

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING**

May 26, 2022

5:00 P.M.

Meeting Will Be Conducted Via Zoom

AGENDA

PUBLIC PARTICIPATION

The public may observe and/or participate in this meeting in many ways.

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on the link below:

You are invited to a Zoom webinar.

When: May 26, 2022 5:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING- May 26, 2022

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/89610498722>

Or One tap mobile :

US: +16699009128,,89610498722# or +12532158782,,89610498722#

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Dial(for higher quality, dial a number based on your current location):

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Webinar ID: 896 1049 8722

International numbers available: <https://us02web.zoom.us/j/kcXGbbntHR>

COMMENT:

There are two ways to submit public comments.

- To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Instructions on how to “Raise Your Hand” are available [here](#).
- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing “*9” to speak when Public Comment is taken. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing “*6”.

If you have any questions, please email hearingsunit@oaklandca.gov.

HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. PUBLIC COMMENT
 - a. Comments on all agenda items will be taken at this time. Comments for items not on the agenda will be taken during open forum.
4. CONSENT ITEMS
 - a. Approval of Board Minutes, 4/28/2022 (pp. 4-14)
5. APPEALS*
 - a. T19-0278, Ivory v. SF Rents (pp. 57-88)
 - b. T22-0015, Fleurentin v. Meridian Management Group (pp. 88-154)
6. SCHEDULING AND REPORTS
7. INFORMATION AND ANNOUNCEMENTS
 - a. Board Training Session—The Brown Act (p. 15)
8. EVICTION MORATORIUM RESOLUTION DISCUSSION (pp. 16-55)
9. CPI RESOLUTION DISCUSSION (p. 56)
10. OPEN FORUM
11. ADJOURNMENT

Note: Appeal parties do not need to comment on their case during public comment or open forum.

**Staff appeal summaries will be available on the Rent Adjustment Program's website and the City Clerk's office at least 48 hours prior to the meeting pursuant to O.M.C. 2.20.070.B and 2.20.090*

As a reminder, alternates in attendance (other than those replacing an absent board member) will not be able to take any action, such as with regard to the consent calendar.

Accessibility:

Contact us to request disability-related accommodations, American Sign Language (ASL), Spanish, Cantonese, Mandarin, or another language interpreter at least five (5) business days before the event. Rent Adjustment Program (RAP) staff can be contacted via email at RAP@oaklandca.gov or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations.

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 RAP@oaklandca.gov o llame al (510) 238-3721 o 711 por lo menos cinco días hábiles antes de la reunión.

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 RAP@oaklandca.gov 或致電 (510) 238-3721 或711 California relay service.

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD
FULL BOARD SPECIAL MEETING**

April 28, 2022

5:00 P.M.

VIA ZOOM CONFERENCE

OAKLAND, CA

MINUTES

1. CALL TO ORDER

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Chair Ingram at 5:03 p.m.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
R. NICKENS, JR.	Tenant			X
P. VIRAMONTES	Tenant	X		
J. DEBOER	Tenant Alt.	X		
Vacant	Tenant Alt.			
D. INGRAM	Undesignated	X		
C. OSHINUGA	Undesignated	X		
E. TORRES	Undesignated	X*		
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
T. WILLIAMS	Landlord	X		
N. HUDSON	Landlord	X		
Vacant	Landlord Alt.			
K. SIMS	Landlord Alt.			X

* Member E. Torres left the call during the second appeal hearing.

Staff Present

Braz Shabrell
Harman Grewal
Briana Lawrence-McGowan
Chanée Franklin Minor
Allison Pretto
Mike Munson

Deputy City Attorney
Business Analyst III (HCD)
Administrative Analyst I (RAP)
Program Manager (RAP)
Project Manager (RAP)
KTOP

3. DISCUSSION REGARDING A RESOLUTION TO SUPPORT THE CITY'S EVICTION MORATORIUM

- a. Chair Ingram announced that the discussion regarding a resolution to support the City's eviction moratorium was being postponed to the next full Board meeting.

4. OPEN FORUM

- a. James Vann from the Oakland Tenants Union spoke and welcomed the new Board members and mentioned that the upcoming CPI is significantly higher in comparison to the current CPI. Mr. Vann stated that the new CPI will be a shock to tenants, may increase homelessness, and that the Oakland Tenants Union will be addressing this issue and hopes to be able to bring something to the Board that will be supported. Mr. Vann also stated that the CPI highlights the importance of the eviction moratorium because many people are on the verge of losing their homes and becoming homeless, and that the moratorium needs to be extended until the situation improves.
- b. Jim spoke and said that it's ironic that landlords must pay RAP fees but that the fees are used to pay tenant attorneys who sue landlords or make up baseless defenses to eviction actions. Jim mentioned that it seems as if Berkeley landlords are contributing to a fund that subsidizes lawsuits against them or keeps nightmare tenants in rental units endlessly. Jim stated that the funds that the Rent Board is considering allocating is best spent being provided to renters and their families who are in need, rather than driving up the legal expenses of landlords, who have no similar entitlement to free legal representation. Jim mentioned that there is already an abundance of protections in place and that tenant attorneys demur and use clever smoke and mirrors to delay inevitable evictions.
- c. Emily Wheeler from the Oakland Tenants Union spoke and mentioned that we were in Oakland, not in Berkeley—and echoed the comments made by Mr. Vann regarding the upcoming CPI. Ms. Wheeler mentioned that the upcoming CPI is a 72% increase compared to the current CPI, that it is the highest CPI that Oakland has ever had, and that it is increasing the highest allowable rent increase in Oakland by almost double. Ms. Wheeler stated that the CPI is coming at a time when tenants are being faced with a triple threat by the on-going pandemic—as it is impacting their employment and/or ability to operate a business, emergency assistance programs are ending, and inflation is causing the cost of goods and services to increase. Ms. Wheeler mentioned that if landlords implement the 6.7% CPI, it would increase base rents for tenants—causing every single rent increase implemented afterwards to have a higher dollar amount. Ms. Wheeler urged the Rent Board to recommend keeping the eviction moratorium and to not allow landlord to get out of abiding by the Rent Ordinance—as they should

not be allowing their properties to get into such a state of disrepair that they get demolished and become exempt from rent control. Ms. Wheeler mentioned that she hopes that the Board recognizes this issue because it could set a dangerous precedent.

- d. Thomas Fresquez spoke and stated that it is the responsibility of the Rent Adjustment Program (RAP) to conduct hearings in accordance with due process. Mr. Fresquez stated that RAP claims that hearings are conducted by impartial Hearing Officers but that he has his doubts about this. Mr. Fresquez stated that he has submitted numerous public information requests to obtain information on what measures RAP takes to ensure impartiality in the hearing process and that he has learned that RAP has no official policies establishing any commitment to maintaining impartiality in the hearing process or establishing any standards or procedures to ensure that hearings are conducted in a fair and impartial manner. Mr. Fresquez referenced public information request numbers 2253 and 2110694—which requested all internal documents, correspondences, memos, emails, policies, and guidelines establishing the policies and standards of RAP regarding maintaining impartiality in adjudication of the Rent Adjustment Ordinance and in hearings conducted by RAP. Mr. Fresquez stated that the response to these requests was that no such documents exist. Mr. Fresquez mentioned that the Hearing Officer in his father-in-law’s current case showed bias based upon facts on the record and that he submitted a formal complaint to the City Attorneys. Mr. Fresquez mentioned that the complaint raises significant concerns regarding lack of impartiality within RAP and raises concerns pertaining to the failure of RAP to ensure due process is adhered to during the hearing process. Mr. Fresquez stated that this should be a great concern to the Board and asked the Board to advise on how his submitted complaints and concerns will be investigated and reported.

5. CONSENT ITEMS

- a. Public comment was allowed for the approval of the Board minutes from the 3/24 and 4/14/2022 full Board meetings. No members of the public spoke.
- b. Chair Ingram moved to approve the minutes from both the 3/24/2022 and 4/14/2022 full Board special meetings. Member deBoer seconded the motion.

The Board voted as follows:

Aye:	D. Ingram, C. Oshinuga, E. Torres, P. Viramontes, J. deBoer, T. Williams, N. Hudson
Nay:	None
Abstain:	None

The minutes were approved.

6. SCHEDULING AND REPORTS

- a. RAP Manager, Chanée Franklin Minor, and RAP Project Manager, Allison Pretto, administered a presentation to the Board on RAP's Rent Registry. Topics discussed included:
 - What is a Rent Registry?
 - How Does a Registry Work?
 - Why Is It Important?
 - How Rent Registries Benefit Owners & Tenants
 - Issues to Consider When Developing a Rent Registry
- b. Public Comment was allowed for questions related to the Rent Registry and presentation:
 - James Vann asked questions regarding privacy and how confidential information will be protected and if tenants will be able to electronically access information that informs them of their actual/legal rent. RAP Manager, Chanée Franklin Minor, responded to Mr. Vann's questions.
 - Steve Edrington asked what RAP is currently doing with the business tax and Rent Board fee data that landlords are sending in and how RAP is going to pay for the Rent Registry over time. RAP Manager, Chanée Franklin Minor, responded to Mr. Edrington's questions.
 - Jim asked if the proposed costs for the Rent Registry considers the costs for expanding outreach to inform the public about the Registry and the rules associated with it and what would be the consequences if a landlord failed to register. Jim also asked why this rent registry is different than proposed state rent registries that have been rejected and failed previously within the recent years. RAP Manager, Chanée Franklin Minor, responded to Jim's questions.
 - Jill Broadhurst stated that in addition to concerns related to privacy, she was hesitant to support the Rent Board and department expanding and taking on anything else due to the current online platform for petitions not being updated regularly, being clunky, and forms not being easily locatable—which needs more attention prior to working on a rent registry. Ms. Broadhurst mentioned that there's a lot of staff attrition, that RAP is not fully staffed, and that in the future, the funding that has been allocated for the registry may dissipate and cause increases to the RAP fee on an annual basis.

Ms. Broadhurst stated that landlords don't need a platform provided by the City to manage their leases, addendums, and rent increases—and that the rent registry won't be an advantage to landlords. RAP Manager, Chanée Franklin Minor, responded to Ms. Broadhurst's comments and concerns.

- Thomas Fresquez stated that he does not see any benefit of the rent registry because he rents a property to his son—and that he prefers to keep his personal matters between his family and out of the system. Mr. Fresquez asked if there would be an opportunity to do that if you are renting to an immediate family member and mentioned that property owner rights are continuing to be attacked and reduced. Mr. Fresquez stated that RAP has no policies related to impartiality, and that he can see the rent registry getting out of hand as more information may be required, and that penalties may potentially be imposed on owners in the future.
 - Emily thanked RAP Manager, Chanée Franklin Minor, for introducing the idea of a rent registry—stating that it is a great idea and will improve things for both tenants and landlords in Oakland. Emily mentioned that rent registries are not a new, wild, or crazy idea, that they already exist in multiple cities across the country, the costs are modest, and that although there are some concerns about privacy—those can be addressed. Emily stated that a tool to keep track of rental units can be utilized to ensure that laws are being enforced and will help make sure that the laws that the City has passed to protect tenants and landlords will be followed. Emily also mentioned that the registry will help with tracking gentrification and collecting other data—and that she hopes the rent registry will be used for all rental units in Oakland, and not just those covered by the Rent Adjustment Ordinance.
- c. Member T. Williams asked which rental units would qualify for the rent registry. RAP Manager, Chanée Franklin Minor, responded to Member T. Williams' question.
- d. Member P. Viramontes asked how long RAP anticipates that it'll take to build out and launch the rent registry and gather all rental unit data. RAP Manager, Chanée Franklin Minor, responded to Member P. Viramontes' question.
- e. Vice Chair Oshinuga commented and stated that he previously worked in San Jose as a City Attorney and drafted the legislation for their rent registry, that rent registries are great for a variety of reasons, and that privacy concerns are a common threat amongst jurisdictions that have rent registries. Vice Chair Oshinuga mentioned that landlords attempted to sue the City of San Jose for their rent registry and appealed the case all the way up to the Ninth Circuit—however, they did not prevail, as the

Ninth Circuit sided with the City, stating that there was no privacy interest implicated by the rent registry. Vice Chair Oshinuga stated that from a legal standpoint, he does not believe that the privacy interest is a concern.

- f. Member J. deBoer stated that he'd like to flag the fact that some tenants reside in non-conforming/illegal units and that he does not want the rent registry to be used against either the landlords or tenants to get them in trouble for residing in these units. Member J. deBoer also mentioned that he hopes that the rent registry cannot be used against those who are undocumented or used in any other ways that it is not intended for.

7. APPEALS*

a. L20-0089, Haig Mardikian Telegraph & 23rd LLC v. Tenants

Appearances:	Steve Edrington	Owner Representative
	Judah Lakin	Tenant
	Ambri Pukhraj	Tenant

This case involved a tenant appeal of a rent increase that was granted based on increased housing services costs. In this case, the increase in operating costs was primarily based on property taxes—and on appeal, the tenants argued that a rent increase should not be granted primarily based on property taxes. The regulations define a housing service as services related to the use and occupancy of a unit and do not explicitly include property taxes in the list of eligible expenses. However, the list is non-exhaustive, and comparable expenses, such as insurance and management fees, are allowed and listed. The following issues were presented to the Board:

- 1.) Is payment of property taxes related to use and occupancy of a rental unit and considered a housing service?
- 2.) If property taxes are considered a housing service, the Board should consider whether the finding in this case, that the owner is eligible for the rent increase, is supported by substantial evidence.

The tenant contended that the main issue is whether property taxes can be used as an increase in housing services to impose a rent increase on tenants. The tenant argued that property taxes are not an increased housing service, as they are not listed in the regulations, and they do not provide direct benefits to the tenants. The tenant contended that property taxes may generally benefit residents and the public—however, they are not a housing service that tenants are receiving. The tenant argued that it does not make sense for property taxes to be considered a housing service—however, since property taxes are listed in

the regulations underneath fair return, the owner may have filed the wrong petition. The tenant argued that the owner should have filed a fair return petition, but they did not—and instead, they are trying to claim that the tenants are receiving increased housing services, which they are not.

The tenant argued that the increase in property taxes were due to a shift in ownership, which caused the property to be re-evaluated; and that the increase was due to the owner going from being a 50% owner to 100% owner in the property—which increased their percentage of ownership, profits, and property taxes. The tenant contended that outside of property taxes, the owner has had little to no increases in other operational costs and has even had some reductions—and that the increase in property taxes was the main supporting evidence provided to the Hearing Officer. The tenant argued that although the services that property taxes fund are a benefit to the public, property taxes still are not a housing service, as they are not directly related to their housing.

The owner representative argued that on RAP's website, underneath increased housing services costs, the expenses listed included property taxes. The owner representative contended that based on this public facing information, the owner followed the law, submitted all required documentation, and is entitled to the rent increase. The owner representative argued that property taxes are a housing service because property taxes pay for emergency services such as police and fire departments—which the tenants benefit directly from. The owner representative contended that schools and roadwork are also paid for through property taxes and clearly benefit the tenants and argued that to say that property taxes are not a housing service is preposterous.

The owner representative argued that the tenants' argument that property taxes do not have a connection to the use and occupancy of a rental unit is untrue since emergency services, schools, and roads are all services to the property that are funding through property taxes, which are paid by the owner. The owner representative argued that the tenants' argument mentioned that the owner's percentage of ownership increasing also increased their profits—however, the owner representative argued that this also increased the owner's expenses. The owner representative contended that property taxes are a housing service.

After parties' arguments, questions to the parties, and Board discussion, Vice Chair Oshinuga moved to remand the case back to the Hearing Officer to reconsider the petition in light of the fact that property taxes are not a housing service, as they do not relate to the use or occupancy of a unit. Member deBoer seconded the motion. Vice Chair Oshinuga withdrew his motion.

Chair Ingram moved to remand the case back to the Hearing Officer for recalculation, excluding property taxes, as they are not increased housing service costs per OMC 8.22, as it relates to the use or occupancy of a covered

unit. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

Aye: D. Ingram, C. Oshinuga, E. Torres, P. Viramontes, J. deBoer,
T. Williams, N. Hudson
Nay: None
Abstain: None

The motion was approved.

a. T20-0093, Bolanos v. Olivieri

Appearances:	Tom Fresquez	Owner Representative
	Miriam Bolanos	Tenant
	Samantha Beckett	Tenant Representative
	Clara	Spanish Interpreter

The interpreter was sworn in by staff.

