improvement must:

1. be to a "covered unit or common areas", and
2. "materially add to the value of the property", and
3. "appreciably prolong its useful life" or "adapt it to new building codes", and
4. "primarily benefit the tenant rather than the owner" [Emphasis added]

The definition, however, is internally inconsistent. An improvement cannot simultaneously "materially add to the value of the building" and "primarily benefit the tenant rather than the owner."

The owner owns the property. The owner primarily benefits when an improvement materially adds to the value of the property. Therefore, an improvement which satisfies the “materially add” requirement of the definition of capital improvement cannot satisfy the “primarily benefit the tenant” requirement.

The same is true for an improvement which “appreciably prolong[s] its useful life”. An improvement which “appreciably” extends the property’s useful life must necessarily primarily benefit the owner, because the owner owns the property and he alone is thereby enabled to collect rents for a longer period of time. Therefore, an improvement that satisfies the “appreciably prolong” requirement of the definition of capital improvement cannot satisfy the “primarily benefit the tenant” requirement.

Tenants raised these and other vagueness and unenforceability issues in section VII of Tenants Post-Hearing Brief, at pages 21-23. The Hearing Decision, however, fell silent and ignored those issues. The Hearing Decision should be reversed and remanded, with instructions to the Hearing Officer to consider and decide those issues.

G.

Tenant Julie Amberg (Unit 302) Should Be Allowed Full Participation in L15-0073.

At pages 4 and 5-6, the Hearing Decision found that tenant Julie Amberg (unit 302) should have limited participation in L15-0073 because she did not show good cause for not filing a “Tenant Response” to the petition. The Hearing Decision said, at page 6, that Ms. Amberg “did not provide any reason as to why she did not file a response at all between September 21, 2016 and the first hearing date of January 12, 2017.”

That finding is not supported by substantial evidence, and should be reversed.

As of September 22, 2016, Ms. Amberg had already filed a signed, sworn response which substantively satisfied RAP Regulation 8.22.090(C)(d). Her response was in Tenant Exhibit TX-37, filed in the RAP on September 21, 2016.

It was error for the Hearing Decision to require Ms. Amberg to file an additional response in the time interval between September 22, 2016 and January 12, 2017 because on September 21, 2016 Ms. Amberg did respond to the petition, although the signed and sworn document she filed on September 21st was not specifically captioned “Tenant Response.” Here are the facts.

Ms. Amberg testified that she was a victim of mail theft, did not receive the petition in December 2015, and first got a copy of it in September, 2016.¹⁶ On September 21, 2016, she filed a signed, sworn statement of the theft with the RAP. (Her statement is in Tenant Exhibit TX-37.) She said:

“1. I am a victim of mail theft. See attached August 22, 2016 notice of mail theft. I therefore do not know what notices or papers relating to this matter may have been sent to me and which, because of mail theft, I never received. I affirm that I did not timely receive a December 21, 2015 letter from the Rent Adjustment Program, giving notice that the Program had received a petition from my landlord proposing a rent increase that may exceed the maximum permitted by Oakland Municipal Code Chapter 8.22, and that I did not timely receive a copy of the landlord’s petition.”

It is important to keep in mind that as of September 21, 2016, landlord had not served or filed any information or documentation about the cost of, or the nature of, the capital improvements which landlord was seeking to pass through to tenants. That information and those documents were not revealed to tenants by landlord until January 4, 2017.

Thus, when Ms. Amberg obtained a copy of the petition, in September 2016, no capital improvements information or documents were in the petition or attached to it. She, like all the other tenants, were kept in the dark until January 4, 2017.

This led Ms. Amberg to declare in writing and under oath on September 21, 2016 (in Tenants Exhibit TX-37, Statement Supporting, section B) the grounds on which she opposed the petition. She said:

“5. I understand that both the Oakland Municipal Code (Section 8.22.090 B.1.e.) and the Rent Adjustment Program Regulations (Section 8.22.90 C.1.e.) require that:
“In order for an owner to file ... a petition seeking a rent increase, the owner must provide ... Documentation supporting the owner’s claimed justification(s) for the rent increase or supporting any claim of exemption.”
(Underlining in original)

6. To the best of my belief, when the owner filed the petition in this matter, L15-0073, the petition did not provide that required documentation.
7. For example, the Tenant Response, in L15-0073, of Todd McMahon and Mari Oda stated:

“3. We are unable to address the claim at this time as the Landlord has not provided any documentation showing the improvements that they wish to pass through to us, the tenants of unit 304, at 3921 Harrison Street in Oakland CA.”

¹⁶ Tenant Exhibit TX-37, “Statement Supporting”, section A, paragraph No. 3.

8. As another example, the Tenant Response of Alexander Vasilescue and Zoe Bridges stated:
“Furthermore, the building owner has given no information about the amount of any rent increase that would come from this or the last rent petition.”
9. The Landlord Petition in L15-0073 itself admitted that the required documentation did not accompany the petition.
“Additional evidence documenting the Owner’s claims including invoices, proof of payment and calculation worksheets will be provided prior to the date of the hearing.”
10. The landlord’s petition may have violated both the Oakland Municipal Code (Section 8.22.090 B.1.e.) and the Rent Adjustment Program Regulations (Section 8.22.90 C.1.e.).”

Surely, if those statements of grounds for opposing the petition had been in a form captioned “Tenant Response”, they would have satisfied Regulation 8.22.090(C)(d). The statements, quoted above in Tenant Exhibit TX-37, were “signed under oath” as required by the regulation. They were filed with the RAP. The Hearing Decision erroneously disregarded Ms. Amberg’s sworn statements merely because they were not on the RAP’s form.

It is respectfully submitted that Ms. Amberg did substantively comply with the regulation. The Hearing Decision’s conclusion that she did not show good cause is not supported by substantial evidence, and should be reversed. The Board should allow Ms. Amberg full participation in L15-0073.

The Hearing Decision’s Grant Of A Rent Increase
For “New Windows” In Unit 302
Is Not Supported By Substantial Evidence.

At page 8, the Hearing Decision allowed the monthly rent in Ms. Amberg’s unit (302) to increase \$146.67. The monthly rent increase is not supported by substantial evidence.

The table attached to the Hearing Decision said the rent increase for unit 302 was for “4 new windows per each unit.” (First line of the table “Improvements and repairs benefitting particular units”)

However, those “new windows” do not qualify as a capital improvement because the windows do not materially add to the value of the property because they are exactly the same as the existing windows which were already in unit 302.

Capital improvements are defined in OMC 8.22.020.

"Capital improvements" means those improvements to a covered unit or common areas that materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Those improvements must primarily benefit the tenant rather than the owner. [Emphasis added]

An improvement which fails to "materially add to the value of the property", does not qualify as a capital improvement, and its cost cannot be passed through to a tenant.

The "new windows" that were installed in unit 302 did not materially add to the value of the property. The "new windows" in unit 302 replaced double-paned windows that were already in unit 302. The replacement windows in unit 302 were no better than the existing windows. They were exactly the same as the existing windows. Ms. Amberg and Mr. Gallagher testified to this.

Q. Ms. Amberg, did you request the installation of new windows in Unit 302?

A. No, I did not.

Q. Did you request the installation of a new sliding door in Unit 302?

A. No, I did not. I already had double-paned, very good quality, noise reducing, easy-to-use window and door. (January 12, 2017 transcript, page 36)

* * * *

THE COURT: Okay. And you received the new windows in your unit?

THE WITNESS: There are new windows, which I actually find more difficult to use and -- yes, there are new windows.

THE COURT: Yeah.

MR. GALLAGHER: The exact same windows -- they are exactly the same. There's no different from what you had. (January 12, 2017 transcript, page 39, emphasis added. Mr. Gallagher is the contractor who installed the windows in unit 302.)

Replacement of windows that were already in unit 302 with windows that are "exactly the same" as the existing windows in unit 302 cannot "materially add value to the property". Therefore, the cost of replacing the windows in unit 302 fails to satisfy the definition of a capital improvement in OMC 8.22.020, and the cost of the replacement cannot be passed through to the tenant, Ms. Amberg.

The Hearing Decision erroneously passed the cost to Ms. Amberg through a rent increase of \$146.67 per month for the windows. That increase is not supported by substantial evidence. The Hearing Decision on this rent increase should be reversed.

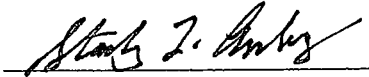
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CONCLUSION

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For the above-stated reasons, the Board should reverse the Hearing Decision and deny all claims by Landlord for rent increase based on capital improvements.

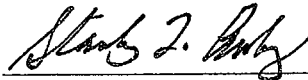
Respectfully submitted,



Stanley L. Amberg,
11 Carolyn Lane, Chappaqua, NY 10514
T: 914-238-4921,
Representative for Tenants Amberg, Garcia,
McMahon and Oda.

August 23, 2017

I, Stanley L. Amberg, declare under penalty of perjury under the laws of the State of California that on August 23, 2017, I placed a copy of this Tenants Brief On Appeal 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: Clifford E. Fried, Fried & Williams LLP, 1901 Harrison Street, 14th Floor, Oakland, CA 94612; and to Rockridge Real Estate, LLC, 1373 Clay Street, San Francisco, CA 94109.



Stanley L. Amberg

Clifford E. Fried, Esq. SBN 118288
Fried & Williams LLP
1901 Harrison Street, 14th Floor
Oakland, CA 94612
Telephone: 510-625-0100

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Elizabeth Hart
Rent Board Matters
1801 University Ave. Ste. 308
Berkeley, CA 94703
Telephone: 510-813-5440

For Landlord
525, 655 Hyde St. CNML Props., LLC

COMMUNITY AND HOUSING DEVELOPMENT AGENCY
RENT ADJUSTMENT PROGRAM
CITY OF OAKLAND

3921 Harrison Street, Oakland CA,

Case No. L15-0073

Property
Address,

**LANDLORD'S RESPONSE TO
APPEALS OF TENANTS
BIANCA CALDERON-
PENALOZA & DAVID
PRECIADO**

525, 655 Hyde St. CNML Props.,
LLC,

Hearing Dates: January 12, 2017
January 13, 2017
&
March 24, 2017

Landlord,

Hearing Officer: Linda M. Moroz

v.

Tenants,

Tenants.

Landlord 525, 655 Hyde St. CNML Props., LLC and its successor in interest, Rockridge Real Estate, LLC, submit the following Response to the appeals of Tenants Bianca Calderon-Penalosa & David Preciado.

FACTUAL BACKGROUND

The Landlord file a capital improvement passthrough on December 18, 2015. Unit 204, occupied by Tenant Bianca Calderon-Penalosa, was one of the 16 units in the building for which the Landlord sought a credit for capital improvement passthroughs. See Decision at page 2.

On June 30, 2014, the Tenants in unit 204 were given the RAP Notice telling them their rights under the RAP and how to contest a rent increase. See Exhibit A hereto.

On or about December 21, 2015, the Tenants in unit 204 were informed of the Landlord's Petition for capital improvement passthrough. Exhibit B hereto is a letter to the Landlord representing to the Landlord that the Tenants would be so notified.

On or about December 21, 2015, the Landlord and Tenants in 204 were given notice of the hearing on the Petition. Attached hereto as Exhibit C is the notice sent to the Landlord and there is reason to believe that a similar notice was sent to the Tenants in unit 204.

On April 8, 2016, the RAP sent an Order to the parties scheduling a Hearing for July 21, 2016. The proof of service on this Order shows a copy being mailed to the Tenants in unit 204. See Exhibit D hereto.

On May 20, 2016, the RAP served an Order on the parties scheduling the Hearing date for August 31, 2016. See Exhibit E hereto.

On June 29, 2016, the RAP served an Order on parties scheduling the Hearing date for October 6, 2016. See Exhibit E hereto.

On September 29, 2016, the RAP served an Order on the parties scheduling the hearing for January 12, 2017. See Exhibit F hereto.

And then again on January 18, 2017 the RAP gave the parties a notice of continued hearing for March 24, 2017. See Exhibit G hereto.

Thus, Tenants Bianca Calderon-Penalozza & David Preciado were given notice of the Petition and hearing on at *7 occasions*.

Tenants Bianca Calderon-Penalozza & David Preciado did not file a Response to the Petition, did not participate in a mediation that was scheduled, and did not appear for the hearing. See Decision at pages 2 and 4.

The Decision grants a capital improvement rent increase for Unit 204. See Decision at page 8. Tenants Bianca Calderon-Penalozza & David Preciado now appeal that rent increase by claiming their rent increase is inconsistent with, and violates, RAP laws and decisions.

Tenants Bianca Calderon-Penalozza & David Preciado *do not* appeal on the basis that they were not giving proper notice of the Petition filing or Hearing.