This case involved an owner appeal of a remand decision finding that the subject property was not exempt from the Rent Adjustment Ordinance. The tenant filed a petition contesting rent increases and alleging decreased housing services. The owner responded by alleging that the property was exempt from the Rent Adjustment Ordinance under Costa Hawkins. The case was originally heard in 2019 and at the hearing, the Hearing Officer found that the tenant's unit was not exempt because there was more than one dwelling at the property. It was found that there was a front structure and rear structure, but the owner argued that the rear structure was not a dwelling and was a storage unit. The Hearing Officer disagreed and found that the structure was a dwelling. Regarding the claims of decreased housing services, the Hearing Officer denied the claims related to heat and pest infestations—but granted a 5% temporary rent reduction for deteriorated windows.

The owner appealed both findings and during the first appeal, presented new evidence of a demolition permit, which the owner claims supported the position that the rear structure was not a dwelling unit. The owner also disputed the 5% rent reduction because the conditions were minor, and the tenant did not notify the owner of the issues. The appeal was heard before the Board on July 8, 2021 and the Board remanded the case back to the Hearing Officer for consideration of the new piece of evidence, and deferred consideration of the 5% rent reduction pending the outcome of the exemption issue. A remand hearing took place in October 2021 and the Hearing Officer found that the demolition permit

was not sufficient to establish that the rear unit was non-residential and found that the owner did not meet their burden. The owner appealed the remand decision. The following questions issues are presented to the Board:

- 1.) Is the Hearing Officer's finding that the property is not exempt supported by substantial evidence?
- 2.) Is the 5% rent reduction based on decreased housing services supported by substantial evidence?

The owner representative contended that regarding the habitability issues, the testimony that was provided by the tenant was misleading and that the tenant lacked credibility, but the Hearing Officer based their decision solely on the testimony of the tenant and without requiring any substantial evidence. The owner representative argued that the Hearing Officer was biased and based their decision in favor of the tenant on testimony of the tenant, which does not exist in the record and can be confirmed by review of the record. The owner representative contended that the tenant claimed numerous habitability issues existed upon moving into the unit and that she informed the owner of these issues upon move-in—however, the owner refuted this claim with a property inspection report from 2016, which was two years after the tenant moved into the unit. The owner representative argued that the inspection report did not mention any of the alleged habitability issues claimed by the tenant and that the Hearing Officer failed to include this evidence and any evidence of notices of violation of housing and building codes in the Hearing Decision.

The owner representative argued that regarding the rent increases, the Hearing Officer determined that the rear unit was a dwelling unit—however, the definition of a dwelling unit is based upon it's current use and not how it was used in the past or how it will be used in the future. The owner representative contended that although the rear structure had been used as a dwelling unit over 16 years ago, it had not been used as a dwelling at any point during the tenant's occupancy. The owner representative argued that the Hearing Officer relied upon arbitrary evidence to support the Hearing Decision, which had no relevance to the language outlined in the Civil Code that defines a dwelling unit. The owner representative contended that the owner submitted a demolition permit as evidence during the remand hearing, which proved that the rear structure was not a dwelling unit and was an accessory, non-residential structure—but the Hearing Officer deemed the evidence as insufficient.

The owner representative argued that he did not beg the City to revise the language on the demolition permit and stated that it was applied for as demolition of a storage unit and that he simply asked for the language to be corrected. The owner representative contended that Centro Legal intervened in the permit process and begged the City not to issue the demolition permit—however, the City issued the permit as demolition of an accessory structure and not as a

dwelling unit or residential structure. The owner representative argued that the City did make a determination that the unit was not a dwelling unit and that the permit was issued. The owner representative contended that a structure can no longer be considered a dwelling unit if it is no longer being used as a home or residence. The owner representative argued that the rear unit was used as storage by the tenant, that it was only used as storage for 16 years, and that since the owner did not use the unit as a dwelling for 16 years long and then demolished it, that proves that the owner did not intend on using the unit as a dwelling unit. The owner representative argued that the owner has met their burden to prove that the rear unit was exempt from the Rent Ordinance based on Costa Hawkins and the Civil Code definition of a dwelling unit.

The tenant representative contended that to avoid another remand and to simplify the matters before the Board, the tenant withdraws the reduction in services claim and waives the 5% rent reduction award. The tenant representative argued that the only issue being presented to the Board is whether the Hearing Officer's remand decision finding that the demolition permit was insufficient to meet the owner's burden to prove a Costa Hawkins exemption before the demolition is supported by substantial evidence and by law. The tenant representative contended that the Hearing Officer's decision was supported by substantial evidence and by law because the demolition permit provided no evidence to support the owner's exemption claim. The tenant representative argued that the evidence submitted at the remand hearing showed that the City never made a determination as to whether the rear structure was or was not a dwelling unit.

The tenant representative contended that communications between Mr. Fresquez and the City show that there were concerns that the rear structure was a dwelling unit—and that they also show that the design review exemption that allowed the demolition permit to be issued was only issued after Mr. Fresquez begged the City to issue the permit because the unit was “unsafe”. The tenant representative argued that the unit was only claimed to be “unsafe” after Mr. Fresquez was told by an inspector at the City that the exemption would only be granted for units that are accessory structures or unsafe. The tenant representative argued that Mr. Fresquez submitted photos of the unit to the City, and that the inspector stated that the unit looked like a dwelling unit with fixtures removed. The tenant representative argued that even after the design review exemption was granted, the rear structure was still referred to as a residential structure by the City on April 22, 2021. The tenant representative contended that Mr. Fresquez then pleaded with the City again to change the language from residential unit to accessory structure on the permit and that the record shows no determination by the City as to whether the rear unit was a dwelling unit. The tenant representative argued that the record shows more than substantial evidence that the owner failed to meet their burden to prove a Costa Hawkins exemption and that the record contains evidence that the tenant had resided in the rear structure previously, that there were separate meters for utilities,

separate mailboxes, and that the property was zoned as a multi-unit residence. The tenant representative contended that since the record contains more than substantial evidence and since the decision was supported by law, the Hearing Officer's decision should be affirmed.

After parties' arguments, questions to the parties, and Board discussion, Member J. deBoer moved to uphold the Hearing Officer's decision. Member P. Viramontes seconded the motion. Member J. deBoer withdrew his motion.

Member J. deBoer moved to uphold the Hearing Officer's decision based upon substantial evidence and notes that the tenant has withdrawn the 5% rent reduction. Vice Chair Oshinuga seconded the motion.

The Board voted as follows:

Aye:	D. Ingram, C. Oshinuga, P. Viramontes, J. deBoer, T. Williams, N. Hudson
Nay:	None
Abstain:	None

The motion was approved.

8. INFORMATION AND ANNOUNCEMENTS

- a. Board Training—Rules of Evidence & Appeals: Vice Chair Oshinuga moved to continue the training session at another meeting. Member N. Hudson seconded the motion.

The Board voted as follows:

Aye:	D. Ingram, C. Oshinuga, P. Viramontes, J. deBoer, T. Williams, N. Hudson
Nay:	None
Abstain:	None

The motion was approved.

9. ADJOURMENT

- a. The meeting was adjourned at 9:22 p.m.



Department of Housing and Community Development
Rent Adjustment Program

(510) 238-3721
www.oaklandca.gov/RAP

**OUTLINE FOR HOUSING, RESIDENTIAL RENT AND RELOCATION
BOARD TRAINING**

May 26, 2022

Brown Act

I. Legislative Bodies

II. Meetings

III. Agendas

IV. Public Participation

V. Remedies

#3176084v1

RECEIVED MAR 23 2020

Approved as to Form and Legality



Office of the City Attorney

**Emergency Order of the City of Oakland
Interim City Administrator/Director of the Emergency Operations Center**

Whereas, due to the spread of COVID-19 (coronavirus) within the state, on March 1, 2020 the Alameda County Public Health Department, and on March 4, 2020, Governor Gavin Newsom, declared local and state public health emergencies due to the spread of COVID-19 locally and within the state, pursuant to Health & Safety Code section 101080 and Government Code section 8625, respectively; and

Whereas, on March 12, 2020, Governor Newsom pursuant to his authority under Government Code section 8630, issued Executive Order N-25-50, which waived several Brown Act provisions applicable to government agency public and closed meetings conducted by teleconference; and

Whereas, on March 18, 2020 Governor Newsom, issued Executive Order N-29-20 which withdrew and superseded Executive Order N-25-20's provisions pertaining to meetings via teleconference, authorizing local legislative bodies to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and address the local legislative body when the body complies with the notice and accessibility requirements set forth in the order; and

Whereas, on March 7, 2020, the City Administrator in her capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, the City Council passed Resolution No. 88075 C.M.S. confirming the existence of the local emergency proclaimed by the City Administrator pursuant to her power under Oakland Municipal Code section 8.50.050(C) to proclaim a local emergency provided that the local emergency proclamation shall remain in effect only if the City Council confirms the existence of the emergency within seven days; and

Whereas, the City Administrator in her/his capacity as the Director of the EOC has authority "to promulgate orders, rules, and regulations on matters reasonably related to the protection of life and property and the preservation of public peace and order, in accordance with Article 14 of the California Emergency Services Act, [and such] rules and regulations must be confirmed at the earliest practicable time by the governing body as required by law; and

Whereas, to the extent that the City's emergency proclamation and/or the Emergency Services Ordinance codified at Oakland Municipal Code Chapter 8.50.050 do not expressly or impliedly suspend or waive the following provisions of the City's laws, policies or procedures, the City Administrator in her/his capacity as the Director of the EOC hereby promulgates the following orders, rules and regulations;

Now, Therefore, I, Steven Falk, Interim City Administrator/Director of the Emergency Operations Center of the City of Oakland, in accordance with the authority vested in me pursuant to Oakland's Emergency Services Act, Oakland Municipal Code Chapter 8.50, specifically section 8.50.050.C.5.(a), hereby order the following:

000016

1. Oakland's Sunshine Ordinance codified at Oakland Municipal Code Chapter 2.20 and the Oakland City Council's Rules of Procedure, codified in Resolution No. 87044 C.M.S., passed February 6, 2018, are suspended, for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier, to the extent necessary to allow the City to conduct its business in accordance with the California Brown Act, Government Code section 54950, et seq.
2. Oakland City Council, Council Committees and City of Oakland boards and commissions shall conduct their public and closed meetings in accordance with the California Brown Act, Government Code section 54950, et seq., as amended/suspended/waived by the Governor's Executive Orders N-25-50 and N-29-20, including, but not limited to, the notice and speaker provisions, therein, for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.
3. All time-limits, shotclocks and other deadlines associated with Planning Department and Building Department notices, application reviews, appeals, enforcement activities and other matters set forth in Titles 15 and 17 of the OMC and related administrative instructions, regulations and policies are suspended for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.
4. Meetings of all City commissions, committees and boards related to the processing of planning and building applications, including the Planning Commission, the Design Review Committee and the Landmarks Advisory Board, are cancelled until further notice.
5. All time-limits and deadlines associated with Rent Adjustment Program petitions, appeals, and other matters set forth Chapter 8.22 Article I (Residential Rent Adjustment Program) of the OMC and related administrative instructions, regulations and policies are suspended for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.
6. City of Oakland policies and procedures related to homeless encampments, including, but not limited to, the City's Encampment Management Policy and its Standard Operating Procedure for Removal of Homeless Encampments, are suspended for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earliest. In the interim, the City shall adhere to State and Alameda County legal guidance and/or orders, policies and procedures issued in response to the COVID-19 emergency related to homeless encampments. In addition, the City Administrator is authorized to adopt interim temporary policies and/or procedures consistent with such State and Alameda County orders, policies and procedures. Such City of Oakland interim temporary policies and procedures shall protect individuals' rights while ensuring that the City and other local, state, and/or federal governments can take all legal measures needed to protect public health and observe safety orders.
7. The City of Oakland's Regulations Enforcing and Interpreting the Oakland Minimum Wage and Sick Leave Ordinance, codified in OMC Chapter 5.42, are amended as follows:

- a. An Employer's request for a doctor's note or other documentation for the use of accrued paid sick leave is presumptively unreasonable; and
- b. Accrued paid sick leave may be used for self-quarantine when the Employee personally receives a recommendation or direction from a medical professional or public health official to quarantine.

The above provisions shall remain in effect for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.

8. All time-limits and deadlines associated with Oakland Animal Services notices, appeals, enforcement activities and other matters set forth in Chapters 6.04 (Animal Control Regulations Generally) and 6.08 (Potentially Dangerous and Vicious Dogs) of the OMC Title 6 (Animals) and related administrative instructions, regulations and policies are suspended for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.
9. The City Administrator hereby is authorized to approve emergency grants to non-profit and for-profit businesses to provide funding to offset and/or mitigate the financial impact of COVID-19 on business operations due to closures, shelter in place directives and other COVID-19-related events without prior approval of the City Council. This grant authority shall be for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.

In addition, the City Administrator authorizes the provision of information, data and advice to non-profit and for-profit businesses that wish to provide privately-funded grants and/or other support, services and aide to the most vulnerable City of Oakland communities and residents, and those most impacted by racial disparities during the COVID-19 crisis, provided that businesses furnished with City's information, data and advice will use it to identify and target organizations and programs for receipt of funding and other support that are serving or will serve Oakland's most vulnerable and racially impacted communities and citizens.

10. The provisions of Oakland Municipal Code section 2.06.060 providing for an interest penalty for the failure to make timely payments in accordance with Chapter 2.06 (Prompt Payment) of the Oakland Municipal Code are suspended for the duration of the local emergency or until such time as this order is rescinded, whichever is earlier.
11. Notwithstanding City Charter Section 219(6) and O.M.C. Chapters 2.41 and 2.42, the City Administrator has the administrative authority to lease facilities or property to or from private or public entities for the sole purpose of addressing the COVID-19 emergency crisis (including providing temporary shelter for unsheltered residents or to set up isolation facilities to prevent the spread of COVID-19), for any amount, at or below fair market value, without following otherwise applicable noticing or competitive bidding processes. Such leases shall terminate upon 90 days of the date the City Council terminates this local emergency unless the leases are approved in accordance with applicable procedures of the City Charter and O.M.C Chapters 2.41 and 2.42 within said 90-day window.

12. The provision of Oakland Municipal Code section 8.50.050.C.3 that requires the City Council and City Administrator to review the need for a local emergency every thirty (30) days until the emergency is terminated as it is inconsistent with current state law (Gov. Code Section 8630), which requires such review every sixty (60) days, and is inconsistent with the Governor's March 1, 2020 declaration of emergency which waived the state requirement to review every sixty (60) days, therefore, is suspended.
13. The provision of Oakland Municipal Code section 8.50.050.C.5(a) that requires the confirmation of orders, rules and regulations issued by the City Administrator during a local emergency "at the earliest practicable time by the governing body as required by law", is not required by state law and, therefore, is suspended.
14. Unless otherwise specified above, all orders set forth above shall remain in effect for the duration of the local emergency or until such time as this order is rescinded or the City Council terminates the emergency, whichever is earlier.

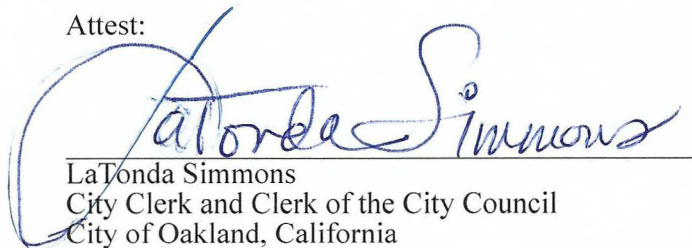
I FURTHER DIRECT that as soon hereafter as possible, this Order shall be filed in the Office of the City Clerk, posted on the City of Oakland website, and that widespread publicity and notice of this Order shall be provided to the public.

IN WITNESS WHEREOF I have hereunto set my hand this 23 day of March, 2020



Steven Falk
Interim City Administrator/Director of Emergency
Operations Center, City of Oakland, California

Attest:



LaTonda Simmons
City Clerk and Clerk of the City Council
City of Oakland, California

2916887v3
March 2020

2020 APR 15 AM 11:45

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

INTRODUCED BY COUNCILMEMBER NIKKI FORTUNATO BAS,
COUNCIL PRESIDENT PRO TEMPORE DAN KALB,
CITY ATTORNEY BARBARA J. PARKER,
COUNCILMEMBER NOEL GALLO,
COUNCILMEMBER LYNETTE GIBSON MCELHANEY,
COUNCIL PRESIDENT REBECCA KAPLAN,
VICE MAYOR LARRY REID,
COUNCILMEMBER LOREN TAYLOR, AND
COUNCILMEMBER SHENG THAO

OAKLAND CITY COUNCIL

ORDINANCE NO. 13589 C.M.S.

Six Affirmative Votes Required

EMERGENCY ORDINANCE (1) IMPOSING A MORATORIUM ON RESIDENTIAL EVICTIONS, RENT INCREASES, AND LATE FEES DURING THE LOCAL EMERGENCY PROCLAIMED IN RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC; (2) PROHIBITING RESIDENTIAL AND COMMERCIAL EVICTIONS BASED ON NONPAYMENT OF RENT THAT BECAME DUE DURING THE LOCAL EMERGENCY WHEN TENANT SUFFERED A SUBSTANTIAL LOSS OF INCOME DUE TO COVID-19; (3) PROHIBITING RESIDENTIAL EVICTIONS FOR NON-PAYMENT OF RENT WHERE THE LANDLORD IMPEDED THE PAYMENT OF RENT; AND (4) CALLING ON STATE AND FEDERAL LEGISLATORS AND FINANCIAL INSTITUTIONS TO PROVIDE RELIEF TO LOW-INCOME HOMEOWNERS AND LANDLORDS

WHEREAS, COVID-19 is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in California, including the Bay Area; and

WHEREAS, On March 1, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP declared a Local Health Emergency, and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed that a State of Emergency exists in California as a result of the threat of COVID-19; and

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WHEREAS, Oakland is experiencing a severe housing affordability crisis and 60 percent of Oakland residents are renters, who would not be able to locate affordable housing within the City if they lose their housing; and

WHEREAS, in the City of Oakland, more than 4000 of our community members are homeless and live outdoors, in tents or in vehicles; and

WHEREAS, because homelessness can exacerbate vulnerability to COVID-19, it is necessary to take measures to preserve and increase housing security for Oakland residents; and

WHEREAS, the World Health Organization announced on March 11, 2020, that it has characterized COVID-19 as a pandemic; and

WHEREAS, on March 9, 2020, the Oakland City Administrator issued a proclamation of Local Emergency which was ratified by the Oakland City Council on March 12, 2020; and

WHEREAS, at the City Council's Special Meeting on March 12, 2020, numerous members of the public gave commentary about the need to prevent residential evictions during the COVID-19 crisis; and

WHEREAS, on March 16, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP issued a Shelter-in-Place Order, requiring all Alameda County Residents to stay in their homes and leave only for specified essential purposes; and

WHEREAS, on March 17, 2020, the California Public Utilities Commission's (CPUC) Executive Director determined that energy, water, sewer, and communications companies under CPUC jurisdiction should halt customer disconnections for non-payment as a result of the State of Emergency called by Gov. Gavin Newsom. (Source: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M329/K673/329673725.PDF>); and

WHEREAS, the following California cities have enacted emergency eviction moratoriums: San Francisco, Berkeley, Emeryville, Alameda, San Jose, Los Angeles and San Diego, among others; and

WHEREAS, many Oakland residents are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with rent payments; and

WHEREAS, many Oakland businesses are suffering economic losses related to COVID-19, in particular since the March 16, 2020, Shelter in Place Order; and

WHEREAS, the City of Oakland is supporting its small businesses and workers during this crisis by maintaining a new web page (www.oaklandbusinesscenter.com) to serve as a portal for all the local, state and federal resources available to support small businesses and workers during this crisis. These resources include assistance with small business taxes, loan programs, worker benefits programs, and other direct business support; and

WHEREAS, many Landlords charge late fees which can operate as an unfair penalty if a tenant is unable to pay rent due to reasons related to COVID-19; and

WHEREAS, some Landlords refuse to provide a W-9 form when required for a tenant to access rental assistance from a government or non-profit agency; and

WHEREAS, pursuant to Oakland Municipal Code Section 8.22.360F, the City Council may add limitations to a landlord's right to evict under the Just Cause for Eviction Ordinance; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness; and

WHEREAS, an emergency ordinance restricting evictions during the COVID-19 crisis would help ensure that residents stay housed during the pandemic and would therefore reduce opportunities for transmission of the virus; and

WHEREAS, the City Council finds that the Just Cause for Eviction Ordinance, as amended herein, is consistent with Civil Code Section 1946.2 (as enacted by the Tenant Protection Act of 2019), is more protective than Civil Code Section 1946.2, and, in comparison to Civil Code Section 1946.2, further limits the reasons for termination of residential tenancy, provides additional tenant protections, and, in conjunction with other City ordinances, provides for higher relocation assistance payments; and

WHEREAS, on March 16, 2020, California Governor Gavin Newsom issued Executive Order N-28-20, which, among other things, suspended any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on commercial evictions, if the basis for eviction was nonpayment of rent, or foreclosure, arising out of a substantial decrease in income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic, or a government agency's response to it, and is documented; and requests that financial institutions implement an immediate moratorium on foreclosures and related evictions that arise due to a substantial loss of household/business income, or substantial out-of-pocket medical expenses, due to COVID-19; and

WHEREAS, on March 18, 2020, the Federal Housing Administration (FHA) enacted a 60-day moratorium on foreclosures and evictions for single family homes with FHA-insured mortgages, and the Federal Housing Finance Agency suspended foreclosures and evictions for single family homes with mortgages backed by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) for 60-days; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20, ordering, with limited exceptions, all individuals living in the state of California to stay at home or at their place of residence, until further notice; and

WHEREAS, on March 19, 2020, the United States Senate introduced a \$1 trillion proposal for a coronavirus stimulus package, with support from the Trump Administration, which includes a direct payment to qualified individuals, small business loans, corporate tax cuts, and financial support for hard-hit industries such as airlines; and

WHEREAS, according to the 2018 City of Oakland Equity Indicators Report 74 percent of African American residents are renters, 69 percent of Latinx residents are renters, and 48 percent of Asian residents are renters; and 58 percent of African American and 53 percent of Latino residents are rent burdened in Oakland, and African American residents are twice as likely to receive an eviction notice than all residents; and

WHEREAS, this Ordinance will serve justice and promote racial equity for African American and Latinx renters; and

WHEREAS, pursuant to City Charter Section 213, the City Council may introduce and adopt an emergency ordinance at the same City Council meeting by six affirmative six votes; and

WHEREAS, the City Council finds that it is necessary to enact an emergency ordinance pursuant to the powers that City Charter Section 213 grants to the City Council to preserve the public health and safety which is threatened by COVID-19; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance.

SECTION 2. Purpose and Intent. The purpose and intent of this ordinance is to prevent displacement, reduce transmission of the novel Coronavirus (COVID-19), and promote the stability and the health and safety of the residents and businesses of Oakland during the Local Emergency declared by the City Administrator on March 9, 2020, and ratified by the Oakland City Council on March 12, 2020, in response to the COVID-19 pandemic (hereinafter, "Local Emergency").

SECTION 3. Residential Eviction Moratorium. Except when the tenant poses an imminent threat to the health or safety of other occupants of the property, and such threat is stated in the notice as the grounds for the eviction, it shall be an absolute defense to any unlawful detainer action filed under Oakland Municipal Code 8.22.360A subsections (1) – (10) that the notice was served or expired, or that the complaint was filed or served, during the Local Emergency. Any notice served pursuant to Oakland Municipal Code 8.22.360A (1) - (10) on a tenant during the Local Emergency shall include the following statement in bold underlined 12-point font: **“Except to protect the health and safety of other occupants of the property, you may not be evicted during the Local Emergency declared by the City of Oakland in response to the COVID-19 pandemic. This does not relieve you of the obligation to pay back rent in the future. You may contact the Rent Adjustment Program at (510) 238–3721 for additional information and referrals.”** This section shall remain in effect until May 31, 2020, unless extended.

SECTION 4. Rent Increase Moratorium. For rental units regulated by Oakland Municipal Code 8.22.010 et seq, any notice of rent increase in excess of the CPI Rent Adjustment, as defined in Oakland Municipal Code Section 8.22.020, shall be void and unenforceable if the notice is served or has an effective date during the Local Emergency, unless required to provide a fair return. Any notice of rent increase served during the Local Emergency shall include the following statement in bold underlined 12-point font: **“During the Local Emergency declared by the City of Oakland in response to the COVID-19 pandemic, your rent may not be increased in excess of the CPI Rent Adjustment (3.5% until June 30, 2020), unless required for the landlord to obtain a fair return. You may contact the Rent Adjustment Program at (510) 238–3721 for additional information and referrals.”**

SECTION 5. Late Fee Moratorium. Notwithstanding any lease provision to the contrary, for residential tenancies, no late fees may be imposed for rent that became due during the Local Emergency if the rent was late for reasons resulting from the COVID-19 pandemic. This includes, but is not limited to (1) the tenant was sick or incapacitated due to COVID-19, or was complying with a recommendation from a governmental agency to self-quarantine, (2) the tenant suffered a substantial reduction in household income because of a loss of employment or a reduction in hours, or because they were unable to work because they were caring for their child(ren) who were out of school or a household or family member who was sick with COVID-19, or because they were complying with a recommendation from a government agency to self-quarantine, and (3) the tenant incurred substantial out-of-pocket medical expenses caused by COVID-19. Any notice demanding late fees for rent that became due during the Local Emergency shall include the following statement in bold underlined 12-point font: **“You are not required to pay late fees for rent that became due during the Local Emergency declared by the City of Oakland in response to the COVID-19 pandemic if the rent was late for reasons**

related to the pandemic. You may contact the Rent Adjustment Program at (510) 238-3721 for additional information and referrals."

SECTION 6. Commercial Eviction Moratorium. In any action for unlawful detainer of a commercial unit based on non-payment of rent, it shall be an absolute defense if the failure to pay rent during the local emergency was the result of a substantial decrease in income (including but not limited to a decrease caused by a reduction in hours or consumer demand) and the decrease in income was caused by the COVID-19 pandemic or by any local, state, or federal government response to COVID-19, and is documented. This section shall only apply to small businesses as defined by Government Code Section 14837(d)(1)(A) and to nonprofit organizations. Any notice to a commercial tenant demanding rent shall include the following statement in bold underlined 12-point font: **"If you are a small business as defined by Government Code 14837(d)(1)(a) or a non-profit organization, you may not be evicted for failure to pay rent if the failure was due to a substantial decrease in income caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented. This does not relieve you of the obligation to pay back rent in the future."** This section shall remain in effect until May 31, 2020, unless extended. Nothing in this section shall relieve the tenant of liability for the unpaid rent.

SECTION 7. No Residential Eviction for Nonpayment of Rent that Became Due During the Local Emergency. In any action for unlawful detainer filed under Oakland Municipal Code 8.22.360.A.1, it shall be a defense that the unpaid rent became due during the Local Emergency and was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus pandemic. This includes, but is not limited to, where, as a result of the Coronavirus pandemic, the tenant suffered a loss of employment or a reduction in hours, or was unable to work because their children were out of school, or was unable to work because they were sick with COVID-19 or caring for a household or family member who was sick with COVID-19, or they were complying with a recommendation from a government agency to self-quarantine, or they incurred substantial out of pocket medical expenses due to COVID-19. Any notice served on a residential tenant demanding rent that became due during the Local Emergency shall include the following statement in bold underlined 12-point type: **"You may not be evicted for rent that became due during the Local Emergency if the rent was unpaid because of a substantial reduction in household income or a substantial increase in expenses related to the Coronavirus pandemic. This does not relieve you of the obligation to pay back rent in the future. You may contact the Rent Adjustment Program at (510) 238-3721 for additional information and referrals."** Nothing in this subsection shall relieve the tenant of liability for the unpaid rent.

SECTION 8. No Eviction if Landlord Impeded Payment of Rent. Subsection D of Section 8.22.360 of the Oakland Municipal Code (Just Cause for Eviction Ordinance) is hereby repealed and reenacted with amendments, as set forth below (additions are shown as double underline).

D. Substantive limitations on landlord's right to evict.

1. In any action to recover possession of a rental unit pursuant to Section 6 [8.22.360], a landlord must allege and prove the following:
 - a. the basis for eviction, as set forth in Subsection 6(A)(1) through 6(A)(11) [8.22.360 A.1 through 8.22.360 A.11] above, was set forth in the notice of termination of tenancy or notice to quit;
 - b. that the landlord seeks to recover possession of the unit with good faith, honest intent and with no ulterior motive;
2. If landlord claims the unit is exempt from this ordinance, landlord must allege and prove that the unit is covered by one of the exceptions enumerated in Section 5 [8.22.350] of this chapter. Such allegations must appear both in the notice of termination of tenancy or notice to quit, and in the complaint to recover possession. Failure to make such allegations in the notice shall be a defense to any unlawful detainer action.
3. This subsection (D) [8.22.360 D] is intended as both a substantive and procedural limitation on a landlord's right to evict. A landlord's failure to comply with the obligations described in Subsections 7(D)(1) or (2) [sic] [8.22.360 D.1 or 8.22.360 D.2] shall be a defense to any action for possession of a rental unit.
4. In any action to recover possession of a rental unit filed under 8.22.360A1, it shall be a defense if the landlord impeded the tenant's effort to pay rent by refusing to accept rent paid on behalf of the tenant from a third party, or refusing to provide a W-9 form or other necessary documentation for the tenant to receive rental assistance from a government agency, non-profit organization, or other third party. Acceptance of rental payments made on behalf of the tenant by a third party shall not create a tenancy between the landlord and the third party as long as either the landlord or the tenant provide written notice that no new tenancy is intended.

SECTION 9. No Relief from Liability for Rent. Nothing in this Ordinance shall relieve any tenant of liability for unpaid rent that became due during the Local Emergency. Landlords are encouraged to work with local agencies that will be making rental assistance available for qualifying tenants.

SECTION 10. Notice Requirements. Obligatory notice statements required by this ordinance shall be written in the language that the landlord and/or the landlord's agents normally use for verbal communications with the tenant.

SECTION 11. Good Samaritan Temporary Rent Decreases – A landlord and tenant may agree in writing to a temporary rent reduction without reducing the base rent used for calculating rent increases under the Rent Adjustment Ordinance. For Good Samaritan Status to exist, the written agreement must include a statement that the

reduction is temporary and is unrelated to market conditions, habitability, or a reduction in housing services.

SECTION 12. No Waiver of Rights. Any agreement by a tenant to waive any rights under this ordinance shall be void as contrary to public policy.

SECTION 13. City Council Request for Additional State and Federal Action. The Oakland City Council hereby requests and urges Governor Newsom, California State legislators and U.S. Senators and Representatives to enact comprehensive legislation to further protect residents, tenants, homeowners and small businesses from the adverse health, safety and economic impacts of this crisis. This includes, but is not limited to, the following:

- A moratorium on mortgage foreclosures;
- A moratorium on commercial rent increases;
- Creation of emergency direct assistance programs for rent and mortgage payments, and other housing-related expenses such as utilities, property taxes, and insurance;
- Urging banks and financial institutions to suspend rents and mortgages;
- Creation of emergency grant programs to small businesses and nonprofits;
- Creation of emergency programs that provide homes and expanded services for people experiencing homelessness; and
- A moratorium on evictions, including those residential units newly covered by the enactment of AB 1482, which added Civil Code Section 1946.2.

SECTION 14. City Council Requests Action by Financial Institutions. The Oakland City Council hereby requests and urges banks and financial institutions to suspend mortgage payments, foreclosures, and late fees for low-income homeowners and landlords, with immediate forgiveness, and encourages financial institutions to provide zero-interest emergency unsecured loans and grants to small businesses and non-profits within Oakland that are unable to meet rent, mortgage, or other fixed operating costs.

SECTION 15. This ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no environmental impact), 15269(c) (specific actions necessary to mitigate an emergency), and 15378 (regulatory actions). In response to the COVID-19 crisis, which has been declared a national, state, and local emergency, this ordinance implements rent stabilization measures and an eviction moratorium for existing residential units in the City with tenants who have been negatively impacted by the emergency.

The ordinance is necessary to mitigate an emergency and contains no provisions modifying the physical design, development, or construction of residential or

nonresidential structures. Accordingly, it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment and result in no physical changes to the environment.

SECTION 16. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 17. Direction to City Administrator. The City Council hereby directs the City Administrator to transmit a copy of this Ordinance to all banks, financial institutions, and public utilities operating in Oakland, Governor Gavin Newsom, State Senator Nancy Skinner, Assembly Member Buffy Wicks, Assembly Member Rob Bonta, U.S. Senator Kamala Harris, U.S. Senator Dianne Feinstein, and U.S. Representative Barbara Lee.