ARGUMENTS IN OPPOSITION TO APPEAL

A. The Decision is Consistent with OMC Chapter 8.22 and Related Regulations and RAP Decisions.

Petitioner could find nothing in the OMC Chapter 8.22 or the RAP Regulations that permit a tenant to challenge a petition, for the first time, after a Decision has been rendered. Nor could Petitioner find a RAP Decision where a capital improvement passthrough was denied on appeal after the tenant failed to file a Response or appear at the Hearing.

Contrary to the Tenants' argument, the Decision is consistent with Chapter 8.22, the RAP Regulations and prior RAP Decisions.

B. Neither the Decision Nor the Proposed Rent Increase Violates the Rent Adjustment Ordinance.

OMC Section 8.22.070 permits a rent increase in excess of the CPI rent adjustment or a banked rent increase for “[capital improvement costs”. See OMC Section 8.22.070.C.a. OMC Section 8.22.080.E permits rent increases under Section 8.22.070. Thus, the rent increase sought in the Petition does not violate the Rent Adjustment Ordinance.

There is nothing in the record from the hearing that proves the capital improvements took place before the tenancy of Tenants Bianca Calderon-Penalozá & David Preciado. Landlord objects to any new evidence that Tenants Bianca Calderon-Penalozá & David Preciado attempt to introduce for the first time on appeal. The Decision of the Hearing Officer is based on the admissible testimony before her at the Hearing and not unsworn testimony like that the Tenants in unit 204 are trying to improperly introduce on appeal.

C. Tenants Bianca Calderon-Penalozá & David Preciado Waived Their Objections to the Petition and to Contest the Capital Improvement Passthrough.

OMC Sec. 8.22.090.A.5 requires a tenant to file a Response within 30 days after service of the Landlord Petition. To this day, Tenants Bianca Calderon-Penalozá & David Preciado have never filed a Response to the Petition and have never asked for permission to file a Response. By failing to file a Response, they have waived their right to object to the Decision and the approved rent increase.

Instead, Tenants Bianca Calderon-Penalozá & David Preciado waited until the Decision came out and now complain about the outcome. It doesn't work that way. The time for a tenant to object to a rent increase is at the hearing after filing a Response. If landlords and tenants were permitted to first object after seeing the Decision, there would be no purpose in having a hearing. Landlords and Tenants would just wait and

see and if they were unhappy with the Decision, they would file appeals. This would render the entire RAP Petition and Hearing process a sham. Why give would a tenant ever give sworn testimony at a hearing when you could simply wait and challenge a Decision on Appeal with unsworn testimony?

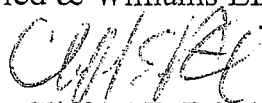
CONCLUSION

The RAP is a pro-active agency that serves to notify and protect tenants from excessive rent increases. The RAP mandates that tenants be provided a notice of their rights and the services available at the RAP at the commencement of the tenancy as well as whenever there is a change in that tenancy. The RAP also pro-actively sends informational letters to tenants to inform them of their rights AND informs them whenever there is a RAP matter that may impinge on their rights. However it is incumbent upon the tenant to participate in the process; in short, to act to protect and protect their rights. This is not a case of tenants not being informed of their rights under the RAP. This is a case of tenants sitting on those rights and not exercising them. The Tenants in this case didn't seem to care enough to file a Response and appear at a Hearing. If the Tenants didn't care about their rights, then the RAP shouldn't bend over backwards to resurrect those rights on appeal.

For all of the foregoing reasons, the Landlord respectfully requests that the Tenants' appeal be dismissed or denied:

Submitted on September 20, 2017 by

Liz Hart of Rent Board Matters and
Fried & Williams LLP


By Clifford E. Fried

CITY OF OAKLAND
P O. Box 70243, Oakland, California 94612-0243



(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-5254

Community and Economic Development Agency
Rent Adjustment Program

NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

The City of Oakland has a Residential Rent Adjustment Program ("RAP") (Oakland Municipal Code Chapter 8.22) that covers most residential rental units built before 1983. It does not apply to units rented under section 8, most single family dwellings and condominiums and some other types of units. For more information on which units are covered, call the RAP office. This Program limits rent increases and some changes in terms of tenancy for covered residential rental property in Oakland.

You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase (the CPI increase). A landlord can increase rent more than the CPI rate, but with some limits, for: capital improvements, operating expense increases, debt service, and deferred annual rent increases. You can also complain about other violations of the Rent Adjustment Ordinance. The landlord must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing.

If there is a decrease in the housing services provided to you, this may be considered an increase in your rent. A decrease in housing service includes substantial problems with the condition of a unit.

To contest a rent increase, you must file a petition with the RAP using the Rent Program's form, within sixty (60) days after first receiving written notice of the RAP or within sixty (60) days of receiving a notice of rent increase or change in terms of tenancy, whichever is later. You can obtain information and the petition forms from the Rent Adjustment Program office or online at <http://www.oaklandca.gov/government/hcd/rentalboard/tenant.html>.

If you contest a rent increase, you must pay your rent, with the contested increase, until you file a petition. After you file your petition, you may pay only the portion of the increase due to the CPI Rent Adjustment percentage if the CPI increase amount has been stated on the notice of rent increase. If it has not been stated separately, you may pay only the rent you were paying before the notice of rent increase. If the increase is approved and you did not pay the increase as noticed, you will owe the amount of the increase retroactive to the date it would have been effective under the notice.

Eviction controls are in effect in the City of Oakland (the Just Cause for Eviction Ordinance, O.M.C. 8.22 200, et seq.). You cannot be arbitrarily evicted if your rental unit is covered by the Just Cause for Eviction Ordinance. For more information call the Rent Adjustment Office.

Oakland charges landlords a Rent Program Service Fee of \$30 per unit per year. If the landlord pays the fee on time, the landlord is entitled to get half of the fee (\$15) per unit front you. The \$15 you pay of the annual fee is not part of the rent.

The Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) may require that a tenant who commits or permits certain illegal acts in the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex must be evicted. If the owner does not evict, the City Attorney may do so.

TENANTS' SMOKING POLICY DISCLOSURE

Smoking IS NOT permitted in the unit you plan to rent.

Smoking IS permitted in other units of your building. (If both smoking and non-smoking units exist in the tenant's building, attach a list of units in which smoking is permitted.) [see attached addendum next page]

Smoking is PROHIBITED in all common areas, both indoors and outdoors.

There IS NOT a designated outdoor smoking area.

此份屋書(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Bản Thông Báo quyền của người thuê ở trong Oakland này cũng có bằng tiếng Việt. Nếu có một bản sao, xin gọi (510) 238-3721.

Address of Unit:

3921 Harrison Street 94611

unit #

204

Tenant Signature:

[Handwritten Signature]
Diana Penabaz

Date: 6/30/14

000206

EXHIBIT

41

ADDENDUM
NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM
Tenant's Smoking Policy Disclosure (Continued)
Multi-Unit Residential Properties

Whereas on November 4, 2007, the Oakland City Council amended the City's Smoking Pollution Ordinance (Chapter 8.30 of the Oakland Municipal Code (OMC)) which changes confirm and modify no smoking policies in public areas and in and around multi-family residential properties (apartment buildings), and

Whereas as property managers representing owners of multifamily properties (hereinafter "Owners"), it is Lapham Company's responsibility to clearly state the basic provisions of OMC regarding smoking policy in and around multi-unit residential properties and to articulate the building-specific policy of said owners regarding the status of individual apartments within the multi-unit residential property, and

Whereas a part of the Owner's responsibility under the Oakland Smoking Pollution Ordinance is to disclose to prospective and new tenants of the smoking policy for the apartments in multi-unit housing. Because it was previously not required for Owners to know the smoking status of residents, and in order to fully provide that disclosure, Owners must gather information from all existing tenants in the building regarding their individual smoking status, which information must be disclosed to prospective and new tenants, but which information is not available at the outset of the implementation of the amended Oakland Smoking Pollution Control Ordinance, and

Whereas it is Owner's plan to gather that information from existing tenants and provide same to prospective and new tenants as it becomes available, now therefore

Owner (Lapham Company as Agent of Owner) does hereby include the following information as an Addendum to the NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM - Tenant's Smoking Policy Disclosure as a part of the attached NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM:

1. It is acknowledged that at the outset of the tenancy, smoking **IS NOT** permitted in the apartment which is being rented pursuant to the attached lease
2. There has been no previous requirement to address or monitor smoking in the subject building and smoking **IS** therefore probably occurring in other units of building in which the above referenced unit is located, but owner is not aware of the detail listing of which units in the building are occupied by tenants who smoke. However, Owner is endeavoring to obtain that information and will provide same to the tenant herein when such information is available.
3. As per the OMC, Smoking is **PROHIBITED** in all indoor and outdoor common areas of the property, including but not limited to hallways, walkways, elevator, stairways, garage, laundry room, lobby/entry, decks, landings, and within 25 feet of any doorway, air intake, or operable window.

Tenant Signature: _____


Binwa Pedraza

Date: _____

6/30/14

Agent for the Owner
The Lapham Company, Inc.
4844 Telegraph Avenue
Oakland, CA 94609



Date: _____

7-2-14

EXHIBIT

A 2

**CITY OF OAKLAND RESIDENTIAL RENT ADJUSTMENT PROGRAM
SUPPLEMENT REQUIRED WITH NOTICE INCREASING RENT OR CHANGING
TERMS OF TENANCY**

Oakland has a Residential Rent Adjustment Program that limits rent increases.

A rental property owner may increase rent only once every 12 months. A tenant who receives a rent increase above an annual amount (CPI Rent Adjustment) may petition the Rent Adjustment Program to require the owner to justify the amount of the increase in excess of the CPI Rent Adjustment. A tenant must file the petition within 60 days of the owner's serving the rent increase notice or the tenant gives up the right to contest the increase.

When a rent increase exceeds the CPI amount allowed, a tenant may request a summary of the justifications for the rent increase from the owner. The request must be made in writing within 30 days of receipt of the notice of increase. The owner must provide a written response within 15 days of the tenant serving the request for the summary or the increase notice is invalid.

The tenant and the owner are encouraged to communicate with each other to resolve their differences without the need for filing a petition.

Rent increase as of July 1, 2014 is 1.9%

This notice provides limited information. For further information, contact the Rent Adjustment Program at 250 Frank H. Ogawa Plaza, 5th Floor, Oakland, CA 94612 (510) 238-3721.

Optional by owner: If you file a petition with the Rent Program on this rent increase, you must pay the amount of the increase equal to the CPI Rent Adjustment until the petition is decided by the Rent Adjustment Program.

Address of Rental Unit:

3921 Harrison Street 94611

unit #

204

Tenant Signature: _____



Bianca Najaloz

Date: 6/20/14

EXHIBIT

A 3

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. 2017 AUG 10 AM 11:04
		<u>APPEAL</u>

Appellant's Name Fernando Garcia and Kate Flick Garcia		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3921 Harrison Street, Oakland, CA 94611 Unit 202			
Appellant's Mailing Address (For receipt of notices) 3921 Harrison Street, Oakland, CA 94611		Case Number L15-0073	Date of Decision appealed July 19, 2017; mailed July 27, 2017
Name of Representative (if any) Stanley L. Amberg		Representative's Mailing Address (For notices) 11 Carolyn Lane, Chappaqua, NY 10514	

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

- 1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*
- 2) Appealing the decision for one of the grounds below (required):
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 - d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
 - e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

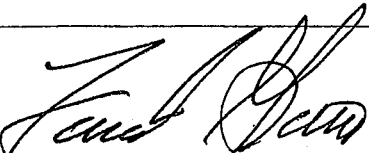
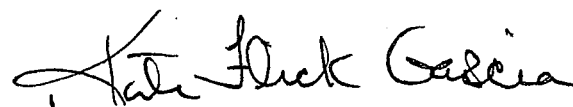
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 4

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 10, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Rockridge Real Estate, LLC
<u>Address</u>	1373 Clay Street
<u>City, State Zip</u>	San Francisco, CA 94109
<u>Name</u>	Clifford Fried, Esq.
<u>Address</u>	1901 Harrison Street, 14th Floor
<u>City, State Zip</u>	Oakland, CA 94612

		August 10, 2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE		DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

For more information phone (510) 238-3721.

RECEIVED
CITY OF OAKLAND
HUMAN RESOURCES DEPARTMENT

2017 AUG 10 AM 11:06

Attachment to Appeal in L15-0073

2a) The Hearing Decision is inconsistent with the OMC and RAP Regulations.

The Hearing Decision's ruling on the time limits for capital improvements is inconsistent with OMC 8.22.090(B), 8.22.070(D) and Regulation 8.22.90(C) and Regulations Appendix A 10.2.1.

The Hearing Decision's reliance on the decision in *Baragano v. City of Oakland, et al.*, Case No. RG14732655 is inconsistent with current Regulations Appendix A 10.2.1 and with Regulation 8.22.90(C).

In addition, the decision in the Baragano case is not final. It is on appeal to the Court of Appeal, First District, California, No. A148852.