SECTION 18. Regulations. The City Administrator may issue regulations, guidance, and forms as needed to implement this Ordinance, including but not limited to guidelines for repayment of back rent.

SECTION 19. Effective Date. This ordinance shall become effective immediately if it receives six or more affirmative votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

Introduction Date

PASSED BY THE FOLLOWING VOTE:

MAR 27 2020

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN — 8

NOES — 0

ABSENT — 0

ABSTENTION — 0

ATTEST:

Latonda Simmons
LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation:

April 15, 2020

2916782v6

NOTICE AND DIGEST

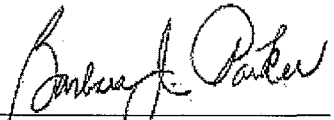
EMERGENCY ORDINANCE (1) IMPOSING A MORATORIUM ON RESIDENTIAL EVICTIONS, RENT INCREASES, AND LATE FEES DURING THE LOCAL EMERGENCY PROCLAIMED IN RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC; (2) PROHIBITING RESIDENTIAL AND COMMERCIAL EVICTIONS BASED ON NONPAYMENT OF RENT THAT BECAME DUE DURING THE LOCAL EMERGENCY WHEN TENANT SUFFERED A SUBSTANTIAL LOSS OF INCOME DUE TO COVID-19; (3) PROHIBITING RESIDENTIAL EVICTIONS FOR NON-PAYMENT OF RENT WHERE THE LANDLORD IMPEDED THE PAYMENT OF RENT; AND (4) CALLING ON STATE AND FEDERAL LEGISLATORS AND ON FINANCIAL INSTITUTIONS TO PROVIDE RELIEF TO LOW-INCOME HOMEOWNERS AND LANDLORDS

This ordinance imposes a temporary moratorium on residential evictions and rent increases in excess of CPI during the Local Emergency. It also prohibits residential evictions and the imposition of late fees for rent that became due during the Local Emergency if the tenant's failure to pay rent was a result of a substantial decrease in income or a substantial increase in expenses related to COVID-19; and prohibits evictions when the landlord has impeded the tenant's efforts to pay rent. The ordinance imposes a temporary moratorium on evictions of small businesses for non-payment of rent when the tenant suffered a substantial loss of business income related to COVID-19.

At the Oakland City Council's March 27, 2020 special meeting, the Council unanimously adopted the Emergency Ordinance by a vote of 8 ayes. Councilmember Fortunato-Bas made the motion to adopt the ordinance and President Pro Tempore Kalb seconded the motion.

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER NIKKI FORTUNATO BAS,
COUNCIL PRESIDENT PRO TEMPORE DAN KALB, AND
CITY ATTORNEY BARBARA J. PARKER


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. 13594 C.M.S.

6 Affirmative Votes Required

EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 13589 C.M.S. TO (1) EXTEND THE MORATORIUM ON RESIDENTIAL EVICTIONS DURING THE LOCAL EMERGENCY PROCLAIMED IN RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC; AND (2) EXTEND THE MORATORIUM ON COMMERCIAL EVICTIONS BASED ON NONPAYMENT OF RENT THAT BECAME DUE DURING THE LOCAL EMERGENCY WHEN TENANT SUFFERED A SUBSTANTIAL LOSS OF INCOME DUE TO COVID-19

WHEREAS, COVID-19 is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in California, including the Bay Area; and

WHEREAS, On March 1, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP declared a Local Health Emergency, and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed that a State of Emergency exists in California as a result of the threat of COVID-19; and

WHEREAS, Oakland is experiencing a severe housing affordability crisis and 60 percent of Oakland residents are renters, who would not be able to locate affordable housing within the City if they lose their housing; and

WHEREAS, in the City of Oakland, more than 4000 of our community members are homeless and live outdoors, in tents or in vehicles; and

WHEREAS, because homelessness can exacerbate vulnerability to COVID-19, it is necessary to take measures to preserve and increase housing security for Oakland residents; and

WHEREAS, the World Health Organization announced on March 11, 2020, that it has characterized COVID-19 as a pandemic; and

WHEREAS, on March 9, 2020, the Oakland City Administrator issued a proclamation of Local Emergency which was ratified by the Oakland City Council on March 12, 2020; and

WHEREAS, at the City Council's Special Meeting on March 12, 2020, numerous members of the public gave commentary about the need to prevent residential evictions during the COVID-19 crisis; and

WHEREAS, on March 16, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP issued a Shelter-in-Place Order, requiring all Alameda County Residents to stay in their homes and leave only for specified essential purposes; and

WHEREAS, the following California cities have enacted emergency eviction moratoriums: San Francisco, Berkeley, Emeryville, Alameda, San Jose, Los Angeles and San Diego, among others; and

WHEREAS, many Oakland residents are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with rent payments; and

WHEREAS, many Oakland businesses are suffering economic losses related to COVID-19, in particular since the March 16, 2020, Shelter in Place Order; and

WHEREAS, pursuant to Oakland Municipal Code Section 8.22.360F, the City Council may add limitations to a landlord's right to evict under the Just Cause for Eviction Ordinance; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness; and

WHEREAS, on March 16, 2020, California Governor Gavin Newsom issued Executive Order N-28-20, which, among other things, suspended any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on commercial evictions, if the basis for eviction was nonpayment of rent, or foreclosure, arising out of a substantial decrease in income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic, or a government agency's response to it, and is documented; and requests that financial institutions implement an immediate moratorium on foreclosures and related evictions that arise due to a substantial loss of household/business income, or substantial out-of-pocket medical expenses, due to COVID-19; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20, ordering, with limited exceptions, all individuals living in the state of California to stay at home or at their place of residence, until further notice; and

WHEREAS, on March 27, 2020, the City Council approved Ordinance No. 13589 C.M.S., which imposed an eviction moratorium on residential evictions until May 31, 2020 and a moratorium on commercial evictions based on nonpayment of rent that became due during the Local Emergency when tenant suffered a substantial loss of income due to COVID-19 until May 31, 2020; and

WHEREAS, on April 6, 2020, the Judicial Council adopted emergency rules to suspend evictions and judicial foreclosures until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic has been lifted; and

WHEREAS, on April 29, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP extended the Shelter-in-Place Order, requiring all Alameda County Residents to stay in their homes and leave only for specified essential purposes, through end of May 2020; and

WHEREAS, according to the 2018 City of Oakland Equity Indicators Report 74 percent of African American residents are renters, 69 percent of Latinx residents are renters, and 48 percent of Asian residents are renters; and 58 percent of African American and 53 percent of Latino residents are rent burdened in Oakland, and African American residents are twice as likely to receive an eviction notice than all residents; and

WHEREAS, this Ordinance will serve justice and promote racial equity for African American and Latinx renters; and

WHEREAS, pursuant to City Charter Section 213, the City Council may introduce and adopt an emergency ordinance at the same City Council meeting by six affirmative votes; and

WHEREAS, pursuant to City Charter Section 213 the City Council must state the reasons constituting the necessity of an emergency ordinance in order to preserve the public peace, health or safety of the City in an emergency; and

WHEREAS, based on the findings above, the City desires to further the public peace, health, safety and welfare to prevent transmission of the coronavirus by avoiding unnecessary displacement and homelessness; and

WHEREAS, if the Council does not enact an emergency ordinance implementing the above measures, the City's announcement of its intent to act would create an incentive for landlords to evict tenants after provisions of the existing eviction moratorium that expire on May 31, 2020 despite the clear intent of the City to protect such tenants to promote the health, welfare, and safety of the City; and

WHEREAS, in the time after a non-emergency ordinance was introduced, received a second reading, and became effective, many tenants could be subject to displacement, furthering the need for the Council to enact an emergency ordinance that is effective immediately; and

WHEREAS, the City Council finds that it is necessary to enact an emergency ordinance pursuant to the powers that City Charter Section 213 grants to the City Council to preserve the public health and safety which is threatened by COVID-19; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance.

SECTION 2. Purpose and Intent. The purpose and intent of this ordinance is to prevent displacement, reduce transmission of the novel Coronavirus (COVID-19), and promote the stability and the health and safety of the residents and businesses of Oakland during the Local Emergency declared by the City Administrator on March 9, 2020, and ratified by the Oakland City Council on March 12, 2020, in response to the COVID-19 pandemic (hereinafter, "Local Emergency").

SECTION 3. Residential Eviction Moratorium Extension. Section 3 of Ordinance No. 13589 C.M.S. is hereby repealed and reenacted with amendments, as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

Residential Eviction Moratorium. Except when the tenant poses an imminent threat to the health or safety of other occupants of the property, and such threat is stated in the notice as the grounds for the eviction, it shall be an absolute defense to any unlawful detainer action filed under Oakland Municipal Code 8.22.360A subsections (1) – (10) that the notice was served or expired, or that the complaint was filed or served, during the Local Emergency. Any notice served pursuant to Oakland Municipal Code 8.22.360A (1) - (10) on a tenant during the Local Emergency shall include the following statement in bold underlined 12-point font: **"Except to protect the health and safety of other occupants of the property, you may not be evicted during the Local Emergency declared by the City of Oakland in response to the COVID-19 pandemic. This does not relieve you of the obligation to pay back rent in the future. You may contact the Rent Adjustment Program at (510) 238-3721 for additional information and referrals."** This section shall remain in effect until the Local Emergency declared on March 9, 2020, has been terminated by the City Council, or August 31, 2020, whichever comes first. ~~May 31, 2020, unless extended.~~

SECTION 4. Commercial Eviction Moratorium Extension. Section 6 of Ordinance No. 13589 C.M.S. is hereby repealed and reenacted with amendments, as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

Commercial Eviction Moratorium. In any action for unlawful detainer of a commercial unit based on non-payment of rent, it shall be an absolute defense if the failure to pay rent during the local emergency was the result of a substantial decrease in income (including but not limited to a decrease caused by a reduction in hours or consumer demand) and the decrease in income was caused by the COVID-19 pandemic or by any local, state, or federal government response to COVID-19, and is documented. This section shall only apply to small businesses as defined by Government Code Section 14837(d)(1)(A) and to nonprofit organizations. Any notice to a commercial tenant demanding rent shall include the following statement in bold underlined 12-point font: **"If you are a small business as defined by Government Code 14837(d)(1)(a) or a non-profit organization, you may not be evicted for failure to pay rent if the failure was due to a substantial decrease in income caused by the COVID-19 pandemic, or by any local, state, or federal government response to COVID-19, and is documented. This does not relieve you of the obligation to pay back rent in the future."** This section shall remain in effect until May 31, 2020, ~~unless extended~~the expiration of the Governor's suspension of state law limitations on local government's exercise of its police power to impose substantive limitations on commercial eviction in Executive Order N-28-20 and any extensions of such suspension. Nothing in this section shall relieve the tenant of liability for the unpaid rent.

SECTION 5. City Council Request for Additional State and Federal Action. The Oakland City Council hereby requests and urges Governor Newsom, California State legislators and U.S. Senators and Representatives to enact comprehensive legislation to further protect residents, tenants, homeowners and small businesses from the adverse health, safety and economic impacts of this crisis. This includes, but is not limited to, the following:

- A moratorium on mortgage foreclosures;
- A moratorium on commercial rent increases;
- Suspension or forgiveness of rent for tenants;
- Creation of emergency direct assistance programs for rent and mortgage payments, and other housing-related expenses such as utilities, property taxes, and insurance;
- Urging banks and financial institutions to suspend rents and mortgages;
- Creation of emergency grant programs to small businesses and nonprofits;
- Creation of emergency programs that provide homes and expanded services for people experiencing homelessness.

SECTION 6. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no environmental impact), 15269(c) (specific actions necessary to mitigate an emergency), and 15378 (regulatory actions). In response to the COVID-19 crisis, which has been declared a national, state, and local emergency, this ordinance implements rent stabilization measures and an eviction moratorium for existing residential units in the City with tenants who have been negatively impacted by the emergency.

The ordinance is necessary to mitigate an emergency and contains no provisions modifying the physical design, development, or construction of residential or nonresidential structures. Accordingly, it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment and result in no physical changes to the environment.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This ordinance shall become effective immediately if it receives six or more affirmative votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

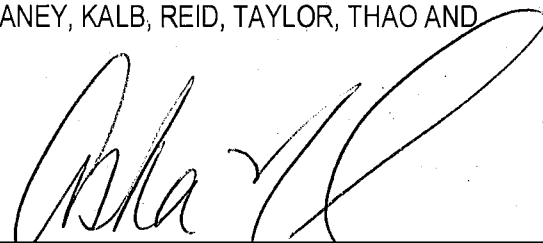
MAY 19 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN — 8

NOES — 0
ABSENT — 0
ABSTENTION — 0

ATTEST:



LATONDA SIMMONS

City Clerk and Clerk of the Council of the City of
Oakland, California

Date of Attestation: November 12, 2020

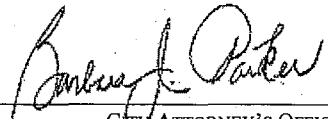
NOTICE AND DIGEST

EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 13589 C.M.S. TO (1) EXTEND THE MORATORIUM ON RESIDENTIAL EVICTIONS DURING THE LOCAL EMERGENCY PROCLAIMED IN RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC; AND (2) EXTEND THE MORATORIUM ON COMMERCIAL EVICTIONS BASED ON NONPAYMENT OF RENT THAT BECAME DUE DURING THE LOCAL EMERGENCY WHEN TENANT SUFFERED A SUBSTANTIAL LOSS OF INCOME DUE TO COVID-19

This Ordinance amends Ordinance No. 13589 C.M.S. to (1) extend the moratorium on residential evictions during the local emergency proclaimed in response to the novel coronavirus (COVID-19) pandemic; (2) extend the moratorium on commercial evictions based on nonpayment of rent that became due during the local emergency when tenant suffered a substantial loss of income due to COVID-19.

At the Oakland City Council's May 19, 2020 meeting, the Council unanimously adopted the Emergency Ordinance by a vote of 8 ayes. President Pro Tempore Kalb made the motion to adopt the ordinance and Councilmember Fortunato Bas seconded the motion.

INTRODUCED BY COUNCILMEMBER NIKKI FORTUNATO BAS,
COUNCIL PRESIDENT PRO TEMPORE DAN KALB, AND
CITY ATTORNEY BARBARA J. PARKER


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
ORDINANCE NO. 13606 C.M.S.

6 Affirmative Votes Required

**EMERGENCY ORDINANCE AMENDING ORDINANCE NOS. 13589
C.M.S. AND 13594 C.M.S. TO EXTEND THE MORATORIUM ON
RESIDENTIAL EVICTIONS DURING THE LOCAL EMERGENCY
PROCLAIMED IN RESPONSE TO THE NOVEL CORONAVIRUS
(COVID-19) PANDEMIC**

WHEREAS, COVID-19 is a respiratory disease which was first detected in China and has now spread across the globe, with multiple confirmed cases in California, including the Bay Area; and

WHEREAS, On March 1, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP declared a Local Health Emergency, and

WHEREAS, on March 4, 2020, California Governor Gavin Newsom proclaimed that a State of Emergency exists in California as a result of the threat of COVID-19; and

WHEREAS, Oakland is experiencing a severe housing affordability crisis and 60 percent of Oakland residents are renters, who would not be able to locate affordable housing within the City if they lose their housing; and

WHEREAS, in the City of Oakland, more than 4000 of our community members are homeless and live outdoors, in tents or in vehicles; and

WHEREAS, because homelessness can exacerbate vulnerability to COVID-19, it is necessary to take measures to preserve and increase housing security for Oakland residents; and

WHEREAS, the World Health Organization announced on March 11, 2020, that it has characterized COVID-19 as a pandemic; and

WHEREAS, on March 9, 2020, the Oakland City Administrator issued a proclamation of Local Emergency which was ratified by the Oakland City Council on March 12, 2020; and

WHEREAS, at the City Council's Special Meeting on March 12, 2020, numerous members of the public gave commentary about the need to prevent residential evictions during the COVID-19 crisis; and

WHEREAS, on March 16, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP issued a Shelter-in-Place Order, requiring all Alameda County Residents to stay in their homes and leave only for specified essential purposes; and

WHEREAS, the following California cities have enacted emergency eviction moratoriums: San Francisco, Berkeley, Emeryville, Alameda, San Jose, Los Angeles and San Diego, among others; and

WHEREAS, many Oakland residents are experiencing substantial losses of income as a result of business closures, the loss of hours or wages, or layoffs related to COVID-19, hindering their ability to keep up with rent payments; and

WHEREAS, many Oakland businesses are suffering economic losses related to COVID-19, in particular since the March 16, 2020, Shelter in Place Order; and

WHEREAS, pursuant to Oakland Municipal Code Section 8.22.360F, the City Council may add limitations to a landlord's right to evict under the Just Cause for Eviction Ordinance; and

WHEREAS, during this state of emergency, and in the interests of protecting the public health and preventing transmission of the COVID-19, it is essential to avoid unnecessary displacement and homelessness; and

WHEREAS, on March 16, 2020, California Governor Gavin Newsom issued Executive Order N-28-20, which, among other things, suspended any provision of state law that would preempt or otherwise restrict a local government's exercise of its police power to impose substantive limitations on commercial evictions, if the basis for eviction was nonpayment of rent, or foreclosure, arising out of a substantial decrease in income or substantial out-of-pocket medical expenses caused by the COVID-19 pandemic, or a government agency's response to it, and is documented; and requests that financial institutions implement an immediate moratorium on foreclosures and related evictions that arise due to a substantial loss of household/business income, or substantial out-of-pocket medical expenses, due to COVID-19; and

WHEREAS, on May 29, 2020, Governor Newsom issued Executive Order N-66-20, which among other things, extended these provisions of Executive Order N-28-20 until July 28, 2020; and

WHEREAS, on June 30, 2020, Governor Newsom issued Executive Order N-71-20, which among other things, extended these provisions of Executive Order N-28-20 until September 30, 2020; and

WHEREAS, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20, ordering, with limited exceptions, all individuals living in the state of California to stay at home or at their place of residence, until further notice; and

WHEREAS, on March 27, 2020, the City Council approved Ordinance No. 13589 C.M.S., which imposed an eviction moratorium on residential evictions until May 31, 2020 and a moratorium on commercial evictions based on nonpayment of rent that became due during the Local Emergency when tenant suffered a substantial loss of income due to COVID-19 until May 31, 2020; and

WHEREAS, on April 6, 2020, the Judicial Council adopted emergency rules to suspend evictions and judicial foreclosures until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic has been lifted; and

WHEREAS, on April 29, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP extended the Shelter-in-Place Order, requiring all Alameda County Residents to stay in their homes and leave only for specified essential purposes, through end of May 2020; and

WHEREAS, on May 19, 2020, the City Council approved Ordinance No. 13594 C.M.S., which extended the moratorium on residential evictions until August 31, 2020 and the moratorium on commercial evictions until the expiration of the relevant provisions of Executive Order N-28-20; and

WHEREAS, on June 5, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP extended the Shelter-in-Place Order, until it is rescinded, superseded, or amended; and

WHEREAS, according to the 2018 City of Oakland Equity Indicators Report 74 percent of African American residents are renters, 69 percent of Latinx residents are renters, and 48 percent of Asian residents are renters; and 58 percent of African American and 53 percent of Latino residents are rent burdened in Oakland, and African American residents are twice as likely to receive an eviction notice than all residents; and

WHEREAS, this Ordinance will serve justice and promote racial equity for African American and Latinx renters; and

WHEREAS, pursuant to City Charter Section 213, the City Council may introduce and adopt an emergency ordinance at the same City Council meeting by six affirmative votes; and

WHEREAS, pursuant to City Charter Section 213 the City Council must state the reasons constituting the necessity of an emergency ordinance in order to preserve the public peace, health or safety of the City in an emergency; and

WHEREAS, based on the findings above, the City desires to further the public peace, health, safety and welfare to prevent transmission of the coronavirus by avoiding unnecessary displacement and homelessness; and

WHEREAS, if the Council does not enact an emergency ordinance implementing the above measures, the City's announcement of its intent to act would create an incentive for landlords to evict tenants after provisions of the existing eviction moratorium that expire on August 31, 2020 despite the clear intent of the City to protect such tenants to promote the health, welfare, and safety of the City; and

WHEREAS, in the time after a non-emergency ordinance was introduced, received a second reading, and became effective, many tenants could be subject to displacement, furthering the need for the Council to enact an emergency ordinance that is effective immediately; and

WHEREAS, the City Council finds that it is necessary to enact an emergency ordinance pursuant to the powers that City Charter Section 213 grants to the City Council to preserve the public health and safety which is threatened by COVID-19; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance.

SECTION 2. Purpose and Intent. The purpose and intent of this ordinance is to prevent displacement, reduce transmission of the novel Coronavirus (COVID-19), and promote the stability and the health and safety of the residents and businesses of Oakland during the Local Emergency declared by the City Administrator on March 9, 2020, and ratified by the Oakland City Council on March 12, 2020, in response to the COVID-19 pandemic (hereinafter, "Local Emergency").

SECTION 3. Residential Eviction Moratorium Extension. Section 3 of Ordinance No. 13589 C.M.S., as amended by Ordinance No. 13594 C.M.S., is hereby repealed and reenacted with amendments, as set forth below (additions are shown as double underline and deletions are shown as ~~strikethrough~~).

Residential Eviction Moratorium. Except when the tenant poses an imminent threat to the health or safety of other occupants of the property, and such threat is stated in the notice as the grounds for the eviction, it shall be an absolute defense to any unlawful detainer action filed under Oakland Municipal Code 8.22.360A subsections (1) – (10) that the notice was served or expired, or that the complaint was filed or served, during the Local Emergency. Any notice served pursuant to Oakland Municipal Code 8.22.360A (1) - (10) on a tenant during the Local Emergency shall include the following statement in bold underlined 12-point font: **"Except to protect the health and safety of other occupants of the property, you may not be evicted during the Local**

Emergency declared by the City of Oakland in response to the COVID-19 pandemic. This does not relieve you of the obligation to pay back rent in the future. You may contact the Rent Adjustment Program at (510) 238-3721 for additional information and referrals. This section shall remain in effect until the Local Emergency declared on March 9, 2020, has been terminated by the City Council, ~~or August 31, 2020, whichever comes first.~~

SECTION 4. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Sections 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment), 15061(b)(3) (no environmental impact), 15269(c) (specific actions necessary to mitigate an emergency), and 15378 (regulatory actions). In response to the COVID-19 crisis, which has been declared a national, state, and local emergency, this ordinance implements rent stabilization measures and an eviction moratorium for existing residential units in the City with tenants who have been negatively impacted by the emergency.

The ordinance is necessary to mitigate an emergency and contains no provisions modifying the physical design, development, or construction of residential or nonresidential structures. Accordingly, it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment and result in no physical changes to the environment.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6. Effective Date. This ordinance shall become effective immediately if it receives six or more affirmative votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUL 21 2020

PASSED BY THE FOLLOWING VOTE:

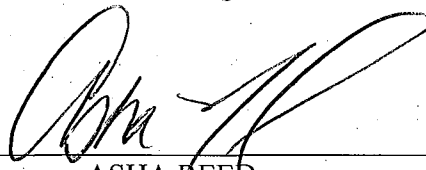
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID,
TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

Acting City Clerk and Clerk of the Council
of the City of Oakland, California

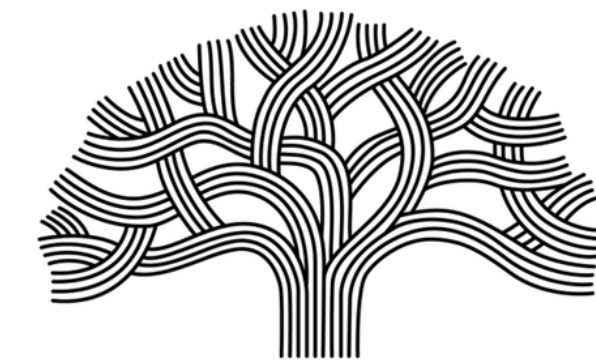
Date of Attestation:

July 23, 2020

NOTICE AND DIGEST

EMERGENCY ORDINANCE AMENDING ORDINANCE NOS. 13589 C.M.S. AND 13594 C.M.S. TO EXTEND THE MORATORIUM ON RESIDENTIAL EVICTIONS DURING THE LOCAL EMERGENCY PROCLAIMED IN RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19) PANDEMIC

This Ordinance amends Ordinance Nos. 13589 C.M.S. and 13594 C.M.S. to extend the moratorium on residential evictions during the local emergency proclaimed in response to the novel coronavirus (COVID-19) pandemic.



CITY OF OAKLAND

Emergency Rental Assistance Program

May 2, 2022

Department of
Housing & Community Development

000044

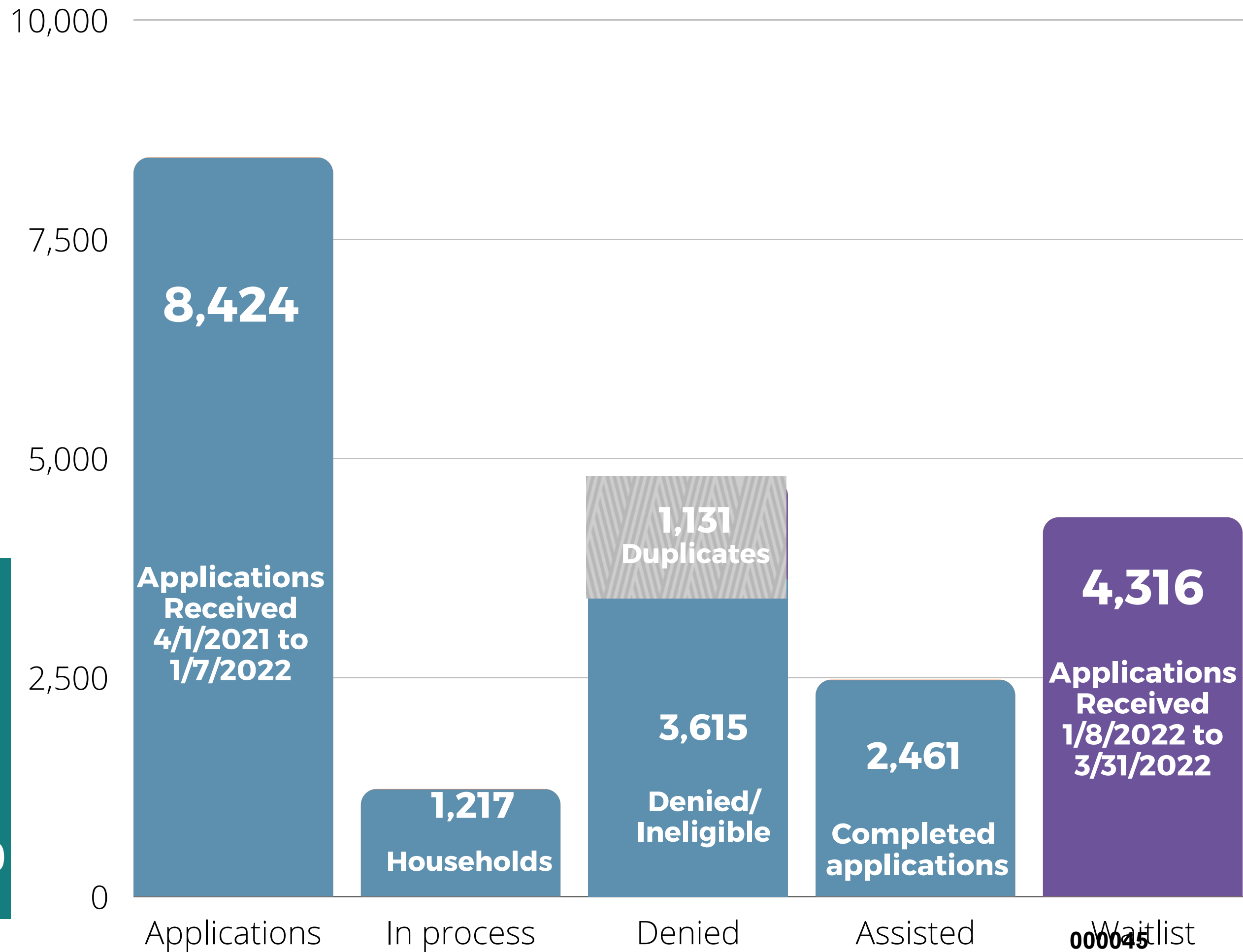
ERAP Program

Applications Status 5/2/2022



Pictured: East Oakland Housing Properties

TOTAL APPLICATIONS = 12,740

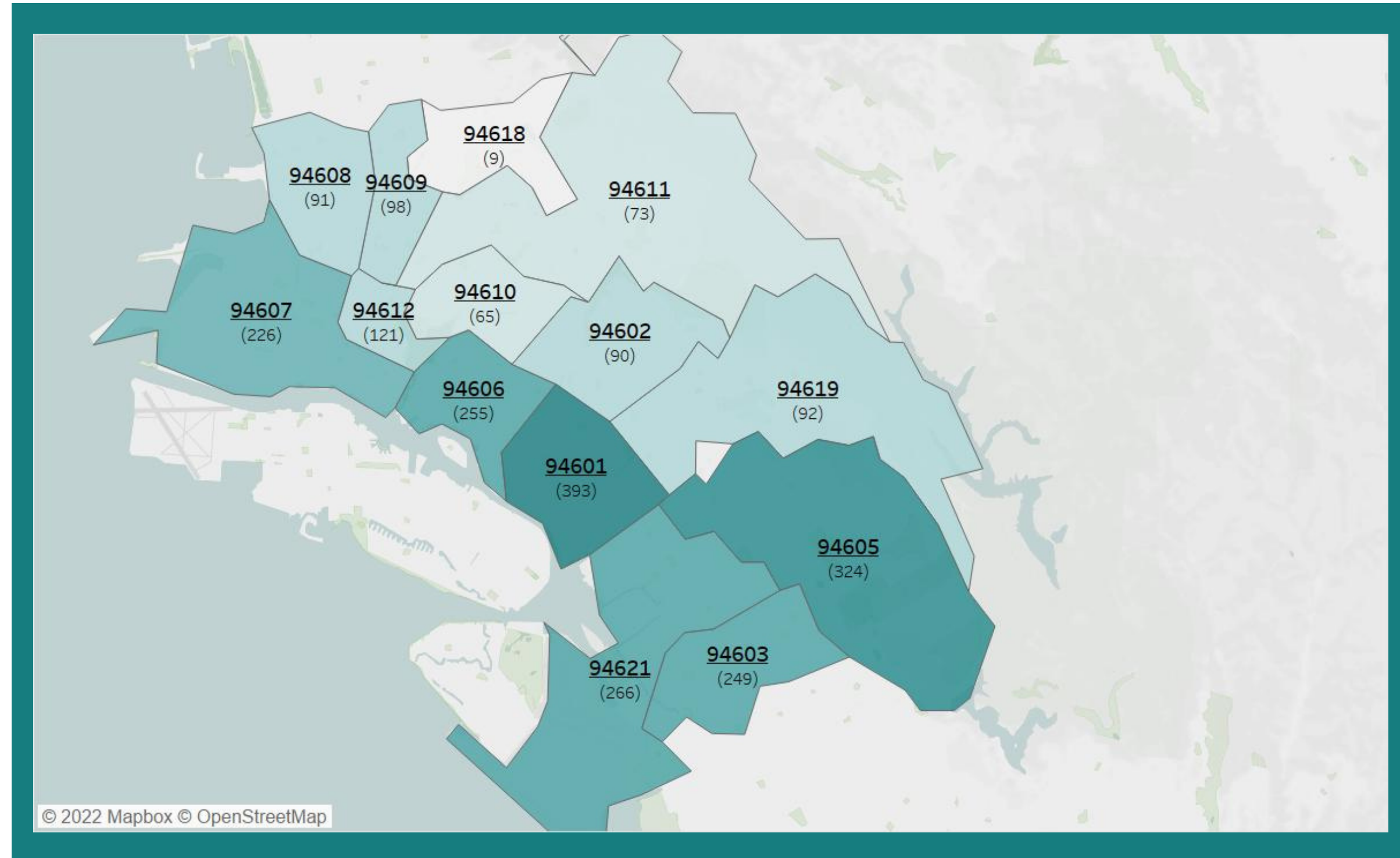


Applicants Assisted By Geography

The majority of ERAP funds assisted households in **Oakland's Flatlands**.

Fruitvale (94601),
East Oakland (94605/94621/94603),
East Lake (94606), &
West Oakland (94607)

were among the neighborhoods that
received the most emergency rental
assistance.