Significantly, the decision in *Baragano* is factually not in point and is not controlling precedent because the owner's petition in that case did include capital improvements information, total costs, and unit costs, wherefore the effective date of the petition in *Baragano* was its actual filing date in the RAP. By contrast, in the present case L15-0073, the petition omitted capital improvements information, which was not filed or revealed to tenants until January 4, 2017, wherefore under Regulation 8.22.90(C), the filing date of the petition in the present case is not earlier than January 4, 2017, and the date of any proposed rent increase may not be earlier than January 4, 2017.

The Hearing Decision's rulings on allowable capital improvements is inconsistent with the definition of "Capital improvements" in OMC 8.22.020.

The Hearing Decision's rulings on allowable capital improvements is inconsistent with deferred maintenance Regulations Appendix A 10.2.2(4)(b).

2b) The Hearing Decision is inconsistent with decisions issued by other hearing officers.

The Hearing Decision's rulings on allowable capital improvements is inconsistent with the following decisions:

McGhee v. Carraway-Brown, T05-0220 (Amended Hearing Decision, Jan. 6, 2006); *aff'd*, HRRRB (precedential; Feb. 24, 2006). Current owner stands in the shoes of the prior owner, and is charged with the prior owner's knowledge of the problems with the property and prior owner's failure to maintain the property.

November 27, 2013 Hearing Decision in *Saldana et al. v. Gaines/Taplin*, T12-0256. Contractor's supplies, equipment and profits do not add value to the property and are disallowed as capital improvement expenses.

2c) The Hearing Decision raises new policy issues that have not been decided by the Board.

Is the definition of "Capital improvements" in OMC 8.22.020 impermissibly and/or unconstitutionally vague and unenforceable? The following words in the definition lack an objectively determinable meaning:

"materially"
"appreciably"
"primarily"

Is the definition of "Capital improvements" in OMC 8.22.020 internally inconsistent and therefore unenforceable? This policy issue relates to capital improvements that are not in a tenant's unit.

A capital improvement which "materially add[s] to the value of the property", and therefore primarily benefits the owner of the property, cannot "primarily benefit the tenant".

A capital improvement which "appreciably prolongs [the property's] useful life", and therefore primarily benefits the owner of the property, cannot "primarily benefit the tenant".

When an owner files a petition for capital improvement pass through to tenants, does the owner have the burden to prove that each alleged capital improvement satisfies each of the requirements of the definition of "Capital improvements" in OMC 8.22.020?

2d) The Hearing Decision violates federal, state or local law.

California Evidence Code section 500 states: "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." Because the present case arises from an owner's petition seeking capital improvement pass through to the tenants, the owner had the burden to prove the existence of each fact in support of his claim for relief.

The Hearing Decision herein violated Evidence Code section 500 because it did not require the owner to prove that each alleged capital improvement satisfied all the requirements of the definition of "Capital improvements" in OMC 8.22.020.

Arnett v. Dal Cielo, 14 Cal.4th 2, 22 (1996), requires that "Courts should give meaning to every word of a statute if possible, and should avoid a construction making any word surplusage."

The Hearing Decision herein erroneously failed to give meaning to the terms "materially", "appreciably", and "primarily" when determining whether the alleged capital improvements satisfied the definition of "Capital improvements" in OMC 8.22.020.

For example, the Hearing Decision allowed the \$7,500.00 cost of a sewer lateral. The value of the property at the time when the sewer lateral was installed was approximately \$2 million. The OMC definition of an allowable capital improvement requires that the improvement must “materially” add to the value of the property. The \$7,500 cost of the sewer lateral was less than 1% of the value of the property. In fact, it was 0.38% of the value of the property. An alleged capital improvement which increases the value of the property by a mere 0.38% cannot satisfy the “materially” requirement of OMC 8.22.020.

As another example, the Hearing Decision allowed the \$40,000.00 cost of painting. The \$40,000 painting cost was 2% of the value of the building. Reasonable analysis would not regard a 2% increase in value as material.

Mullane v. Cent. Hanover Bank & Trust Co, 339 U.S. 306 (1950) and *Nozzi v. Hous. Auth.*, 806 F.3d 1178 (9 Cir. 2015) hold that deprivation of information that is necessary to understand a claim, and to defend against it, is denial of due process.

Throughout the period from December 18, 2015 (when the petition was filed) to January 4, 2017 (when the owner filed his evidence packet), the tenants were deprived of critical information (the nature of and dollar amount of alleged capital improvements) that was necessary for tenants to understand the owner’s claim and to defend against it.

2e) The Hearing Decision is not supported by substantial evidence.

At page 6, the Hearing Decision erroneously found as a fact the owner’s petition – as it was filed on December 18, 2015 – “included the breakdown of the improvements, the dates of completion, cost, payments, and allocation of the proposed rent increase per each unit.” That finding is not supported by substantial evidence, is clearly erroneous, and is directly contradicted by the petition itself.

2e) and f) Julie Amberg, the tenant in unit 302, was denied the opportunity to present evidence.

The Hearing Decision found that tenant Julie Amberg did not file a response to the petition or file a document that was the equivalent of a response. The Hearing Decision found that tenant Amberg failed to explain why she did not file a response. Those findings are erroneous.

It is significant that the owner did not file his capital improvement evidence until January 4, 2017. Ms. Amberg did eventually get a copy of the Petition before then, in September 2016. See Tenants Exhibit TX-37. But, because the owner had not attached his capital improvement evidence to the petition, Ms. Amberg, like the other tenants, was not able to respond to the petition – and she said so in TX-37, which was filed with the RAP on September 21, 2016. Although her “Statement Supporting ...” (TX-37) was not captioned as a “Tenant Response”, it was the full substantive equivalent of a Tenant Response. Her statements in TX-

37 did in fact gave the owner as much notice as was then possible of her position with respect to the petition. See TX-37, "Statement", section "B". She should not be penalized for not captioning her statement as a Response to the petition.

2h) Explanation of other grounds for appeal.

The Hearing Decision contains critical, clearly erroneous findings of fact.

The Hearing Decision erroneously decided the time limit for capital improvements.

The Hearing Decision denied tenants due process of law.

The Hearing Decision erroneously failed to decide and/or erroneously decided the issue of deferred maintenance.

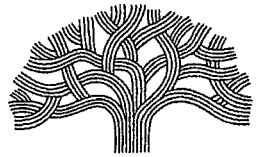
The Hearing Decision erroneously allowed rent increases for expenses that fail to qualify as legally-cognizable capital improvements.

The Hearing Decision erroneously set the effective date of rent increase.

The Hearing Decision erroneously found that tenant Julie Amberg did not have good cause for not filing a response to the petition.

Pursuant to Rent Adjustment Program Regulation 8.22.120, tenants will file and serve supporting arguments and documentation within fifteen days of filing the appeal.

For date stamp JUL 19 10 AM 11:04



CITY OF OAKLAND

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

APPEAL

Appellant's Name Julie E. Amberg		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3921 Harrison Street, Oakland, CA 94611 Unit 302			
Appellant's Mailing Address (For receipt of notices) 3921 Harrison Street, Oakland, CA 94611		Case Number L15-0073	Date of Decision appealed July 19, 2017; mailed July 27, 2017
Name of Representative (if any) Stanley L. Amberg	Representative's Mailing Address (For notices) 11 Carolyn Lane, Chappaqua, NY 10514		

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2017 AUG 10 AM 11:06

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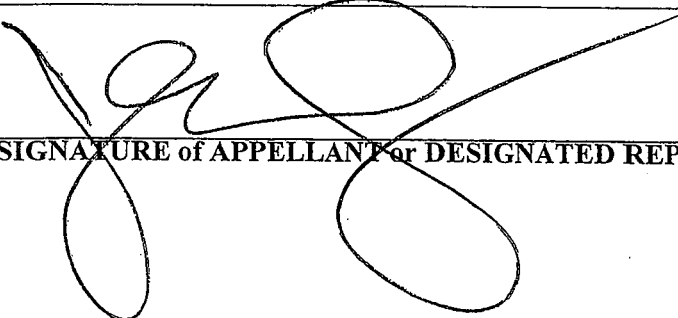
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<u>Name</u>	Rockridge Real Estate, LLC
<u>Address</u>	1373 Clay Street
<u>City, State Zip</u>	San Francisco, CA 94109
<u>Name</u>	Clifford Fried, Esq.
<u>Address</u>	1901 Harrison Street, 14th Floor
<u>City, State Zip</u>	Oakland, CA 94612

	<u>Aug. 10, 2017</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM



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

Fee date stamp
2017 AUG 10 AM 11:05

APPEAL

Appellant's Name Todd McMahon and Mari Oda		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 3921 Harrison Street, Oakland, CA 94611 Unit 304			
Appellant's Mailing Address (For receipt of notices) 3921 Harrison Street, Oakland, CA 94611		Case Number L15-0073	
		Date of Decision appealed July 19, 2017; mailed July 27, 2017	
Name of Representative (if any) Stanley L. Amberg		Representative's Mailing Address (For notices) 11 Carolyn Lane, Chappaqua, NY 10514	

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- d) The decision violates federal, state or local law. *(In your explanation, you must provide a detailed statement as to what law is violated.)*
- e) The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

For more information phone (510) 238-3721.

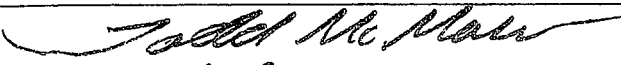
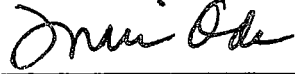
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 4.

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 10, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Rockridge Real Estate, LLC
<u>Address</u>	1373 Clay Street
<u>City, State Zip</u>	San Francisco, CA 94109
<u>Name</u>	Clifford Fried, Esq.
<u>Address</u>	1901 Harrison Street, 14th Floor
<u>City, State Zip</u>	Oakland, CA 94612

 	<u>8-10-2017</u> <u>AUGUST 10, 2017</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

IMPORTANT INFORMATION:

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

- Appeals filed late without good cause will be dismissed.
- You must provide all of the information required or your appeal cannot be processed and may be dismissed.
- Any supporting argument or documentation to be considered by the Board must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

For more information phone (510) 238-3721.

RECEIVED
CITY OF OAKLAND
RENT ADMINISTRATION DEPT

2017 AUG 10 AM 11:05

Attachment to Appeal in L15-0073

2a) The Hearing Decision is inconsistent with the OMC and RAP Regulations.

The Hearing Decision's ruling on the time limits for capital improvements is inconsistent with OMC 8.22.090(B), 8.22.070(D) and Regulation 8.22.90(C) and Regulations Appendix A 10.2.1.

The Hearing Decision's reliance on the decision in *Baragano v. City of Oakland, et al.*, Case No. RG14732655 is inconsistent with current Regulations Appendix A 10.2.1 and with Regulation 8.22.90(C).

In addition, the decision in the Baragano case is not final. It is on appeal to the Court of Appeal, First District, California, No. A148852.

Significantly, the decision in *Baragano* is factually not in point and is not controlling precedent because the owner's petition in that case did include capital improvements information, total costs, and unit costs, wherefore the effective date of the petition in *Baragano* was its actual filing date in the RAP. By contrast, in the present case L15-0073, the petition omitted capital improvements information, which was not filed or revealed to tenants until January 4, 2017, wherefore under Regulation 8.22.90(C), the filing date of the petition in the present case is not earlier than January 4, 2017, and the date of any proposed rent increase may not be earlier than January 4, 2017.

The Hearing Decision's rulings on allowable capital improvements is inconsistent with the definition of "Capital improvements" in OMC 8.22.020.

The Hearing Decision's rulings on allowable capital improvements is inconsistent with deferred maintenance Regulations Appendix A 10.2.2(4)(b).

2b) The Hearing Decision is inconsistent with decisions issued by other hearing officers.

The Hearing Decision's rulings on allowable capital improvements is inconsistent with the following decisions:

McGhee v. Carraway-Brown, T05-0220 (Amended Hearing Decision, Jan. 6, 2006); *aff'd*, HRRRB (precedential; Feb. 24, 2006). Current owner stands in the shoes of the prior owner, and is charged with the prior owner's knowledge of the problems with the property and prior owner's failure to maintain the property.

November 27, 2013 Hearing Decision in *Saldana et al. v. Gaines/Taplin*, T12-0256. Contractor's supplies, equipment and profits do not add value to the property and are disallowed as capital improvement expenses.

2c) The Hearing Decision raises new policy issues that have not been decided by the Board.

Is the definition of "Capital improvements" in OMC 8.22.020 impermissibly and/or unconstitutionally vague and unenforceable? The following words in the definition lack an objectively determinable meaning:

"materially"
"appreciably"
"primarily"

Is the definition of "Capital improvements" in OMC 8.22.020 internally inconsistent and therefore unenforceable? This policy issue relates to capital improvements that are not in a tenant's unit.

A capital improvement which "materially add[s] to the value of the property", and therefore primarily benefits the owner of the property, cannot "primarily benefit the tenant".

A capital improvement which "appreciably prolongs [the property's] useful life", and therefore primarily benefits the owner of the property, cannot "primarily benefit the tenant".

When an owner files a petition for capital improvement pass through to tenants, does the owner have the burden to prove that each alleged capital improvement satisfies each of the requirements of the definition of "Capital improvements" in OMC 8.22.020?

2d) The Hearing Decision violates federal, state or local law.

California Evidence Code section 500 states: "Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting." Because the present case arises from an owner's petition seeking capital improvement pass through to the tenants, the owner had the burden to prove the existence of each fact in support of his claim for relief.

The Hearing Decision herein violated Evidence Code section 500 because it did not require the owner to prove that each alleged capital improvement satisfied all the requirements of the definition of "Capital improvements" in OMC 8.22.020.

Arnett v. Dal Cielo, 14 Cal.4th 2, 22 (1996), requires that "Courts should give meaning to every word of a statute if possible, and should avoid a construction making any word surplusage."

The Hearing Decision herein erroneously failed to give meaning to the terms "materially", "appreciably", and "primarily" when determining whether the alleged capital improvements satisfied the definition of "Capital improvements" in OMC 8.22.020.

For example, the Hearing Decision allowed the \$7,500.00 cost of a sewer lateral. The value of the property at the time when the sewer lateral was installed was approximately \$2 million. The OMC definition of an allowable capital improvement requires that the improvement must “materially” add to the value of the property. The \$7,500 cost of the sewer lateral was less than 1% of the value of the property. In fact, it was 0.38% of the value of the property. An alleged capital improvement which increases the value of the property by a mere 0.38% cannot satisfy the “materially” requirement of OMC 8.22.020.

As another example, the Hearing Decision allowed the \$40,000.00 cost of painting. The \$40,000 painting cost was 2% of the value of the building. Reasonable analysis would not regard a 2% increase in value as material.

Mullane v. Cent. Hanover Bank & Trust Co, 339 U.S. 306 (1950) and *Nozzi v. Hous. Auth.*, 806 F.3d 1178 (9 Cir. 2015) hold that deprivation of information that is necessary to understand a claim, and to defend against it, is denial of due process.

Throughout the period from December 18, 2015 (when the petition was filed) to January 4, 2017 (when the owner filed his evidence packet), the tenants were deprived of critical information (the nature of and dollar amount of alleged capital improvements) that was necessary for tenants to understand the owner’s claim and to defend against it.

2e) The Hearing Decision is not supported by substantial evidence.

At page 6, the Hearing Decision erroneously found as a fact the owner’s petition – as it was filed on December 18, 2015 – “included the breakdown of the improvements, the dates of completion, cost, payments, and allocation of the proposed rent increase per each unit.” That finding is not supported by substantial evidence, is clearly erroneous, and is directly contradicted by the petition itself.

2e) and f) Julie Amberg, the tenant in unit 302, was denied the opportunity to present evidence.

The Hearing Decision found that tenant Julie Amberg did not file a response to the petition or file a document that was the equivalent of a response. The Hearing Decision found that tenant Amberg failed to explain why she did not file a response. Those findings are erroneous.

It is significant that the owner did not file his capital improvement evidence until January 4, 2017. Ms. Amberg did eventually get a copy of the Petition before then, in September 2016. See Tenants Exhibit TX-37. But, because the owner had not attached his capital improvement evidence to the petition, Ms. Amberg, like the other tenants, was not able to respond to the petition – and she said so in TX-37, which was filed with the RAP on September 21, 2016. Although her “Statement Supporting ...” (TX-37) was not captioned as a “Tenant Response”, it was the full substantive equivalent of a Tenant Response. Her statements in TX-

37 did in fact gave the owner as much notice as was then possible of her position with respect to the petition. See TX-37, "Statement", section "B". She should not be penalized for not captioning her statement as a Response to the petition.

2h) Explanation of other grounds for appeal.

The Hearing Decision contains critical, clearly erroneous findings of fact.

The Hearing Decision erroneously decided the time limit for capital improvements.

The Hearing Decision denied tenants due process of law.

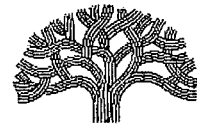
The Hearing Decision erroneously failed to decide and/or erroneously decided the issue of deferred maintenance.

The Hearing Decision erroneously allowed rent increases for expenses that fail to qualify as legally-cognizable capital improvements.

The Hearing Decision erroneously set the effective date of rent increase.

The Hearing Decision erroneously found that tenant Julie Amberg did not have good cause for not filing a response to the petition.

Pursuant to Rent Adjustment Program Regulation 8.22.120, tenants will file and serve supporting arguments and documentation within fifteen days of filing the appeal.



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

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: L15-0073

CASE NAME: 525, 655 Hyde Street CNML Properties, LLC v. Tenants

PROPERTY ADDRESS: 3921 Harrison St., Oakland, CA

DATES OF HEARING: January 12, 2017; January 13, 2017; and March 24, 2017

CLOSING STATEMENTS DUE: April 14, 2017

DATE OF DECISION: July 19, 2017

APPEARANCES 1/12/17: Tod McMahon, Tenant (Unit #304)
Julie E. Amberg, Tenant (Unit #302)
Mari Oda, Tenant (Unit #304)
Fernando Garcia, Tenant (Unit #202)
Kate Garcia, Tenant (Unit #202)
Stanley Amberg, Attorney for Tenants
Michael Bykhovsky, Manager of the Owner corporation
Martin Gallagher, Contractor
Tsegab Assefa, Property Manager
Clifford Fried, Attorney for Owner
Elizabeth Hart, Owner Representative

APPEARANCES 1/13/17: Tod McMahon, Tenant (Unit #304)
Mari Oda, Tenant (Unit #304)
Fernando Garcia, Tenant (Unit #202)
Stanley Amberg, Attorney for Tenants
Michael Bykhovsky, Manager of the Owner corporation
Martin Gallagher, Contractor
Tsegab Assefa, Property Manager
Clifford Fried, Attorney for Owner
Elizabeth Hart, Owner Representative

000229

**APPEARANCES 3/24/17: Tod McMahon, Tenant (Unit #304)
Fernando Garcia, Tenant (Unit #202)
Kate Garcia, Tenant (Unit #202)
Stanley Amberg, Attorney for Tenants
Michael Bykhovsky, Manager of the Owner corporation
Martin Gallagher, Contractor
Tsegab Assefa, Property Manager
Clifford Fried, Attorney for Owner
Elizabeth Hart, Owner Representative**

SUMMARY OF DECISION

The Owner Petition for approval of rent increase is granted in part.

PROCEDURAL BACKGROUND

On December 18, 2015, the owner filed a Landlord Petition for Approval of Rent Increase based on Capital Improvements for a total of sixteen (16) residential units.

The tenants in all sixteen units were notified of the owner's Petition and the hearing was scheduled for April 5, 2016. The tenants in nine (9) units did not file responses (Units 101, 104, 105, 203, 204, 205, 302, 303, and the Penthouse Unit). Tenants in seven (7) units filed Tenant Responses and requested mediation (Units 102, 103, 201, 202, 301, 304, and 305).

On April 5, 2015, a Hearing Officer conducted a mediation and settled with the participating tenants as follows:

Elena and Alexandru Butnaru, tenants in Unit #102;
Angelique Johnson, tenant in Unit #103;
Suzanne Miller, Tenant in Unit #201; and
Andrew and Jessica Simkin, tenants in Unit #305.

The following tenants filed tenant responses and participated in the mediation, did not settle in the mediation, and appeared for the hearing:

Todd McMahon and Mari Oda, tenants in Unit #304; and
Kate and Fernando Garcia, tenants in Unit #202.

Tenants Vasilescu and Bridges (Unit #301) filed a response but did not show for the hearing.

The tenants in units 101, 104, 105, 203, 204, 205, 303, and the Penthouse did not file a response, did not participate in the mediation and did not appear for the hearing.

Tenant Julie Amberg (Unit #302) did not file a response, did not participate in the mediation but appeared for a hearing.

The chart below clarifies the procedural background:

Unit #	Response filed	Participated in Mediation	Settled in Mediation	Appeared for Hearing
101	No	No	No	No
102	Yes	Yes	Yes	N/A
103	Yes	Yes	Yes	N/A
104	No	No	No	No
105	No	No	No	No
201	Yes	Yes	Yes	N/A
202	Yes	Yes	No	Yes
203	No	No	No	No
204	No	No	No	No
205	No	No	No	No
301	Yes	No	No	No
302	No	No	No	Yes
303	No	No	No	No
304	Yes	Yes	No	Yes
305	Yes	Yes	Yes	N/A
Penthouse	No	No	No	No

CONTENTIONS OF THE PARTIES

On December 18, 2015, the owner filed a Landlord Petition for approval of rent increase based on Capital Improvements which included structural upgrade, seismic retrofitting, new roof, windows and sliding glass doors, re-building of balconies, new stucco, and remodel of kitchens, bathrooms and flooring in several units. The project involved both building-wide capital improvements and unit-specific improvements.

The tenants Johnson (Unit #103), Jessica and Andrew Simkin (Unit #305), Elena and Aleandru Butnaru (Unit #102), and Miller (Unit #201) participated in mediation and executed a Settlement Agreement and Dismissal pursuant to mediation. Therefore, this Hearing Decision will not have any impact on these units.

On January 25, 2016, tenants Kate and Fernando Garcia (Unit #202), tenants Alexandro Vasilescu and Zoe Bridges (Unit #301), and tenants Todd McMahon and Mari Oda (Unit #304) filed timely responses to the owner's petition, alleging that no supporting documents regarding the improvements and expenses have been shown to them and that the major part of the project was due to deferred maintenance and does not qualify as capital improvements.

THE ISSUES

- (1) Does tenant Julie Amberg have a good cause for filing no response?
- (2) What is the 24-month period for the capital improvements?

- (3) Are the proposed rent increases justified by capital improvements, and if so, have the capital improvements been calculated correctly?

EVIDENCE

Background

The residential dwelling contains a total of sixteen (16) residential units. Because this is an owner's petition for approval of rent increase based on capital improvements, no rent increases were given to the tenants. Therefore, the issues relating to the service of the rent increase, Enhanced Notice or the notice of existence of the Rent Adjustment Program (RAP Notice) do not apply and will not be addressed in this Hearing Decision.

As of January 2017, the owner submitted an updated roster of current rents for those units that may be impacted by this proposed rent increase. The updated roster is as follows:¹

Unit 101	\$2,250.00
Unit 202	\$1,276.42
Unit 204	\$1,575.00
Unit 302	\$1,278.01
Unit 303	\$1,495.00
Unit 304	\$ 995.38

The remaining units were either vacated or settled in the mediation and will not be impacted by this Hearing Decision. This evidence was not disputed.

The owner submitted a chart showing a proposed building-wide capital improvement increase of \$598.38 per unit and additional increase for unit-specific improvements for units 101, 202, 204, 302, 303, and 304.²

No Response by Tenant Amberg

On December 21, 2015, a Notice of Hearing and Tenant Notification of Landlord Petition was mailed to the tenant's address with a proof of service. The Owner Response Form was also included in the mailing. The mail was not returned as non-delivered. The tenant testified that she was a victim of the mail theft in 2016 and did not receive a notice of the owner's petition and the Notice of Hearing. She did not appear for the mediation on April 5, 2016. A hearing was set for October 6, 2016, and a notice was sent to those tenants who did not settle in the mediation or did not participate in the mediation, including tenant Amberg. On September 21, 2016, she submitted a Request to Change Date of Proceeding of a hearing that was set for October 6, 2016. The tenant did not file a Tenant Response at any time and through the hearing date.

¹ Owner's Exhibit 4, Section D, p. 129

² Owner's Exhibit 4, Section D, pages 130-131

Capital Improvements

The capital improvement project involved an extensive remodel, structural upgrade, including seismic retrofitting, installation and insulation of sheer walls, new windows, noise insulation, removal of the deck, removal of stucco around the windows, sliding glass doors, and balcony walls, installation of new roof and stucco. The project included building-wide improvements and unit-specific improvements, such as kitchen and bathroom remodels, which included electrical and plumbing upgrades.

Prior to the hearing, the owner submitted about 400 pages of documents relating to description of the capital improvement project, permits, invoices, proof of payments, a Grant Deed, drafts of proposed rent increase notices and updated roster of subject units with the current rent amounts.³

Gallagher Construction was the general contractor and Martin Gallagher credibly testified about each stage of the construction project, including obtaining permits from the City of Oakland, scheduling inspections, and how he oversaw the entire project. He also testified about invoices he billed and payments received from the owner.