Applicants Approved By Race/Ethnicity

Refused/Missing
16.7%

(393)

White
10.1%

(238)

Multiracial

17% (400)

Asian
4.3%

(101)

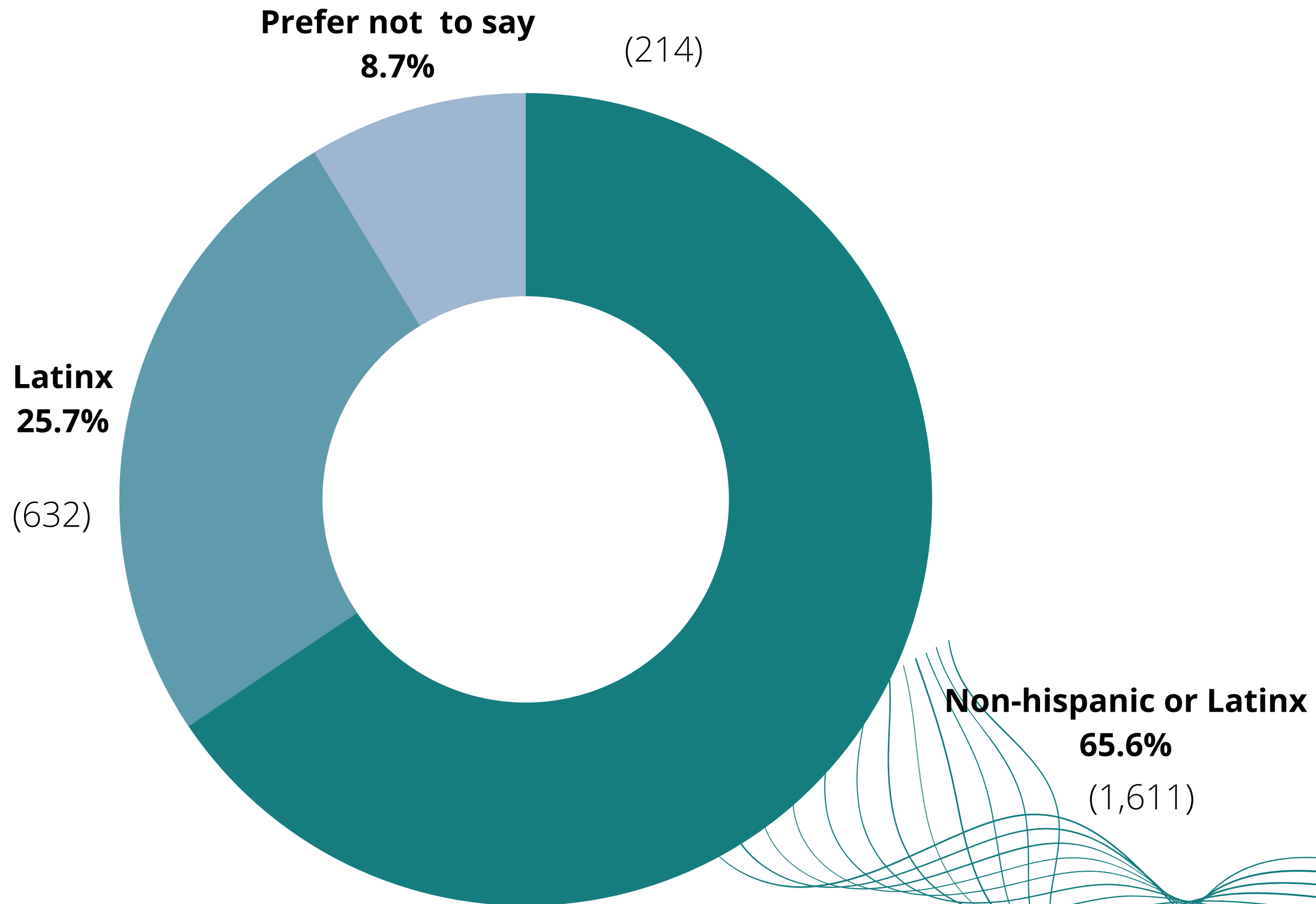
**Native Hawaiian/Pacific
Islander/Indigenous:1%,**

(51)

Black
49.8%

(1,174)

Applicants Approved Latinx Households

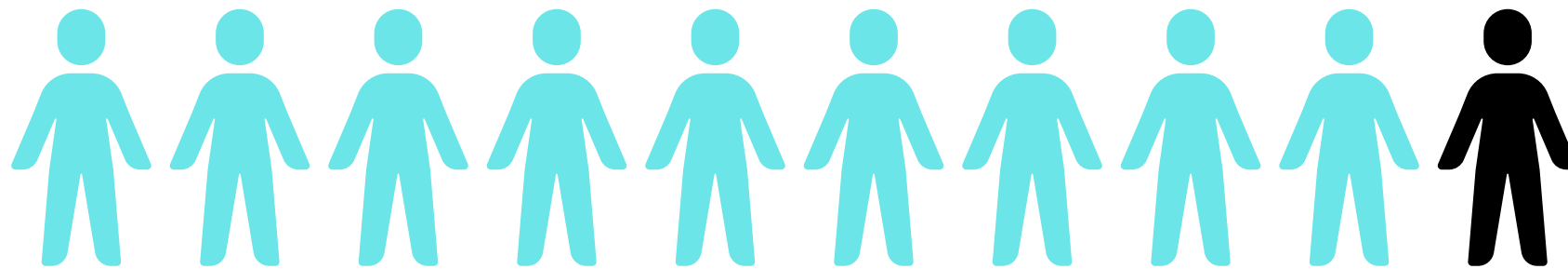


Applicants Assisted

By Area Median Income

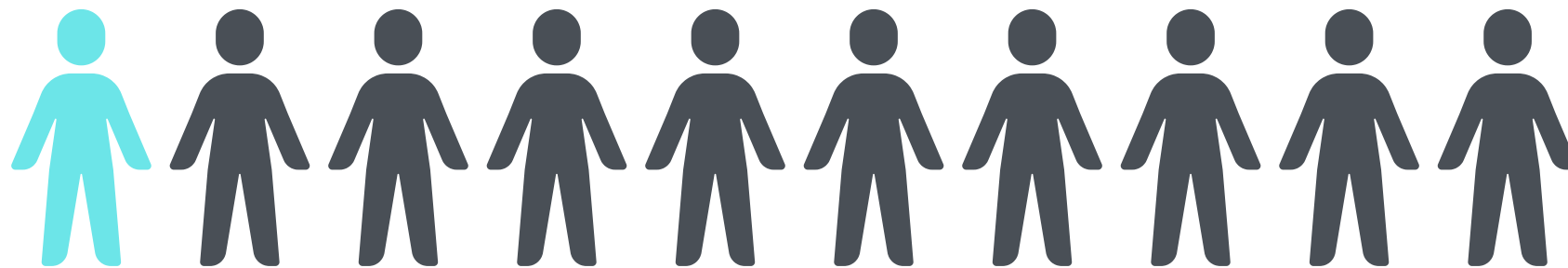


**0-30%
OF AMI**



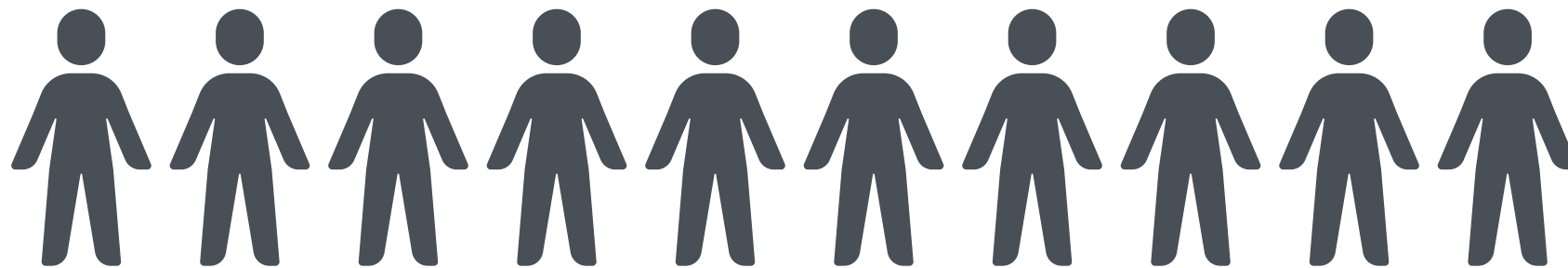
**88% OF APPLICANTS
(2,085)**

**30-50%
OF AMI**



**10% OF APPLICANTS
(228)**

**51-80%
OF AMI**



**2% OF APPLICANTS
(44)**

AVERAGE AMI: 16.93%

**TOTAL RENTAL ASSISTANCE ERAP1,
SPEND BY 3/31/2022: \$11,603,448M**

FUNDS EXPENDED	\$11,603,448	100%
FUNDS PAID	\$11,603,448	100%



AVERAGE HOUSEHOLD ASSISTANCE: \$10,076

TOTAL RENTAL ASSISTANCE ERAP2, SPEND BY 9/30/2022: \$16,947,000M

FUNDS EXPENDED \$11,328,088

69%

*FUNDS APPROVED \$13,227,515

80%

AVERAGE HOUSEHOLD ASSISTANCE: \$10,069

***HPP DATABASE**



**TOTAL RENTAL ASSISTANCE ROUND 3/STATE
RENTAL ASSISTANCE ONLY (SRA2): \$10,485,000M**

FUNDS EXPENDED \$146,982

1%

FUNDS APPROVED \$291,154

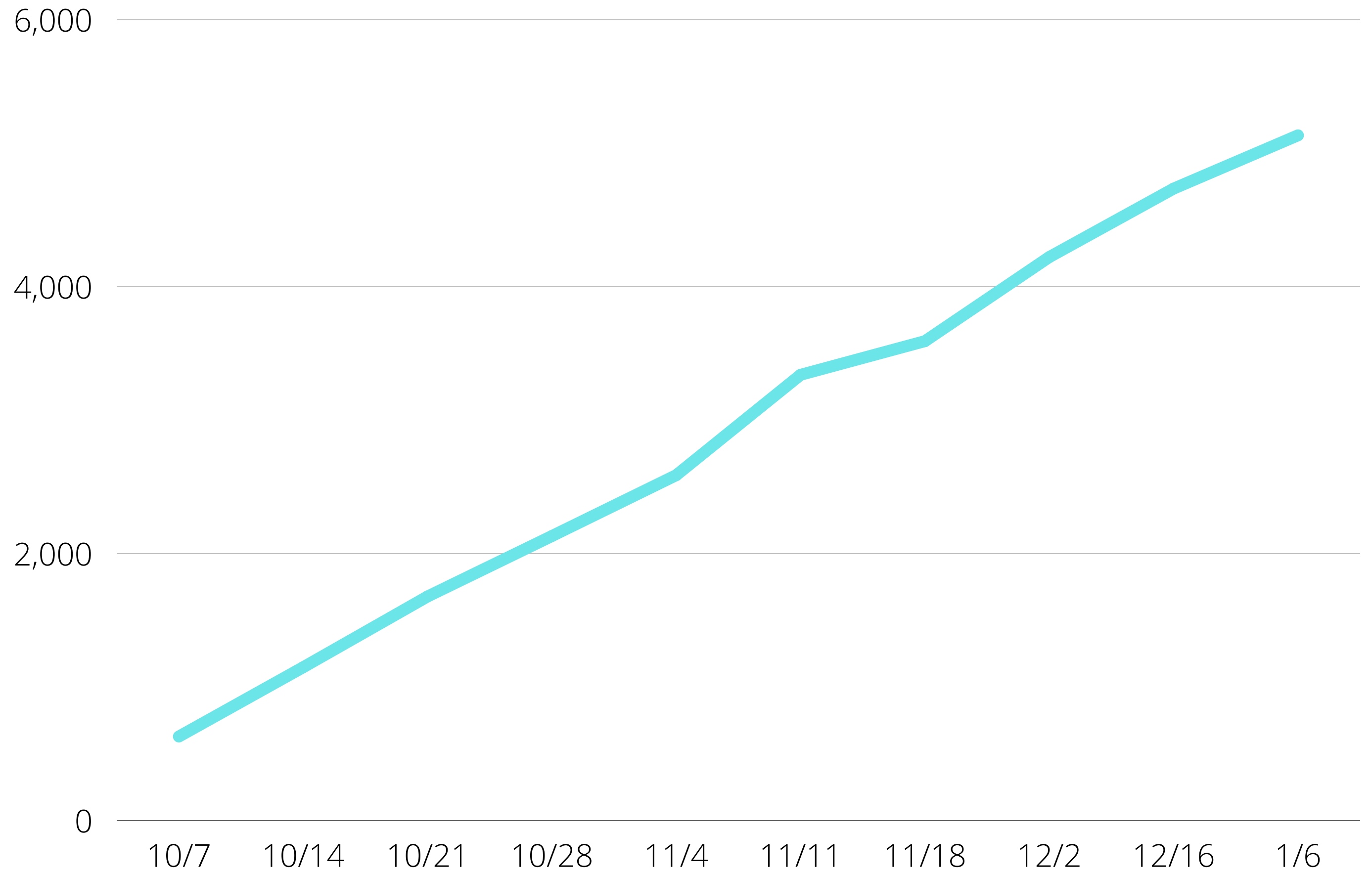
3%

**RECEIVED STATE FUNDING JAN. 22;
AGENCY PARTNERS STARTED SPENDING
MAY 1, 2022**



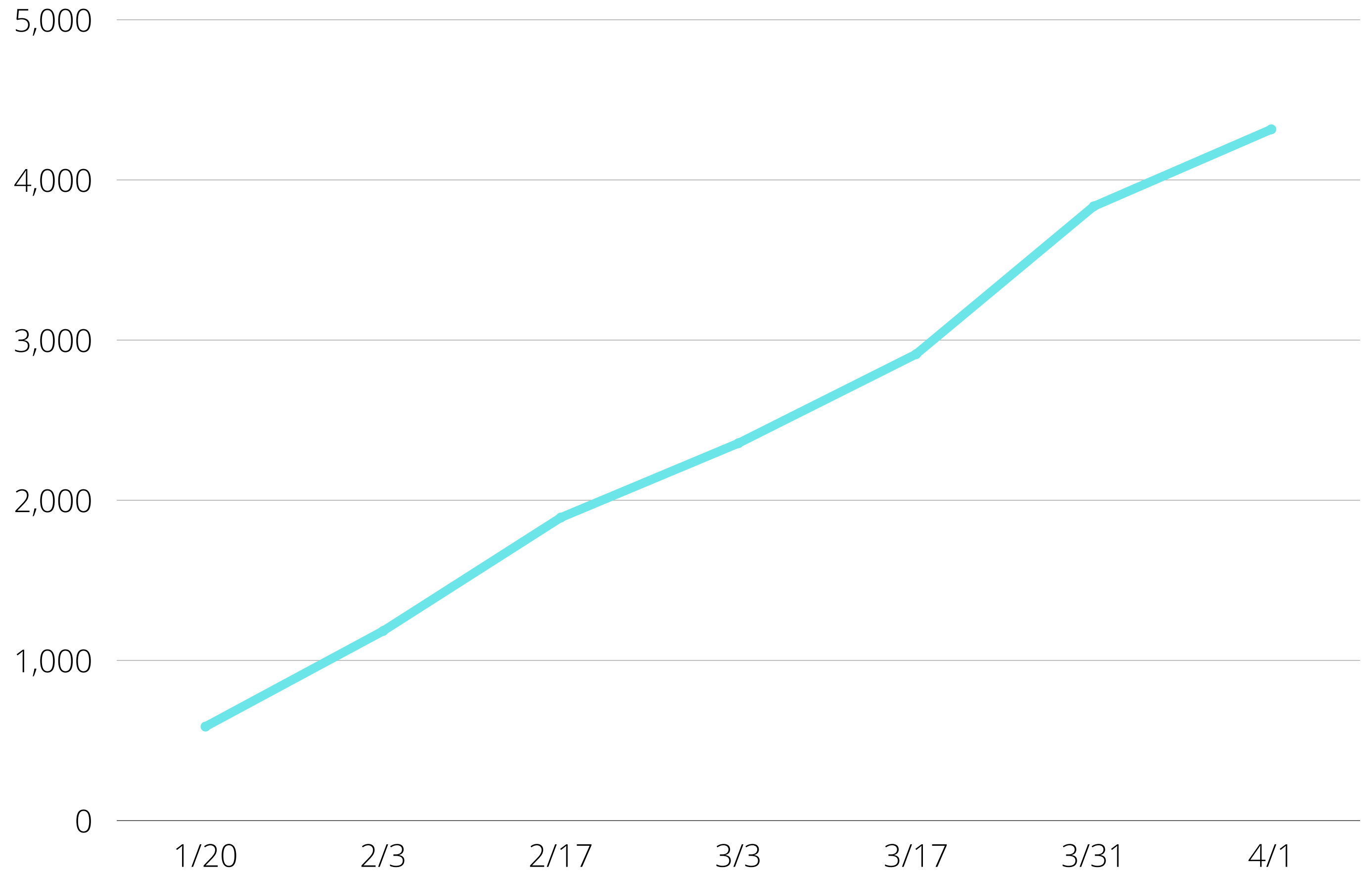
Record Number of Applications

10/1/21 to
1/7/22
= 5,134



Waitlist Created

1/8/22 to
3/31/22 = 4,316





**Contact us at
housingassistance@oaklandca.
gov
or call 510.238.6182**

[https://www.oaklandca.gov/departments/
department-of-housing-and-community-
development](https://www.oaklandca.gov/departments/departments-of-housing-and-community-development)

OAKLAND HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD (HRRRB)

RESOLUTION NO. _____ C.M.S.