The owner submitted invoices and copies of checks paid for the construction project to the various contractors, such as Gallagher Construction and/or Martin Gallagher Construction Inc., Kelly-Moore Paint Co., A.G. Services, Just Plumbing & Maintenance, and Paramount Elevator Corp.⁴ The copies of submitted invoices contained description of work done and a notation stamp "PAID" showing the date the invoice was paid and the check number which covered that invoice. The owner also submitted copies of the checks and the check numbers corresponded with check numbers written on the invoices.⁵

The Hearing Officer reviewed all invoices and payments and listed the allowable improvements and its cost on the attached Capital Improvements Table. The cost totaled \$568,646.66 for the building-wide improvements and \$166,518.31 for the unit-specific improvements. The expenses covered period from December 2013 through June of 2014.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

No Good Cause for Filing No Response

The Rent Adjustment Ordinance requires that a tenant must file a response to an owner's petition within thirty (30) days of service of the notice by the Rent Adjustment Program that an owner petition was filed.⁶ The tenant's response was due on

³ Owner's Exhibits 1 through 4

⁴ Owner's Exhibit 2

⁵ Owner's Exhibit 2, pp. 1-78

⁶ O.M.C. §8.22.090(A)4

January 25, 2016. The tenant testified that she was a victim of mail fraud and did not receive some of her mail. However, the tenant received the notice of hearing set for October 6, 2016, hearing because she requested continuance of that hearing on September 21, 2016. At that point the tenant had knowledge of the owner's petition. After the tenant's request for postponement of the hearing, the tenant did not file any response to the owner's petition and did not provide any reason as to why she did not file a response at all between September 21, 2016, and the first hearing date of January 12, 2017. The tenant does not have a good cause for filing no response after she had notice of the owner's petition. Therefore, the tenant is limited only to cross-examination and summation at the hearing and her testimony and evidence cannot be considered.

Two-Year Time Limit for Capital Improvements

Prior to August 1, 2014, the Regulation allows for capital improvement costs to be passed on to the tenants only for those improvements completed and paid for within the 24-month period prior to the date of the proposed increase.⁷ The Court in *Baragano v. City of Oakland, et al.* addressed the issue of the date of the proposed rent increase and the 24-month period.⁸ The Court held that the effective date of the proposed rent increase was July 1, 2013, which was essentially the first day of the month following a 60-day notice from the date the petition was filed on April 17, 2013, and allowed the costs for work completed after July 1, 2011 and prior to July 1, 2013.⁹

The owner's petition for approval of rent increase was filed on December 18, 2015. It included the breakdown of the improvements, the dates of completion, cost, payments, and allocation of the proposed rent increase per each unit.

Following the Court's decision in *Baragano*, the first day of the month following a 60-day notice from the date the petition was filed is March 1, 2016. Therefore, March 1, 2016, would be the effective date of the proposed rent increase. Accordingly, the credit can be given for capital improvements projects that were completed and paid for between March 1, 2014, and March 1, 2016. The invoices paid at the end of the completion of each stage of the capital improvement project cover period between December 20, 2013 through June 20, 2014. A credit cannot be applied for capital improvements paid for prior to March 1, 2014. After March 1, 2014, and through March 1, 2016, credit will be allowed for those capital improvements that otherwise qualify as capital improvements. Accordingly, the attached Capital Improvements calculation chart shows \$0.00 amount under "cost allowed" for the improvements prior to March 1, 2014.

⁷ Regulations, Appendix A, §10.2.1

⁸ *Baragano v. City of Oakland, et al.* (Case No. RG14732655)

⁹ *Baragano, supra*, at p. 10, footnote 5

Capital Improvements prior to August 1, 2014

Prior to August 1, 2014, a rent increase in excess of the CPI Rent Adjustment may be justified by capital improvement costs.¹⁰ Capital improvement costs are those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to the new building codes. Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.¹¹

The improvements must primarily benefit the tenant rather than the owner. Capital improvement costs are to be amortized over a period of five years, divided equally among the units which benefited from the improvement. The reimbursement of capital expense must be discontinued at the end of the 60-month amortization period.¹²

An expense must pass three tests to meet the threshold definition of a Capital Improvement cost:

- (1) It must materially add to the value of the property
AND
- (2) It must either
 - A. Appreciably prolong the useful life of the property or
 - B. Adapt it to new building codesAND
- (3) It must primarily benefit the tenant.

The following construction projects qualify as capital improvements because they primarily benefit the tenants, prolong the useful life of the building, and adapt it to the new building codes: new roof, rebuilding of 15 new balconies with structural re-enforcement and up to code; seismic strengthening of exterior walls, new stucco, new sewer lateral and including upgrade to plumbing valves and piping, installation of new windows and sliding glass doors, painting, remodeling of bathrooms, kitchens and tile floors. These items qualify as capital improvements because they benefit the tenants, they make the building safe, structurally sound and energy-efficient. Accordingly, the credit will be applied for expenses paid for these improvements.

The following invoices will not be included in the credit for the capital improvement project. These invoices are for painting supplies, tree trimming, repair of disposal, replacement of copper drain lines that were vandalized, cleaning, replacement of burned out light bulbs, and replacement of an old range that was broken after a complaint:

- Invoice 201676 called repair for \$1,650.00;
- Kelly-Moore Paints invoices for supplies for \$211.82, \$81.94, \$83.39;
- Elite Tree Service for \$1,650.00;
- Invoice SJ1268533 for \$78.99;

¹⁰ O.M.C. Section 8.22.070(C)

¹¹ Regulations, Appendix, Section 10.2.2(5)

¹² Regulations Appendix, Section 10.2

- Invoice SJ1267210 for \$359.59;
- Invoice #3538 for \$2,600.00;
- Invoice 240088 for \$279.26;
- Invoice 213033 for \$120.00;
- Invoice 1896368 for \$456.88;
- Invoice #213171 for \$194.32.

Expenses for these items do not qualify as capital improvements and credit for payments of these invoices is denied.

The allowed capital improvement calculation is set forth in the attached table and reflects the allowable amount of rent increase for building-wide capital improvements and for unit-specific improvements as follows:

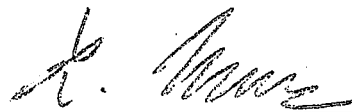
Building-wide improvements:	\$488.17 per unit
Unit-specific improvements:	#101 - \$461.67 (146.67+56.67+258.33)
	#202 - \$203.34 (146.67+56.67)
	#204 - \$172.92 (110.00+433.33+12.5+6.25)
	#302 - \$146.67
	#303 - \$549.58 (110.00+433.33+6.25)
	#304 - \$555.83 (110.00+433.33+12.5)

ORDER

1. The Owner's Petition for approval of rent increase L15-0073 is granted in part.
2. The proposed rent increases are justified by capital improvements but the amounts will be reduced. The building-wide increase is justified by the amount of \$488.17 per unit; the unit-specific improvements are justified for the amounts listed above and on the attached Capital Improvements table.
3. The effective date of the rent increases is March 1, 2016. The parties are instructed work out any rent underpayments.

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

Dated: July 19, 2017



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

CAPITAL IMPROVEMENTS

Effective Date of Increase

Number of Residential Units on Property

16

Improvements and repairs benefitting all units

IMPROVEMENT OR REPAIR	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	VALIDITY CHECKS
New Roof	20-Dec-13	\$0.00	16	\$0.00	OK
Deck removal & scaffolding inst:	16-Jan-14	\$0.00	16	\$0.00	OK
Lead Abatement/Stucco remove	13-Feb-14	\$0.00	16	\$0.00	OK
New sewer lateral	17-Apr-14	\$7,500.00	16	\$7.81	OK
Painting of exterior & interior hal	15-May-14	\$40,000.00	16	\$41.67	OK
Construction of 15 balconies	17-Jun-14	\$180,000.00	16	\$187.50	OK
Building Permits	17-Jun-14	\$7,700.50	16	\$8.02	OK
Exterior walls - seismic	20-Jun-14	\$85,946.16	16	\$89.53	OK
Stucco removal & installation	17-Jun-14	\$147,500.00	16	\$153.65	OK

Subtotal \$488.17 OK

Place X in box if property is mixed use.

Residential square footage

Other use square footage

Percent residential use

INCREASE ALLOCATED TO RESIDENTIAL USE \$488.17

Improvements and repairs benefitting particular units

IMPROVEMENT OR REPAIR	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	ALLOCATED TO UNITS	VALIDITY CHECKS
4 new windows per each unit	15-Apr-14	\$26,400.00	3	\$146.67	101, 202, 302	
3 new windows per each unit	9-Apr-14	\$19,800.00	3	\$110.00	204, 303, 304	
new sliding glass door	17-Mar-14	\$20,400.00	6	\$56.67	101, 202, 204,	
new cabinets, vanity, floor tile	17-Jun-14	\$78,000.00	3	\$433.33	204, 303, 304	
new carpet & interior painting	26-Feb-14	\$0.00	1		303	
install new plumbing bathroom li	20-May-14	\$750.00	1	\$12.50	304	
install new shower valves	11-Jun-14	\$750.00	2	\$6.25	204, 303	
new tile floor, painting cabitnets	17-Jun-14	\$15,500.00	1	\$258.33	101	
install new granite countertops	21-Feb-14	\$0.00	1		303	

OK

000237

PROOF OF SERVICE

Case Number L15-0073

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

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

Tenants

Alexander Michael Taylor & Ria Cruz
3921 Harrison St #105
Oakland, CA 94611

Alexandru Vasilescu & Zoe Bridges
3921 Harrison St #301
Oakland, CA 94611

Bianca Penaloza
3921 Harrison St #204
Oakland, CA 94611

Cooper Spinelli & Dana Sarvestani
3921 Harrison St #203
Oakland, CA 94611

Fernando & Kate Garcia
3921 Harrison St #202
Oakland, CA 94611

Jilleun & Lexie Eglin
3921 Harrison St #101
Oakland, CA 94611

Julie Amberg
3921 Harrison St #302
Oakland, CA 94611

Mari Oda & Todd McMahan
3921 Harrison St #304
Oakland, CA 94611

Owner

525, 655 Hyde Street CNML Properties, L
2350 Broadway St
San Francisco, CA 94115

Michael Bykhovsky, Manager
2350 Broadway St
San Francisco, CA 94115

000238

Resident
3921 Harrison St #205
Oakland, CA 94611

Steven Miller & Elizabeth VanLanen
3921 Harrison St PH
Oakland, CA 94611

Tyler Ritter
3921 Harrison St #303
Oakland, CA 94611

Zvetlana Butnaru
3921 Harrison St #104
Oakland, CA 94611

Tenant Representative

Stanley L. Amberg
11 Carolyn Lane
Chappaqua, NY 10514

Owner Representative

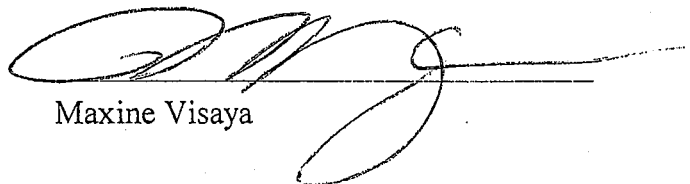
Clifford Fried, Esq
1901 Harrison St. 14th Floor
Oakland, CA 94612

Fried & Williams LLP c/o Clifford Fried
1901 Harrison St 14th Floor
Oakland, CA 94612

Liz Hart
1801 University Ave. #308
Berkeley, CA 94703

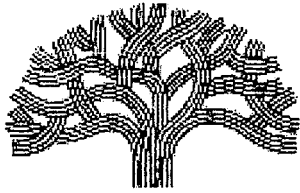
I am readily familiar with the City of Oakland's practice of collection and processing correspondence for mailing. Under that practice an envelope placed in the mail collection receptacle described above would be deposited in the United States mail with the U.S. Postal Service on that same day with first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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 27, 2017 in Oakland, CA.



Maxine Visaya

000239



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
NOV 25 1997

CASE NUMBER L15-0073

Tenant Response

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

Your Name <i>TEOD McMAHON MARI OGA</i>	Complete Address (with Zip Code) <i>3921 HARRISON STREET # 304 OAKLAND, CA 94611</i>	Telephone Day <u><i>510 3064114</i></u> Evening <u><i>510 653 5046</i></u>
Your Representative's Name	Complete Address (with Zip Code)	Telephone Day _____ Evening _____

Are you current on your rent? Yes No

Number of Units in this Building: *16*

Rental History

Date you entered into the Rental Agreement for this unit: *NOV. 21, 1981*

Date you moved into this unit: *NOV. 21, 1981*

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

Initial Rent: \$ *327* Initial rent included (please check all that apply) Gas
 Electricity Water Garbage Parking Storage Cable TV Other (please specify)

Did you receive the City of Oakland's NOTICE TO TENANTS at any time during your tenancy in this unit?
Yes No

Please list the date you first received the Notice to Tenants *April 30, 1997*

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
April 17 2013	MAY 1, 2013	\$ 995 ³⁵	\$ 1,077 ³⁵	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3-23-2012	5-1-2012	\$ 947 ⁹⁸	\$ 1029 ⁹⁸	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-22-2011	8-1-2011	\$ 929 ³⁹	\$ 947 ⁹⁸	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-21-2010	8-1-2010	\$ 904 ⁹⁶	\$ 929 ³⁹	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-24-2009	8-1-2009	\$ 898 ⁶⁷	\$ 904 ⁹⁶	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-23-2008	8-1-2008	\$ 870 ⁸⁰	\$ 898 ⁶⁷	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-4-2007	8-1-2007	\$ 840 ⁸²	\$ 870 ⁸⁰	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Contested Justification(s) for Rent Increase

Please attach a brief statement explaining why the landlord is not entitled to the proposed increase. The legal justifications are Banking, Capital Improvements, Increased Housing Service Costs, Debt Service, Uninsured Repair Costs, and Necessary to Meet Constitutional Fair Return requirements.

Banking		Debt Service	
Capital Improvement		Uninsured Repair Costs	
Increased Housing Service Costs		Constitutional Fair Return	

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

The property owner has the burden of proving the contested rent increase is justified. If the landlord is claiming the unit is exempt from the Rent Adjustment Ordinance, do you contest the claim of exemption? Yes No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Mari Oda

Tenant's Signature

1/24/2016

Date

Todd M. Mahan

Tenant's Signature

1-24-2016

Date

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

Important Information

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File Review

You should have received with this letter a copy of the landlord petition. Copies of attachments to the petition will not be sent to you. However, you may review these in the Rent Program office. Files are available for review by appointment. For an appointment to review a file call (510) 238-3721.

MEDIATION PROGRAM

If you are interested in submitting your dispute to mediation, please read the following information carefully. Voluntary mediation of rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both parties agree and after your response has been filed with the Rent Adjustment Program.

You may elect to use a Rent Adjustment Program staff Hearing Officer acting as mediator or an outside mediator. Staff Hearing Officers are available to conduct mediation free of charge. 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. If you are unable to resolve your dispute after a good faith attempt at mediation, you will be given a priority hearing presided over by a Hearing Officer who was not your

If you want to submit your case to mediation, please check the appropriate box and si

- I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).
- I agree to have my case mediated by an Outside Mediator (fees to be paid by the parties).

Dani Oda

1/24/2016

Tenant's Signature (for Mediation Request)

Date

Jose M. Moran

1-24-2016

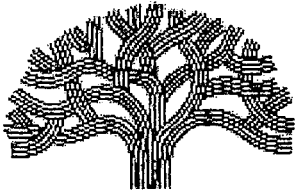
Tenant's Signature (for Mediation Request)

Date

Tenant Response to Case Number L15-0073
Todd McMahon / Mari Oda
3921 Harrison St, #304
Oakland, CA 94611

1. There is a current ongoing case appeal open with the landlord that is still to be decided (L14-0065).
2. The landlord is attempting to circumvent the annual 10% maximum limit. They are trying to raise rents based on adding the new 10% capital improvement increase on top of the unused, banked CPI index maximum increase, all in the same year. For that reason, this case should be considered after the ongoing case appeal is decided (L14-0065).
3. We are unable to address this claim at this time as the landlord has not provided any documentation showing the improvements that they wish to pass through to us, the tenants of unit 304, at 3921 Harrison Street in Oakland, CA.
4. It is unfair, unreasonable and in violation of the Oakland rent arbitration program to request an increase for capital improvements when supporting details have not been provided. For example, no documentation has been provided of the expenses the landlord wishes to pass along and no information has been shown on how calculations were made to justify the increase. Without this information we are unable to understand or defend ourselves against this claim.
5. The majority of the repairs that have been made to our unit were for deferred maintenance. Our rental agreement dates back to 1981. Since the date of the original rental agreement, little to no maintenance was completed on our unit.
6. We request that any additional documentation or testimony submitted for this claim be provided to us in writing before the date of the hearing.

000243



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
21 JUN 25 PM 3:31

CASE NUMBER L15-0073

Tenant Response

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

Your Name <i>Kate & Fernando Garcia</i>	Complete Address (with Zip Code) <i>3921 Harrison St. #202 Oakland CA 94611</i>	Telephone Day <i>510-387-1947</i> Evening <i>510-659-5897</i>
Your Representative's Name	Complete Address (with Zip Code)	Telephone Day _____ Evening _____

Are you current on your rent? Yes No

Number of Units in this Building: 16

Rental History

Date you entered into the Rental Agreement for this unit: 6/25/1995

Date you moved into this unit: 7/7/1995

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

Initial Rent: \$ 750.00 (est.) Initial rent included (please check all that apply) Gas
 Electricity Water Garbage Parking Storage Cable TV Other (please specify)

Did you receive the City of Oakland's NOTICE TO TENANTS at any time during your tenancy in this unit?
 Yes No

Please list the date you first received the Notice to Tenants in connection with current Petition

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
	<i>Not Applicable</i>		\$	<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

Contested Justification(s) for Rent Increase

Please attach a brief statement explaining why the landlord is not entitled to the proposed increase. The legal justifications are Banking, Capital Improvements, Increased Housing Service Costs, Debt Service, Uninsured Repair Costs, and Necessary to Meet Constitutional Fair Return requirements.

Banking		Debt Service	
Capital Improvement	<input checked="" type="checkbox"/>	Uninsured Repair Costs	
Increased Housing Service Costs		Constitutional Fair Return	

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

The property owner has the burden of proving the contested rent increase is justified. If the landlord is claiming the unit is exempt from the Rent Adjustment Ordinance, do you contest the claim of exemption? Yes No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

[Handwritten Signature]

 Tenant's Signature

[Handwritten Signature]

 Tenant's Signature

1/24/2016

 Date

1/24/2016

 Date

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

See Attached Exhibit A

Important Information

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File Review

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For an appointment to review a file call (510) 238-3721.

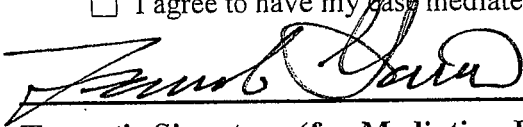
MEDIATION PROGRAM

If you are interested in submitting your dispute to mediation, please read the following information carefully. Voluntary mediation of rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both parties agree and after your response has been filed with the Rent Adjustment Program.

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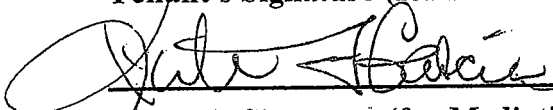
If you want to submit your case to mediation, please check the appropriate box and si

- I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).
- I agree to have my case mediated by an Outside Mediator (fees to be paid by the parties).



Tenant's Signature (for Mediation Request)

1/24/2016
Date



Tenant's Signature (for Mediation Request)

1/24/2016
Date

000246

Exhibit A

Tenant Response & Statement of Fernando & Kate Garcia

City of Oakland Rent Adjustment Program; Case No. L15-0073

1. Due to the fact that Landlord has not provided a detailed statement of the facts in their Petition, at this time, we are unable to submit a full, detailed and specific statement in response to Landlord's Petition (Case # L15-0073). Therefore, we will generally address the Petition's issues and reserve the right to raise further substantive defenses when the Landlord timely provides us with additional and fuller details and facts in support of their Petition. It is unjust, unfair, and contrary to City of Oakland's Ordinances concerning rent control and to the City's Rent Adjustment Program's rules to permit and approve a rent increase where a landlord had failed to produce hard evidence to justify exemption to the City's rent control policies and laws.

2. At this point we assert the following in response to Landlord's Petition:

A. We object to the capital improvements pass through requested by Landlord because to the best of our knowledge these same capital improvements have been previously litigated in front of the Rent Adjustment Program ("RAP") and were denied in a decision issued by RAP on May 29, 2015, are pending appeal (Case No. L14-0065, Landlord Appeal filed June 18, 2015).

B. Furthermore, even if these are new capital improvements being asserted by the Landlord, it is our opinion and belief that costs were incurred pursuant to code violation repair or deferred maintenance to our apartment unit where one tenant has occupied it for over 15 years.

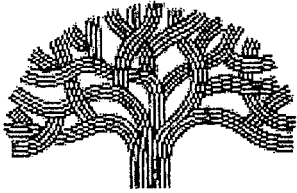
C. Finally, Landlord's Petition lacks specificity and other evidence in support of their claims to support capital improvements pass through, and as a result tenants are unable to properly respond to the Petition, and will not be able to respond, until such time that Landlord provides detail breakdown of cost and expenses for capital improvements performed in Unit 202 located at 3921 Harrison Street, Oakland.

3. We do not consent to the use of an outside mediator as requested by Landlord in its Petition.

Submitted by tenants Fernando & Kate Garcia (Unit # 202, 3921 Harrison Street, Oakland CA)

000247

-1+^{#2}



**CITY OF OAKLAND
RENT ADJUSTMENT
PROGRAM**

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

for Date Stamp Only
RECEIVED
JAN 25 2013
OAKLAND RENT ADJUSTMENT

CASE NUMBER L15-0073

Tenant Response

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

Your Name Alexandru Vasilescu & Zoe Bridges	Complete Address (with Zip Code) 3921 Harrison St. Apt 301 Oakland CA 94611	Telephone Day <u>484-614-2637</u> Evening <u>412-596-7943</u>
Your Representative's Name	Complete Address (with Zip Code)	Telephone Day _____ Evening _____

Are you current on your rent? Yes No

Number of Units in this Building: 16

Rental History

Date you entered into the Rental Agreement for this unit: November 16, 2011

Date you moved into this unit: _____

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

Initial Rent: \$ 1350.00^{Apt} + 75^{parking} Initial rent included (please check all that apply) Gas
 Electricity Water Garbage Parking Storage Cable TV Other (please specify)

Did you receive the City of Oakland's NOTICE TO TENANTS at any time during your tenancy in this unit?
Yes No

Please list the date you first received the Notice to Tenants 12 / 2012

List all increases your received. Begin with the most recent and work backwards. Attach most recent rent increase notice. If you need additional space please attach another sheet.

Date Notice Given (Mo/Day/Yr)	Date Increase Effective	Rent Increased		Did you receive a NOTICE TO TENANTS with the notice of rent increase?
		From	To	
12/?/2012	1/2013	\$ 1425.00	\$ 1467.75	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$ Initial rent	\$ 1425.00	<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

Contested Justification(s) for Rent Increase

Please attach a brief statement explaining why the landlord is not entitled to the proposed increase. The legal justifications are Banking, Capital Improvements, Increased Housing Service Costs, Debt Service, Uninsured Repair Costs, and Necessary to Meet Constitutional Fair Return requirements.

Banking		Debt Service	
Capital Improvement	<i>Attached</i>	Uninsured Repair Costs	
Increased Housing Service Costs		Constitutional Fair Return	

For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations on the City of Oakland web site. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

The property owner has the burden of proving the contested rent increase is justified. If the landlord is claiming the unit is exempt from the Rent Adjustment Ordinance, do you contest the claim of exemption? Yes No

Verification

I declare under penalty of perjury pursuant to the laws of the State of California that all statements made in this Response are true and that all of the documents attached hereto are true copies of the originals.

Alexandra Karlsen
 Tenant's Signature

01/11/16
 Date

[Signature]
 Tenant's Signature

01/19/16
 Date

¹ <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html>
¹ <http://www.oaklandnet.com/government/hcd/rentboard/rules.html>

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If you want to submit your case to mediation, please check the appropriate box and si

- I agree to have my case mediated by a Rent Adjustment Program Staff Hearing Officer (no charge).
- I agree to have my case mediated by an Outside Mediator (fees to be paid by the parties).

Alexander Vasilescu

Tenant's Signature (for Mediation Request)

01/11/16

Date

[Signature]

Tenant's Signature (for Mediation Request)

01/19/16

Date

Alexandru Vasilescu & Zoe Bridges
3921 Harrison St. Apt 301
Oakland CA, 94611

Justification contesting Capital Improvement Rent Increase

3921 Harrison Street was renovated over a 9 month period. Many months after the end of renovations, the building owner petitioned for a capital improvements-based rent increase. After the court's review, it was determined that the total costs of the improvements did not justify an increase outside of normal yearly standards.

This increase petition is based off of the same scope of work, as previously tried and denied by the court system, and should therefore also be denied as the total cost was not, and is still not, great enough to deserve the increase. At this point, any additional work would fall outside of the one-year period in which all work must be completed within to qualify for Capital Improvements.

Furthermore, the building owner has given no information about the amount of any rent increase that would come from this or the last rent petition. According to Chapter 8.22 - RESIDENTIAL RENT ADJUSTMENTS AND EVICTIONS - of the Oakland Municipal Code, "In addition to any other information or notices required by this chapter or its regulations, or by state law a notice for a rent increase based on a capital improvement(s) (other than after an owner's petition) must include the following the amount of the rent increase from the capital improvement(s)"

Thank you for your consideration.

Alex & Zoe

000251

115-0073 KM/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp: 11/12/13 <p style="text-align: right;">LANDLORD PETITION</p>
--	--

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your case. Before completing this petition, please read the Rent Adjustment Ordinance, sections 8.22.050 through 8.22.140 and Rent Adjustment Regulations, Appendix A.