RESOLUTION IN SUPPORT OF COUNCILMEMBER FIFE'S ORDINANCE TO MODIFY CPI RENT ADJUSTMENT

WHEREAS, The Board may make recommendations to the City Council or appropriate City Council committee pertaining to O.M.C. 8.22 et seq. or City housing policy when requested to do so by the City Council or when the Board otherwise acts to do so pursuant to O.M.C. 8.22.040.D.4; and

WHEREAS, without action from the City Council the annual allowable rent increase for covered units subject to the City of Oakland's rent ordinance will be 6.7% effective July 1, 2022 until June 30, 2023; and

WHEREAS, many Oakland renters and property owners are still dealing with the economic impact of the Covid-19 pandemic; and

WHEREAS, financial rental assistance disbursements have experienced significant delays ; and

WHEREAS, an effective 6.7% annual rent increase from July 1, 2022 until June 30, 2023 would further compound any rent debts already accrued as a result of the Covid-19 pandemic and delayed rental assistance; and

WHEREAS, Oakland City Councilmember Fife introduced an Ordinance that would amend chapter 8.22 of the Oakland Municipal Code (Residential Rent Adjustments and Evictions) to (1) make the annual permissible rent increase for covered units 60% of the percentage increase in the Consumer Price Index or 3%, whichever is lower and (2) align annual adjustment period with State law; now, therefore, be it

RESOLVED: That the Board supports the ordinance introduced by Councilmember Fife and recommends the City Council adopts such an ordinance to help prevent further displacement of Oakland renters.

CHRONOLOGICAL CASE REPORT

Case No.: T19-0278

Case Name: Ivory v. SF Rents

Property Address: 411 Fairmount Avenue, Oakland, CA 94611


Parties: Ena Rodriquiz (Owner)
Geraldine Ivory (Tenant)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 1, 2019
Owner Response filed	-----
Hearing Date	November 17, 2019
Amended Hearing Decision mailed	January 11, 2022
Amended Hearing Decision mailed	January 20, 2022
Owner Appeal filed	January 26-31, 2022

000057

T19.0278 KM/cc

 <p>CITY OF OAKLAND</p>	<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721</p>	<p>For date stamp.</p> <p>MAY -1 2019</p> <p>RENT ADJUSTMENT PROGRAM OAKLAND</p> <p>TENANT PETITION</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

Please print legibly

Your Name GerAidine Ivory	Rental Address (with zip code) 411 FAIRmount Ave #101	Telephone: 570 832 425-2 E-mail: 41fashion@yahoo.com
Your Representative's Name SF Rents	Mailing Address (with zip code) 1201 7th Ave St SF	Telephone: 415-861 3925 Email: SF Rents.NET
Property Owner(s) name(s) ENYA RODRIGUEZ	Mailing Address (with zip code) (Arrows pointing to SF in previous row)	Telephone: (Arrow pointing to SF in previous row) Email:
Property Manager or Management Co. (if applicable) SF.NET LLC	Mailing Address (with zip code) (Arrow pointing to SF in previous row)	Telephone: Email:

Number of units on the property: 52

Type of unit you rent (check one)	<input type="checkbox"/> House	<input type="checkbox"/> Condominium	<input checked="" type="checkbox"/> Apartment, Room, or Live-Work
Are you current on your rent? (check one)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

If you are not current on your rent, please explain. (If you are legally withholding rent state what, if any, habitability violations exist in your unit.)

I. GROUNDS FOR PETITION: Check all that apply. You must check at least one box. For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. **I (We) contest one or more rent increases on one or more of the following grounds:**

<input type="checkbox"/>	(a) The CPI and/or banked rent increase notice I was given was calculated incorrectly.
<input checked="" type="checkbox"/>	(b) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(c) I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase.

Rev. 7/31/17

For more information phone (510) 238-3721.

1

We were told we would house cameras on Bus here
 The Security Gate has been Chopped into
 Trash all over the place Not what it used to be

000058

	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
	(e) The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s).
	(f) The rent increase notice(s) was (were) not given to me in compliance with State law.
	(g) The increase I am contesting is the second increase in my rent in a 12-month period.
X	(h) There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance. (Complete Section III on following page)
THIS IS THE ONLY	(i) The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner. (OMC 8.22.070(F): A decrease in housing services is considered an increase in rent. A tenant may petition for a rent adjustment based on a decrease in housing services.) (Complete Section III on following page)
	(j) My rent was not reduced after a prior rent increase period for a Capital Improvement had expired.
	(k) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
	(l) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake. (OMC 8.22, Article I)
	(m) The owner did not give me a summary of the justification(s) for the increase despite my written request.
	(n) The rent was raised <u>illegally</u> after the unit was vacated as set forth under OMC 8.22.080.

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

Date you moved into the Unit: Sept 2013 Initial Rent: \$ 1500 /month

When did the owner first provide you with the RAP NOTICE, a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program? Date: March 2016 If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. If you never received the RAP Notice you can contest all past increases. You must check "Yes" next to each increase that you are challenging.

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 90 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you did not receive a *RAP Notice* with the rent increase you are contesting but have received it in the past, you have 120 days to file a petition. (O.M.C. 8.22.090 A 3)

Have you ever filed a petition for this rental unit?

- ☐ Yes
☒ No

List case number(s) of all Petition(s) you have ever filed for this rental unit and all other relevant Petitions:

Not Before

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for problems in your unit, or because the owner has taken away a housing service, you must complete this section.

Are you being charged for services originally paid by the owner?

☒ Yes ☐ No

Have you lost services originally provided by the owner or have the conditions changed?

☒ Yes ☐ No

Are you claiming any serious problem(s) with the condition of your rental unit?

☐ Yes ☒ No

If you answered "Yes" to any of the above, or if you checked box (h) or (i) on page 2, please attach a separate sheet listing a description of the reduced service(s) and problem(s). Be sure to include the following:

- 1) a list of the lost housing service(s) or problem(s);
- 2) the date the loss(es) or problem(s) began or the date you began paying for the service(s)
- 3) when you notified the owner of the problem(s); and
- 4) how you calculate the dollar value of lost service(s) or problem(s).

Please attach documentary evidence if available.

You have the option to have a City inspector come to your unit and inspect for any code violation. To make an appointment, call the City of Oakland, Code of Compliance Unit at (510) 238-3381.

IV. VERIFICATION: The tenant must sign:

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

Geraldine J. J. J.
Tenant's Signature

3-30-2019
Date

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

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

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

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

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

Geraldine Suarez
Tenant's Signature

3 - 30 - 2019
Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit.** **Mail to:** Oakland Rent Adjustment Program, P.O. Box 70243, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; **RAP Online Petitioning System:** . For more information, please call: (510) 238-3721.

File Review

Your property owner(s) will be required to file a response to this petition with the Rent Adjustment office within 35 days of notification by the Rent Adjustment Program. When it is received, the RAP office will send you a copy of the Property Owner's Response form. Any attachments or supporting documentation from the owner will be available for review in the RAP office by appointment. To schedule a file review, please call the Rent Adjustment Program office at (510) 238-3721. If you filed your petition at the RAP Online Petitioning System, the owner may use the online system to submit the owner response and attachments, which would be accessible there for your review.

VII. HOW DID YOU LEARN ABOUT THE RENT ADJUSTMENT PROGRAM?

- ☒ Printed form provided by the owner
- ☐ Pamphlet distributed by the Rent Adjustment Program
- ☐ Legal services or community organization
- ☐ Sign on bus or bus shelter
- ☐ Rent Adjustment Program web site
- ☐ Other (describe): _____



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Housing and Community Development Department
Rent Adjustment Program

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

AMENDED HEARING DECISION

CASE NUMBER: T19-0278, Ivory v. SF Rents
411 Fairmont Avenue, #101, Oakland, CA

DATES OF HEARING: November 27, 2019

DATE OF DECISION: January 7, 2022

APPEARANCES: Geraldine Ivory, Tenant
H.L. Harvell, Witness for Tenant
appearance by Owner

SUMMARY OF DECISION

The tenant's petition is granted in part. The legal rent for the unit is set forth in the Order below.

CONTENTIONS OF THE PARTIES

The tenant filed a petition on May 1, 2019, alleging that there are health, safety, fire or building code violations in her unit and claiming decreased housing services.

THE ISSUES

1. Was there good cause for the failure of the owner to file a timely response to the tenant petition? If not, what are the consequences?
2. When, if ever, was the tenant served with written notice of the RAP Program (*RAP Notice*)?
3. What is the allowable rent before consideration of decreased services and restitution?
4. Can the tenant raise concerns that were not on her list of decreased services filed with her petition?
5. Have the tenant's housing services decreased and, if yes, in what amount?
6. What, if any, restitution is owed between the parties and how does it affect the rent?

PROCEDURAL HISTORY

The tenant filed a petition on May 1, 2019, alleging that there are health, safety, fire or building code violations in her unit and claiming decreased housing services.

On August 9, 2019, a *Notice of Settlement Conference and Hearing* was sent to all parties at their addresses of record, scheduling the Hearing for November 27, 2019, at 10:00 am. No mail was returned as undeliverable.

The file in this case contains a Proof of Service, in which an employee of the Rent Adjustment Program states, under penalty of perjury, that on August 9, 2019, a copy of the tenant petition was mailed to the owner, along with other documents, including a blank response form. Among these documents is a cover letter which states:

YOU MUST FILE A WRITTEN RESPONSE TO THE ATTACHED
TENANT PETITIONS(S) WITHIN THIRTY-FIVE (35) DAYS FROM THE
DATE OF MAILING OF THIS NOTICE OR A DECISION MAY BE MADE
AGAINST YOU. THE RESPONSE MUST BE FILED ON THE PROPER
FORM . . .

Thirty-five days after August 9, 2019, was September 13, 2019. The owner did not file a response to the tenant petition.

At the time of the Hearing, on November 27, 2019, the owner had not filed an Owner Response to the tenant petition. An original Hearing Decision was issued on August 24, 2020, but was not properly served on the parties. This is an Amended Hearing Decision to adjust for calculations to date.

EVIDENCE

Rental History: The tenant testified that she moved into the subject unit in September of 2015. Her initial rent was \$1,500 a month. The tenant testified that her current rent is \$1,758, which accounts for rent for her unit in the amount of \$1,733 and one parking stall in the amount of \$25. The tenant testified that she is current on her rent.

RAP Notice: The tenant testified that she received the *RAP Notice* in March of 2016.

Decreased Housing Services:

Unclean Elevator and Common Areas: The tenant alleged in her petition that the elevator is never clean and that there is "trash all over the place." She testified that when she moved into the unit in September of 2015, the elevator was always clean but, when the property management changed sometime in 2017, the elevator was no longer clean. According to the tenant, currently the elevator walls are dirty, she has discovered urine on the floor, and people smoke in the elevator. The tenant calls management at least once a month asking them to clean up and the elevator has been cleaned only once since

September 2017. She herself cleans the elevator at least twice a week. The tenant testified that because she has COPD and asthma, she must use the elevator.

The tenant also testified to an increase in trash behind her car in the parking garage, because management does not clean the parking areas. There is debris in the hallways and in the garbage areas. The tenant spends her own time cleaning the hallways, the parking garage near her car, and the area around the garbage receptacles. According to the tenant, when Mr. Harvell, the prior property manager, who is also a current tenant, was managing the property, everything was kept clean. Mr. Harvell also testified that the parking garage is littered with cigars, alcohol bottles, and other debris.

Broken Security Gate: The tenant testified that the front gate does not work. The security gate was working when she moved in, but it can be accessed without a key, so long as one uses the security code. Any person who has been given the code can access the building. Mr. Harvell testified that non-tenants have the access code to the building. He also stated that new tenants have passed the code to their friends because the call box to contact tenants is not working. He testified that when he worked there, the tenants had keys, and tradesmen and management people had access codes. Mr. Harvell testified that the tenants who moved in after he retired are not listed in the call box, so they cannot buzz anyone in. The Tenant testified that she must slam the gate to close it, but it still does not latch all the way and lock. She has notified management of the issue, but has not yet notified management of the latching issue because she noticed it two weeks prior to the hearing, and feels like nothing has been done about her prior complaints.

Missing and Defective Security Cameras: The tenant testified that when she moved in, there were security cameras that worked. New management has slowly removed half of the cameras. She is not sure that the remaining ones work because her car was broken into six or seven months before the hearing. She asked management for a picture but they looked at the camera and saw the alleged perpetrator but could not see who it is. She alleged that the other cameras would have provided a better view of the perpetrator if they had been working. The tenant complained to management but did not receive a response.

Mr. Harvell testified that, when he worked there, there were eight cameras, but a lot of those cameras have been disengaged. The cameras that faced the outside and towards the back were removed. Prior to the change, vehicles were not being vandalized because the prior owner reviewed the camera and stayed on top of what was going on.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

Was there good cause for the failure of the owner to file a timely response to the tenant petition? If not, what are the consequences?

Failure to File a Response: The Rent Ordinance¹ requires an owner to file a response to a tenant petition within 30 days after service of a notice by the Rent Adjustment Program that a tenant petition was filed.

“If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . .”² The owner did not file a response contesting the tenant petition, nor did the owner provide good cause for failing to file a response. Therefore, evidence at the Hearing was limited to that submitted by the tenant.

When, if ever, was the tenant served with written notice of the RAP Program (RAP Notice?)

Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent³ and may be corrected by a rent adjustment.⁴ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant's unit. There is also a time limit for claiming decreased housing services.

If the decreased service is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within 90 days after of whichever is later: (1) the date the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁵ Further, in order for a tenant's claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

The tenant testified that she first received the RAP Notice in the year 2016, far more than 90 days before filing her petition on May 1, 2019. Therefore, the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which she filed her petition. Allowable claims of decreased housing services therefore begin on January 31, 2019.

¹ O.M.C. Section 8.22.090(B)

² O.M.C. Section 8.22.070(C)

³ O.M.C. Section 8.22.070(F)

⁴ O.M.C. Section 8.22.110(E)

⁵ O.M.C. Section 8.22.090(A)(3)

What is the allowable rent before consideration of decreased services and restitution?

The Rent Adjustment Ordinance⁶ defines "rent" as "the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit **including all housing services provided to the tenant.**" (emphasis added)

The tenant testified that her monthly rent is \$1,758.10, which includes parking of \$25. Therefore, the tenant's base rent is \$1,758.10, because that is the total consideration charged for all housing services provided to the tenant.

Can the tenant raise concerns that were not on her list of decreased services filed with her petition?

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

Further, each party has the right to know what claims the other party is making, and the issues in a case are therefore determined by the petition. Claims of decreased housing services that are not mentioned in the attachment to a tenant petition will not be considered. At the hearing, the Tenant attempted to raise concerns with overgrown shrubbery and a garage security gate, neither of which were listed in the petition. These claims of decreased housing services will not be considered in this Hearing Decision.

Have the tenant's housing services decreased and if yes, in what amount?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁷ and may be corrected by a rent adjustment.⁸ However, in order to justify a decrease in rent, a decrease in housing services must be either the loss of a service that seriously affects the habitability of a unit or that was provided at the beginning of that hearing that is no longer being provided.