Your Name 525, 655 Hyde Street CNML Properties, LLC c/o Michael Bykhovsky, manager	Complete Address (with zip code) 2350 Broadway St. San Francisco, CA 94115	Telephone Day: 510-625-0100
Your Representative's Name Clifford Fried Liz Hart	Complete Address (with zip code) c/o Fried & Williams LLP 480 Ninth Street Oakland, CA 94607	Telephone Day: 510-625-0100
Property Address (If the property has more than one address, list all addresses) 3921 Harrison St. Oakland, CA 94611		Total number of units on property 16

For each unit affected by this petition, you must attach a list of the mailing addresses of all of the units on the property showing the tenants in each unit on this property. Increases based on debt service, increased housing service costs and constitutional fair return affect all of the units on the property.

Type of units (circle one)	House	Condominium	<u>Apartment or Room</u>
If an SFR or condominium, does the unit have a separate deed? (circle one)		Yes	No
I have given a copy of the NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM to the tenants in each unit affected by this petition.		<u>Yes</u>	No
Assessor's Parcel number. (Your Rental Property service Fee account must be current.)	012092901100		
Oakland Business License number. (You must have a current Oakland Business License to operate this property as a rental.)	28041863		

REASON(S) FOR PETITION: Check all that apply. I (We) petition for approval of one or more rent increases on the grounds that the increase(es) is/are justified by:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Banking (Reg. App. 10.5) | <input type="checkbox"/> Increased Housing Service Costs (Reg. App. 10.1) |
| <input checked="" type="checkbox"/> Capital Improvements (Reg. App. 10.2) | <input type="checkbox"/> Uninsured Repair Costs (Reg. App. 10.3) |
| <input type="checkbox"/> Debt Service Costs (Reg. App. 10.4) | <input type="checkbox"/> Constitutionally required fair return |

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

History Attach a rent history for the current tenant(s) in each affected unit.

Banking You must complete this section if you are claiming banking as a justification. An Excel® spreadsheet for calculating entitlement to a banking increase in most cases is available online at <http://www.oaklandnet.com/government/hcd/rentboard/docs/Banking.xls>. You may complete and attach the printed spreadsheet or attach a page stating for each affected tenant, The date current tenant moved into the unit they currently occupy and the initial rent.

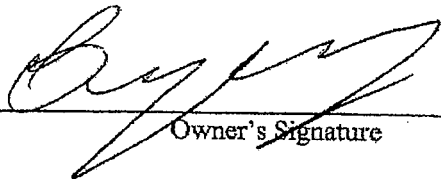
Have you given prior increases to any affected tenant justified by increased housing service costs, debt service or constitutional fair return? Yes No If yes, attach a list of the effective date of each such increase, affected unit and amount.

Capital Improvements and Uninsured Repairs. You must attach an itemized schedule of claimed capital improvements, showing the affected units, the cost and completion date for each item. You must submit organized documentation supporting your claims, including proof of expenditures and proof of payment. An Excel® spreadsheet for calculating entitlement to a cost recovery pass-through for capital improvements in most cases is available online at <http://www.oaklandnet.com/government/hcd/rentboard/docs/CapImprov.xls> You may print out and attach a copy of the spreadsheet, or complete a capital improvements schedule manually. Uninsured repair costs use the same calculations as capital improvements.

Debt Service. You must submit organized documentation proving your commercially reasonable financing costs. This documentation must include at a minimum, a copy of the promissory note, a copy of the deed of trust, proof of the monthly mortgage payment and proof of your operating expenses. You may print out and attach a copy of the spreadsheet for calculating debt service found at: <http://www.oaklandnet.com/government/hcd/rentboard/docs/DebtService.xls>

Increased Housing Service Costs. You must present organized documentary proof of your housing service costs for two successive year periods.. They may be calendar or fiscal years. You may print out and attach a copy of the spreadsheet for calculating increased housing service costs found at: <http://www.oaklandnet.com/government/hcd/rentboard/docs/HsgCosts.xls>

Verification Each petitioner must sign this section.
I declare under penalty of perjury pursuant to the laws of the State of California that everything I said in this petition and attaches pages is true and that all of the documents attached to the petition are originals or are true and correct copies of the originals.



Owner's Signature

12/17/2015

Date

Owner's Signature

Date

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

File Review

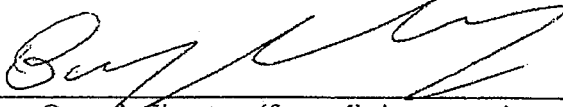
Your renter(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the tenant's Response. **Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only.** For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the landlord's response time before scheduling a file review.

Mediation Program

If you are interested in submitting your dispute to mediation, please read the following information carefully. To request mediation, all petitioners must sign the form that follows. Voluntary mediation of Rent disputes is available to all parties involved in Rent Adjustment proceedings. Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. Mediation will be scheduled only if both you and your tenant(s) agree and after both a petition and a response have been filed with the Rent Adjustment Program. You may elect to use a Rent Adjustment Program staff Hearing Officer acting as mediator or an outside mediator. Staff Hearing Officers are available to conduct mediation free of charge. 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. If you are unable to resolve your dispute after a good faith attempt at mediation, you will be given a priority hearing presided by a Hearing Officer other than your mediator.

IF YOU WANT TO SUBMIT YOUR CASE TO MEDIATION, PLEASE CHECK THE APPROPRIATE BOX AND SIGN.

- I agree to have my case mediated by a Rent Adjustment Program staff Hearing Officer (no charge).
- I agree to have my case mediated by an outside mediator (fees to be paid by the parties).



 Owner's Signature (for mediation request)

12/17/2015

 Date

 Owner's Signature (for mediation request)

 Date

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

Clifford E. Fried, Esq. SBN 118288
Fried & Williams LLP
1901 Harrison Street, 14th Floor
Oakland, CA 94612
Telephone: 510-625-0100

RECEIVED
RENT ADJUSTMENT PROGRAM
2017 AUG 30 PM 2:50

Elizabeth Hart
Rent Board Matters
1801 University Ave. Ste. 308
Berkeley, CA 94703
Telephone: 510-813-5440

For Landlord
525, 655 Hyde St. CNML Props., LLC

COMMUNITY AND HOUSING DEVELOPMENT AGENCY

RENT ADJUSTMENT PROGRAM

CITY OF OAKLAND

3921 Harrison Street, Oakland CA,

Case No. L15-0073

Property Address,

**LANDLORD'S SUPPORTING
ARGUMENTS AND DOCUMENTS
ON APPEAL**

525, 655 Hyde St. CNML Props., LLC,

Hearing Dates: January 12, 2017
January 13, 2017 &
March 24, 2017

Landlord,

Hearing Officer: Linda M. Moroz

v.

Tenants,

Tenants.

Landlord 525, 655 Hyde St. CNML Props., LLC and its successor in interest, Rockridge Real Estate, LLC, submit the following supporting arguments and documents on appeal as permitted by 525, 655 Hyde St. CNML Props., LLC RAP Regulations, § 8.22.120.A.2.

2017 AUG 30 PM 2:58

A. The Decision Has Clerical and Calculation Errors That Require Corrections.

The justified allowable unit-specific improvements as stated in the Decision are not correct. The Decision included an attached Capital Improvements table which, due to formatting, omitted justified unit-specific improvement for units 302, 303 and 304. In addition, there are clerical and calculation errors among the justified unit-specific capital improvements as listed per unit on page 8 of the Decision.

For unit 204, the correct allowable unit-specific should be \$600.00. The dollar value amounts stated on page 8 of the Decision are not added correctly, include items specific to unit 304 (\$12.50 & \$6.25) and do not include the \$56.67 from new sliding glass door.

For unit 302, the correct allowable unit-specific should be \$203.34. The dollar value amounts stated on page 8 do not include the \$56.67 from new sliding glass door.

For unit 303, the correct allowable unit-specific should be \$600.00. The dollar value amounts stated on page 8 include items specific to unit 304 (\$6.25) and do not include the \$56.67 from new sliding glass door.

For unit 304, the correct allowable unit-specific should be \$618.75. The dollar value amounts stated on page 8 do not include the (\$6.25) item specific only to unit 304 or the \$56.67 from new sliding glass door.

Attached as Exhibit A hereto is a 2 page Capital Improvements table corrected to show only those units impacted by this Decision and with altered formatting for cell F:37 to make visible all of the units allocated the justified expense of a new sliding glass door.

B. The Decision Ignores the RAP's Own Regulations to the Prejudice of Landlord.

In this case, the Landlord's petition for a capital improvement passthrough was filed on **December 18, 2015**. A Decision was issued on **July 19, 2017** ^{10/1 AUG 30 PM 2: 53} Various tenants in the building have filed appeals which guarantees that no final Decision will be made until 2018 on the Landlord's petition.

The capital improvements to the subject building have been extensive and conferred a tremendous benefit to the tenants residing there. As the Hearing Officer noted in the Decision, this

“capital improvement project involved an extensive remodel, structural upgrade, including seismic retrofitting, installation and insulation of sheer walls, new windows, noise insulation, removal of the deck, removal of stucco around the windows, sliding glass doors, and balcony walls, installation of new roof and stucco. The project included building-wide improvements and unit-specific improvements such as kitchen and bathroom remodels, which included electrical and plumbing upgrades.”
Decision at page 5.

Despite the Landlord's improvement to the housing stock, which benefitted the health, safety and well being of residential tenants, and despite the Landlord following the RAP's rules for capital improvement passthroughs, the Decision disregards the law to the Landlord's detriment by approximately \$106,147.14!

RAP Regulations, Addendum 10.2.1 provides that “Credit for capital improvements will only be given for those improvements which have been completed and paid for within the twenty-four (24) month period *prior to the date the petition for a rent increase based on the improvements is filed* [emphasis added].”¹ Approximately \$106,147.14 in capital improvements claimed by the Landlord were disallowed by the Decision due to an improper application of the unpublished decision in *Barango v. City of Oakland* (Alameda County Superior Court No.

¹Regulation 10.2.1 was amended, effective April 22, 2014 by Resolution #84936 CMS. The old language of Regulation 10.2.1 allowed for pass-throughs for those improvements that have been completed and paid for within the 24 months “*prior to the date of the proposed rent increase.*”

RG14732655). The Decision did not allow for all capital improvements incurred during the 24 months immediately prior to the Landlord filing its petition.

In *Barango v. City of Oakland*, the landlord sought a rent increase using the same petition process used by the Landlord in this case. In that case, the RAP approved the passthroughs sought, in part, and the tenant filed a petition for writ of mandate in the Alameda County Superior Court. An important issue in the *Barango* case was how to calculate the 24 month period and what was the effective date of the proposed rent increase.

The decision in *Barango* was based on the court's reading of an older version of Regulation 10.2.1 which has no application to our case. The focus in *Baragano* was on the date of the proposed rent increase because that is what the older version of Regulation 10.2.1 required. But the current version of Regulation 10.2.1 expressly calculates the 24 period to the date the landlord's petition is filed with the RAP! The Landlord's petition in this case was filed after Regulation 10.2.1 was amended.

Furthermore, in footnote 5 of the *Baragano decision*, Judge Grillo is critical of the methodology adopted by the RAP

“as it leads to absurd results as the effective date of the increase chosen is not related to the period in which costs were incurred, and allows the date of the proposed increase to be determined by factors outside of the landlord's control and potentially precludes the landlord from recovering legitimate costs that were incurred during the twenty-four month period.”

Here, the Landlord submitted evidence of improvements completed and paid for within the 24 month period prior to the date the petition for a rent increase was filed. Because the Landlord filed its petition on December 15, 2015, all evidence of improvements made and paid for between December 16, 2013 and December 15, 2015 should have been considered and approved for a passthrough. The *Baragano* decision is based on an old RAP regulation which should not have been followed in our case.

It is likely that the *Beragano* RAP petition and ensuing litigation caused the RAP to revise Regulation 10.2.1. But why was the revised version of the Regulation ignored for this

case? It was a major error for the Hearing Officers and her advisors to arbitrarily base the Decision on the older version of the Regulation. Using an old unpublished decision which was based on an old Regulation, and ignoring the new Regulation is a miscarriage of justice and a complete abuse of discretion. It prejudices the Landlord and benefits the Tenants.

The Decision in this case not only ignores the RAP's only regulations, it deprives the Landlord of its right to increase rent to the fullest extent permitted by law. State law permits a landlord to increase rents with a 30 or 60 day notice of rent increase. However, the Decision effectively denies the Landlord its entire rent increase by serving a notice of rent increase now.

Nor do the RAP Regulations have provisions that allow a retro-active rent increase after a Decision is rendered. The Hearing Officer set an effective date of the rent increase as March 1, 2016 but fails to provide a remedy for the Landlord to collect rent for a rent increase request that has been pending for the past 19 months.

The Landlord respectfully requests that the appeal be granted and that the deleted approximately \$106,147.14 in capital improvements be added back into the equation. Attached hereto as Exhibit B is a table showing the disallowed capital improvements which the Landlord should be permitted to pass through to its tenants.

C. The Decision Is Not Supported by Substantial Evidence.

Because of calculating, clerical and formatting errors, the Decision is not supported by the evidence. The Decision must be corrected in order to avoid severe prejudice to the Landlord in the amount of \$6,566.19.

Among the approximately \$6566.19 of expenses the Hearing Officer disallowed under the grounds that they were repair and maintenance were a new stove in unit 303 for \$456.88 and a new garbage disposal in unit 101 for \$194.32. The hearing officer determined that these expenses were repair and maintenance expenses which would fall under Increased Housing Services and thus should not be considered Capital Improvement expenses.

However common sense does not bear out the Hearing Officer's determination.

Maintenance is when an appliance or object is serviced so as to allow it to continue to function as a useful object or appliance. Maintenance is akin to changing the oil in your car. Repair is when an object or appliance is no longer working as it was intended and require repair to bring it back into being fully functional. Repair is akin to reattaching the spark plugs to allow your car's engine to function as it was intended. Capital Improvements are those improvements which materially add to the value of the property, appreciably prolong the useful life of the property or adapt it to new building codes and must primarily benefit the tenant.

In this case, instead of repairing and re-installing the original garbage disposal, the owner replaced the garbage disposal with an entirely new garbage disposal. Similarly, the stove in unit 303 was removed and replaced with a new stove. These expenses should be considered Capital Improvements not repair and maintenance.

Attached hereto as Exhibit B is a table showing the disallowed capital improvements which the Landlord should be permitted to pass through to its tenants.

D. The Rent Adjustment Ordinance and Regulations Are Constitutionally Deficient in That They Withhold Powers by Which the RAP Could Adjust Maximum Rents Without Unreasonable Delays and Instead Requires the Board to Follow an Adjustment Procedures That Make Such Delays Inevitable.

In *Birkenfeld v. the City of Berkeley* (1976) 17 Cal.3d 129, The California Supreme Court recognized that a rent board could unreasonably delay a decision on a landlord petition for a maximum rent increase as a result of constitutionally deficient rent ordinances and regulations. *Id.* at page 169. Here, the Landlord has been denied a prompt maximum rent increase due to the lack of sufficient procedures. The RAP's procedures, or lack thereof, make it inevitable that a landlord will suffer unconstitutionally long delays in any rent increase.

The delays at the RAP include, but are not limited to, (1) not having express procedures as to when hearings must be held after a landlord petition is filed, (2) setting hearings long after

petitions are filed, (3) allowing long continuances in the middle of hearings that can last weeks, and (4) permitting delays in rent increases pending appeals.

These delays can, and did in this case, lead to confiscatory rent rates that are unconstitutional. While the RAP has set goals for making decisions and setting hearings, those goals are not met. The fact that the RAP has set goals for it to take actions proves that speedy and just remedies are of great importance to the parties and for the administration of justice.

For example, Ord. § 8.22.110.D.1 says that the "Hearing officer shall have the goal of hearing the matter within sixty (60) days of the original petition's filing date." See also RAP Regulations, § 8.22.090.D.2. Ord. § 8.22.110.D.2 says that the "Hearing Officer shall have a goal of rendering a decision within sixty (60) days after the conclusion of the hearing or the close of the record, whichever is later." See also RAP Regulations, § 8.22.090.D.3. And where an appeal is filed, Ord. § 8.22.120.B.1 says the "Board or Appeal Panel shall have a goal of hearing the appeal within thirty (30) days of filing the notice of appeal." See also RAP Regulations, § 8.22.110.G.2.b.

In this case, the Landlord's petition for a capital improvement passthrough was filed on **December 18, 2015** and the Decision was issued on **July 19, 2017**. The Tenant's appeal was filed on or about **August 10, 2017** making it unlikely that an appeal hearing and decision will happen this year let alone by the goal date of a hearing by September 10, 2017.

Because of the unreasonable delay in the issuance of the Decision on Landlord's petition for a rent increase, the Landlord has been denied his legal right to a rent increase. The Rent Adjustment Ordinance, and the RAP's regulations and procedures are constitutionally deficient in that they allow for substantial delays for a landlord seeking a capital improvement passthrough, including, but not limited to, (1) not having express procedures as to when hearings must be held after a landlord petition is filed, (2) setting hearings long after petitions are filed, (3) allowing long continuances in the middle of hearings that can last weeks, and (4) permitting delays in rent increases pending appeals. This process will take three years to complete, meaning that the Landlord cannot raise the rents to the tenants subject to the petition during this time.

The decision in this case demonstrates the constitutional deficiency in the RAP's regulations and procedures. To remedy this constitutional infirmity in its rent laws, the RAP should authorize the Landlord's proposed rent increase in its entirety. AUG 30 PM 2:58

Respectfully Submitted on August 30, 2017

by Fried & Williams LLP



Clifford E. Fried

A		B	C	D	E	F	G
CAPITAL IMPROVEMENTS		Number of Residential Units on Property	Effective Date of Increase		20-Dec-15		
1	2	3	4	5	6	7	8
IMPROVEMENTS and repairs benefitting all units	DATE COMPLETED	COST ALLOWED	NUMBER OF UNITS BENEFITTED	MONTHLY COST PER UNIT	VALIDITY CHECKS		
4	IMPROVEMENT OR REPAIR						
5	Roof Replacement	\$0.00	16	\$0.00	OK		
6	Deck Removal & Scaffolding Installation	\$0.00	16	\$0.00	OK		
7	Paint Invoice	\$0.00	16	\$0.00	OK		
8	Lead Abatement/Stucco Removal Proj	\$0.00	16	\$0.00	OK		
9	A G Servs Light fixture installation etc.	\$0.00	16	\$0.00	OK		
10	Copper Waterline Replacement for front units	\$0.00	16	\$0.00	OK		
11	Sewer Lateral Replacement with EBMUD & Oakland permits fees	\$7,500.00	16	\$7.81	OK		
12	Paint Supplies	\$0.00	16	\$0.00	OK		
13	Exterior Painting and Interior Hallway Painting	\$40,000.00	16	\$41.67	OK		
14	Globe Plumbing Supplies - shower remodeling kit, pipe, etc	\$0.00	16	\$0.00	OK		
15	Globe Plumbing Supplies	\$0.00	16	\$0.00	OK		
16	Partial Tree Trimming due to exterior painting	\$0.00	16	\$0.00	OK		
17	replacement of 15 balconies	\$180,000.00	16	\$187.50	OK		
18	New Plywood Siding installation for seismic work	\$85,946.16	16	\$89.53	OK		
19	Stucco Installation including plastic sheeting	\$110,000.00	16	\$114.58	OK		
20	Piston Seal ordered on July 23, 2014	\$0.00	16	\$0.00	OK		
21	Original Stucco removal	\$37,500.00	16	\$39.06			
22	Permits	\$7,700.50	16	\$8.02			
23			Subtotal	\$488.17	OK		
24							
25							
26							
27							
28							
29							
30							
31							
32							
33	IMPROVEMENTS and repairs benefitting particular units						
34	IMPROVEMENT OR REPAIR						
35	New Windows at 6,600 per unit	\$19,800.00	3	\$110.00	204, 303, 304		
36	New Windows at 8,800 per unit	\$26,400.00	3	\$146.67	101, 202, 302		
37	New Sliding Glass Door at 3,400 each	\$20,400.00	6	\$56.67	101, 202, 204, 302, 303, 304		
38	26,000 K & BA Reno -new Cabinets, appliances, tile floors. Installal	\$78,000.00	3	\$433.33	204, 303, 304		
39	15,500 K - Cabinets, new tile floor, appliances, backsplash, hood. F	\$15,500.00	1	\$258.33	101		
40	new garbage disposal	\$0.00	1		101		
41	Paint invoice	\$0.00	1		303		
42	Carpet Replacement	\$0.00	1		303		
43	Installed new range	\$0.00	1		303		
44	Installation of new granite countertops	\$0.00	1		303		
45	installation of new electronic Range	\$0.00	1		303		
46	Repainted unit	\$0.00	1		303		
47	installation of new plumbing lines for sink and bathtub	\$750.00	1	\$12.50	304		
48	50% of cost for new shower valves	\$375.00	1	\$6.25	304		

**Evidence of Capital Improvements Erroneously Excluded by Hearing Officer
Because She Based Her Decision on the *Baragano* Case**

<i>L15-0073 Evid Exhibits</i>	<i>Document</i>	<i>Expense</i>
2 of 137	Roof inv	\$50,000.00
3 of 137	Proof of pymt	
4 of 137	Gallagher Deck removal/Scaffolding	\$13,000.00
5 of 137	Proof of pymt	
9 of 137	Gallagher Lead abatement Stucco removal	\$37,000.00
10 of 137	Proof of pymt	
39 of 137	Paint supplies unit 303	\$24.58
40 of 137	Proof of pymt	
41 of 137	New carpet unit 303	\$1,128.31
42 of 137	Proof of pymt	
45 of 137	Craig Bull new counters unit 303	\$2,964.25
46 of 137	Proof of pymt	
49 of 137	Advocate repaint unit 303	\$2,030.00
50 of 137	Proof of pymt	
		\$106,147.14

Evidence of Capital Improvements Erroneously Excluded by Hearing Officer

<i>L15-0073 Evid Exhibit</i>	<i>Document</i>	<i>Expense</i>
6 of 137	Kelley Moore – Bldg paint supplies	
7 of 137	Kelley Moore – Bldg paint supplies	\$211.82
8 of 137	Proof of pymt	
11 of 137	AG Servs. Light fixture	\$279.26
12 of 137	Proof of pymt	
13 of 137	Just Plumbing & maint – Cooper waterline replacement	\$2,600.00
14 of 137	Proof of pymt	
17 of 137	Kelley Moore – Bldg paint supplies	\$81.94
18 of 137	Kelley Moore – Bldg paint supplies	\$83.39
19 of 137	Proof of pymt	
23 of 137	Globe Plumbing	\$359.59
24 of 137	Proof of pymt	
25 of 137	Globe Plumbing	\$78.99
26 of 137	Proof of pymt	
27 of 137	Elite tree	\$450.00
28 of 137	Proof of payment	
36 of 137	Paramount Elevator	\$1,650.00
37 of 137	Proof of pymt	
43 of 137	Reynards Appliance new range unit 303	\$120.00
44 of 137	Proof of pymt	
47 of 137	Installation of new range unit 303	\$456.88
48 of 137	Proof of pymt	
67 of 137	New garbage disposal unit 101	\$194.32
68 of 137	Proof of pymt	
		\$6566.19

EXHIBIT B

000265

PROOF OF SERVICE BY FIRST-CLASS MAIL

2017 AUG 30 PM 2:59

I declare that I am a resident of or employed in the County of Alameda, State of California. I am over the age of eighteen years and am not a party this action. My residence or business address is 1901 Harrison Street, 14th Floor, Oakland, CA 94612.

On the date below, I served the attached, concerning the action known as (525, 655 Hyde St. CNML Props., LLC, vs. Tenants, Case No. L15-0073 (Community and Housing Development Agency, Rent Adjustment Program, City of Oakland).

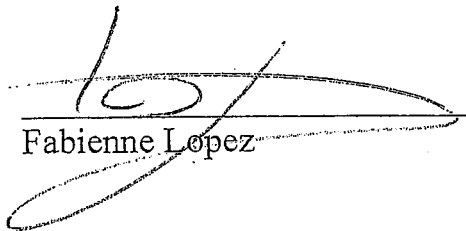
LANDLORD'S SUPPORTING ARGUMENTS AND DOCUMENTS ON APPEAL

on the parties herein in said action, by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The envelope was addressed, sealed and placed for collection and mailing, following this business' ordinary business practices, from Oakland, California, as follows:

See attached Service List

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and this declaration was executed on August 30, 2017, at Oakland, California.


Fabienne Lopez

000266

Service List for Case Number L15-0073

2017 AUG 30 PM 2:59

Name	Address
Jilleun Eglin	3921 Harrison Street, #101 Oakland, CA 94611
Lexie Eglin	3921 Harrison Street, #101 Oakland, CA 94611
Fernando Garcia	3921 Harrison Street, #202 Oakland, CA 94611
Kate Flick Garcia	3921 Harrison Street, #202 Oakland, CA 94611
Bianca Penaloza	3921 Harrison Street, #204 Oakland, CA 94611
Alexandru Vasilescu	3921 Harrison Street, #301 Oakland, CA 94611
Zoe Bridges	3921 Harrison Street, #301 Oakland, CA 94611
Julie E. Amberg	3921 Harrison Street, #302 Oakland, CA 94611
Tyler Ritter	3921 Harrison Street, #303 Oakland, CA 94611
Todd McMahon	3921 Harrison Street, #304 Oakland, CA 94611
Mari Oda	3921 Harrison Street, #304 Oakland, CA 94611
Stanley L. Amberg Tenant Attorney Representative	11 Carolyn Lane, Chappaqua, NY 10514