A tenant has the burden of proof with respect to each decreased services claim. Further, a tenant must give an owner notice of a problem and the owner is allowed a reasonable period of time after such notice to make repairs. If the decreased service is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within 90 days after of whichever is later: (1) the date the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁹ Further, in order for a tenant's claim for decreased housing services

⁶ O.M.C. Section 8.22.020

⁷ O.M.C. Section 8.22.070(F)

⁸ O.M.C. Section 8.22.110(E)

⁹ O.M.C. Section 8.22.090(A)(3)

to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs. In this case, the petition was filed May 1, 2019; therefore the tenant's right to restitution begins January 31, 2019.

Unclean Elevator and Common Areas: The tenant established a long standing problem with the elevator and common areas being dirty and unkempt. She also established that she has made numerous attempts to notify management, since September 2017, and the problems persisted. The tenant has also established that her health issues, COPD and asthma, are negatively impacted by unclean areas, specifically the elevator. Mr. Harvell also presented more details and context about the extent of debris and filth on the premises. A clean elevator and clean common areas are essential and a basic habitable condition.

The unclean conditions have reduced the housing services by 4%. Because of this decrease, the tenant is entitled to an ongoing rent reduction of 4% in the amount of \$70.32 per month. The rent decrease will remain in effect until the elevator, parking garage, and other common areas are kept clean by management keeping a Janitorial or Cleaning Log in the elevator, parking garage, and in an interior common area near the entrance, that indicates both monthly cleaning, as well as cleaning within 72 hours of a tenant complaint of the elevator being dirty.

Broken Security gate: The tenant has established that the security gate's failure to close and latch has been an issue and continues to be an issue. The tenant notified the property manager of this condition, but the condition persists.

The inoperable security gate has reduced the housing services by 4%. Because of this decrease, the tenant is entitled to an ongoing rent reduction of 4% per month in the amount of \$70.32 per month. The rent decrease will remain in effect until the security gate latches properly.

Missing and Defective Security Cameras: The tenant established that the missing and non-working security cameras have negatively affected her safety and the security of her belongings.

The lack of functioning security cameras reduced the housing services by 3%. Because of this decrease, the tenant is entitled to an ongoing rent reduction of 3% in the amount of \$52.74 per month. The rent decrease will remain in effect until the security cameras are repaired and replaced.

What, if any, restitution is owed between the parties and how does it affect the rent?

The tenant is entitled to an ongoing rent decrease of 4% (\$70.32) a month for the unclean elevator and common areas; 4% (\$70.32) a month for the broken security gate; and 3% (\$52.74) a month for the missing and inoperable security cameras. Her total ongoing rent decrease is \$193.38 a month. Therefore, before consideration of restitution, the tenant's ongoing rent is \$1,564.72 a month, effective April 1, 2020.

The chart below documents restitution owed to the tenant for loss of services.

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Debris In and Failure to Clean Elevator and Common Areas	31-Jan-19	5-Jan-22	\$1,758	4%	\$ 70.32	35.18	\$2,473.86
Missing and Defective Security Cameras	31-Jan-19	5-Jan-22	\$1,758	3%	\$ 52.74	35.18	\$1,855.40
Broken Security Gate	31-Jan-19	5-Jan-22	\$1,758	4%	\$ 70.32	35.18	\$2,473.86
TOTAL LOST SERVICES							\$6,803.12

RESTITUTION	
MONTHLY RENT	\$1,564.72
TOTAL TO BE REPAID TO TENANT	\$6,803.12
TOTAL AS PERCENT OF MONTHLY RENT	434.78%
AMORTIZED OVER	MO. BY REG. IS
OR OVER 36	MONTHS BY HRG. OFFICER IS \$ 188.98

Additionally, the tenant has overpaid rent based on the restitution for lost services as discussed above. The total lost services amounts to \$6,803.12. An overpayment is normally adjusted over a period of 12 months, however this period can be extended when the restitution is over 400% of the monthly rent.¹⁰ In this case, the restitution is amortized over 36 months, for a deduction of \$188.98 a month. The tenant is entitled to begin to deduct the restitution owed from her rent, after this Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

However, should the Owner ensure the common areas are kept clean by posting a Janitorial or Cleaning Log in the elevator, parking garage, and in an interior common

¹⁰ Regulations, Section 8.22.110(F)

area near the entrance, establishing that cleaning is done monthly, and within 72 hours of a tenant complaint of the elevator being dirty, the owner can increase the rent by 4% (\$70.32 a month); if the owner repairs the security gate so that it latches properly, the owner can increase the rent by 3% (52.74 a month); and, if the owner repairs and replaces the broken and missing security cameras, the owner may increase the rent by 4% (\$70.32 a month). **In order to increase the rent after repairs, the owner must provide the necessary notice pursuant to Civil Code § 827.**


Additionally, if the owner wishes to pay the tenant the restitution in one lump sum, the owner may do so. If the owner does pay the tenant in one lump sum, the tenant must stop deducting \$188.98 per month for restitution.

ORDER

1. Petition T19-0278 is granted in part.
2. The tenant's base rent is \$1,758.10 a month before consideration of restitution and decreased services.
3. Due to ongoing conditions, the tenant is entitled to an 11% rent decrease. The tenant's current legal rent, effective March 31, 2020, before consideration of restitution is \$1,564.72.
4. Due to past decreased services and rent overpayments, the tenant is owed restitution of \$6,803.12. This overpayment is adjusted by a rent decrease for 36 months in the amount of \$188.98.
5. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final.
6. The owner can repay the restitution owed to the tenant at any time before the 36 months expires, if the owner wishes. When the owner repays the restitution, the monthly decrease for restitution ends.

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: January 7, 2022



Cometria C. Cooper
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number: T19-0278

Case Name: Ivory v. SF Rents

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 documents listed below by placing a true copy in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Oakland, California, addressed to:

Documents Included

Hearing

Owner

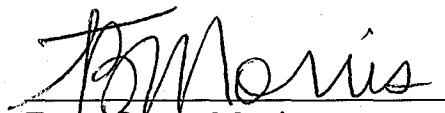
Ena Rodriquiz, SF Rents
1201 Fulton Street
San Francisco, CA 94117

Tenant

Geraidine Ivory
411 Fairmount Avenue Unit 101
Oakland, CA 94611

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **January 11, 2022** in Oakland, California.



Teresa Brown-Morris
Oakland Rent Adjustment Program

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Housing and Community Development Department
Rent Adjustment Program

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

AMENDED HEARING DECISION

CASE NUMBER: T19-0278, Ivory v. SF Rents
411 Fairmont Avenue, #101, Oakland, CA

DATES OF HEARING: November 27, 2019

DATE OF DECISION: January 7, 2022

APPEARANCES: Geraldine Ivory, Tenant
H.L. Harvell, Witness for Tenant
appearance by Owner

SUMMARY OF DECISION

The tenant's petition is granted in part. The legal rent for the unit is set forth in the Order below.

CONTENTIONS OF THE PARTIES

The tenant filed a petition on May 1, 2019, alleging that there are health, safety, fire or building code violations in her unit and claiming decreased housing services.

THE ISSUES

1. Was there good cause for the failure of the owner to file a timely response to the tenant petition? If not, what are the consequences?
2. When, if ever, was the tenant served with written notice of the RAP Program (*RAP Notice*)?
3. What is the allowable rent before consideration of decreased services and restitution?
4. Can the tenant raise concerns that were not on her list of decreased services filed with her petition?
5. Have the tenant's housing services decreased and, if yes, in what amount?
6. What, if any, restitution is owed between the parties and how does it affect the rent?

000071

PROCEDURAL HISTORY

The tenant filed a petition on May 1, 2019, alleging that there are health, safety, fire or building code violations in her unit and claiming decreased housing services.

On August 9, 2019, a *Notice of Settlement Conference and Hearing* was sent to all parties at their addresses of record, scheduling the Hearing for November 27, 2019, at 10:00 am. No mail was returned as undeliverable.

The file in this case contains a Proof of Service, in which an employee of the Rent Adjustment Program states, under penalty of perjury, that on August 9, 2019, a copy of the tenant petition was mailed to the owner, along with other documents, including a blank response form. Among these documents is a cover letter which states:

YOU MUST FILE A WRITTEN RESPONSE TO THE ATTACHED
TENANT PETITIONS(S) WITHIN THIRTY-FIVE (35) DAYS FROM THE
DATE OF MAILING OF THIS NOTICE OR A DECISION MAY BE MADE
AGAINST YOU. THE RESPONSE MUST BE FILED ON THE PROPER
FORM ...

Thirty-five days after August 9, 2019, was September 13, 2019. The owner did not file a response to the tenant petition.

At the time of the Hearing, on November 27, 2019, the owner had not filed an Owner Response to the tenant petition. An original Hearing Decision was issued on August 24, 2020, but was not properly served on the parties. This is an Amended Hearing Decision to adjust for calculations to date.

EVIDENCE

Rental History: The tenant testified that she moved into the subject unit in September of 2015. Her initial rent was \$1,500 a month. The tenant testified that her current rent is \$1,758, which accounts for rent for her unit in the amount of \$1,733 and one parking stall in the amount of \$25. The tenant testified that she is current on her rent.

RAP Notice: The tenant testified that she received the *RAP Notice* in March of 2016.

Decreased Housing Services:

Unclean Elevator and Common Areas: The tenant alleged in her petition that the elevator is never clean and that there is "trash all over the place." She testified that when she moved into the unit in September of 2015, the elevator was always clean but, when the property management changed sometime in 2017, the elevator was no longer clean. According to the tenant, currently the elevator walls are dirty, she has discovered urine on the floor, and people smoke in the elevator. The tenant calls management at least once a month asking them to clean up and the elevator has been cleaned only once since

September 2017. She herself cleans the elevator at least twice a week. The tenant testified that because she has COPD and asthma, she must use the elevator.

The tenant also testified to an increase in trash behind her car in the parking garage, because management does not clean the parking areas. There is debris in the hallways and in the garbage areas. The tenant spends her own time cleaning the hallways, the parking garage near her car, and the area around the garbage receptacles. According to the tenant, when Mr. Harvell, the prior property manager, who is also a current tenant, was managing the property, everything was kept clean. Mr. Harvell also testified that the parking garage is littered with cigars, alcohol bottles, and other debris.

Broken Security Gate: The tenant testified that the front gate does not work. The security gate was working when she moved in, but it can be accessed without a key, so long as one uses the security code. Any person who has been given the code can access the building. Mr. Harvell testified that non-tenants have the access code to the building. He also stated that new tenants have passed the code to their friends because the call box to contact tenants is not working. He testified that when he worked there, the tenants had keys, and tradesmen and management people had access codes. Mr. Harvell testified that the tenants who moved in after he retired are not listed in the call box, so they cannot buzz anyone in. The Tenant testified that she must slam the gate to close it, but it still does not latch all the way and lock. She has notified management of the issue, but has not yet notified management of the latching issue because she noticed it two weeks prior to the hearing, and feels like nothing has been done about her prior complaints.

Missing and Defective Security Cameras: The tenant testified that when she moved in, there were security cameras that worked. New management has slowly removed half of the cameras. She is not sure that the remaining ones work because her car was broken into six or seven months before the hearing. She asked management for a picture but they looked at the camera and saw the alleged perpetrator but could not see who it is. She alleged that the other cameras would have provided a better view of the perpetrator if they had been working. The tenant complained to management but did not receive a response.

Mr. Harvell testified that, when he worked there, there were eight cameras, but a lot of those cameras have been disengaged. The cameras that faced the outside and towards the back were removed. Prior to the change, vehicles were not being vandalized because the prior owner reviewed the camera and stayed on top of what was going on.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

Was there good cause for the failure of the owner to file a timely response to the tenant petition? If not, what are the consequences?

Failure to File a Response: The Rent Ordinance¹ requires an owner to file a response to a tenant petition within 30 days after service of a notice by the Rent Adjustment Program that a tenant petition was filed.

“If a tenant files a petition and if the owner wishes to contest the petition, the owner must respond . . .”² The owner did not file a response contesting the tenant petition, nor did the owner provide good cause for failing to file a response. Therefore, evidence at the Hearing was limited to that submitted by the tenant.

When, if ever, was the tenant served with written notice of the RAP Program (RAP Notice?)

Under the Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent³ and may be corrected by a rent adjustment.⁴ However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy or a violation of the housing or building code which seriously affects the habitability of the tenant’s unit. There is also a time limit for claiming decreased housing services.

If the decreased service is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within 90 days after of whichever is later: (1) the date the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁵ Further, in order for a tenant’s claim for decreased housing services to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs.

The tenant testified that she first received the RAP Notice in the year 2016, far more than 90 days before filing her petition on May 1, 2019. Therefore, the tenant can only be granted relief on her claims for decreased housing services beginning 90 days before the date on which she filed her petition. Allowable claims of decreased housing services therefore begin on January 31, 2019.

¹ O.M.C. Section 8.22.090(B)

² O.M.C. Section 8.22.070(C)

³ O.M.C. Section 8.22.070(F)

⁴ O.M.C. Section 8.22.110(E)

⁵ O.M.C. Section 8.22.090(A)(3)

What is the allowable rent before consideration of decreased services and restitution?

The Rent Adjustment Ordinance⁶ defines "rent" as "the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit **including all housing services provided to the tenant.**" (emphasis added)

The tenant testified that her monthly rent is \$1,758.10, which includes parking of \$25. Therefore, the tenant's base rent is \$1,758.10, because that is the total consideration charged for all housing services provided to the tenant.

Can the tenant raise concerns that were not on her list of decreased services filed with her petition?

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

Further, each party has the right to know what claims the other party is making, and the issues in a case are therefore determined by the petition. Claims of decreased housing services that are not mentioned in the attachment to a tenant petition will not be considered. At the hearing, the Tenant attempted to raise concerns with overgrown shrubbery and a garage security gate, neither of which were listed in the petition. These claims of decreased housing services will not be considered in this Hearing Decision.

Have the tenant's housing services decreased and if yes, in what amount?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent⁷ and may be corrected by a rent adjustment.⁸ However, in order to justify a decrease in rent, a decrease in housing services must be either the loss of a service that seriously affects the habitability of a unit or that was provided at the beginning of that hearing that is no longer being provided.

A tenant has the burden of proof with respect to each decreased services claim. Further, a tenant must give an owner notice of a problem and the owner is allowed a reasonable period of time after such notice to make repairs. If the decreased service is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within 90 days after of whichever is later: (1) the date the tenant is noticed or first becomes aware of the decreased housing service; or (2) the date the tenant first receives the RAP Notice.

If the decreased housing service is for a condition that is ongoing (e.g., a leaking roof), the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed.⁹ Further, in order for a tenant's claim for decreased housing services

⁶ O.M.C. Section 8.22.020

⁷ O.M.C. Section 8.22.070(F)

⁸ O.M.C. Section 8.22.110(E)

⁹ O.M.C. Section 8.22.090(A)(3)

to be granted, an owner must have notice of a problem and a reasonable opportunity to make needed repairs. In this case, the petition was filed May 1, 2019; therefore the tenant's right to restitution begins January 31, 2019.

Unclean Elevator and Common Areas: The tenant established a long standing problem with the elevator and common areas being dirty and unkempt. She also established that she has made numerous attempts to notify management, since September 2017, and the problems persisted. The tenant has also established that her health issues, COPD and asthma, are negatively impacted by unclean areas, specifically the elevator. Mr. Harvell also presented more details and context about the extent of debris and filth on the premises. A clean elevator and clean common areas are essential and a basic habitable condition.

The unclean conditions have reduced the housing services by 4%. Because of this decrease, the tenant is entitled to an ongoing rent reduction of 4% in the amount of \$70.32 per month. The rent decrease will remain in effect until the elevator, parking garage, and other common areas are kept clean by management keeping a Janitorial or Cleaning Log in the elevator, parking garage, and in an interior common area near the entrance, that indicates both monthly cleaning, as well as cleaning within 72 hours of a tenant complaint of the elevator being dirty.

Broken Security gate: The tenant has established that the security gate's failure to close and latch has been an issue and continues to be an issue. The tenant notified the property manager of this condition, but the condition persists.

The inoperable security gate has reduced the housing services by 4%. Because of this decrease, the tenant is entitled to an ongoing rent reduction of 4% per month in the amount of \$70.32 per month. The rent decrease will remain in effect until the security gate latches properly.

Missing and Defective Security Cameras: The tenant established that the missing and non-working security cameras have negatively affected her safety and the security of her belongings.

The lack of functioning security cameras reduced the housing services by 3%. Because of this decrease, the tenant is entitled to an ongoing rent reduction of 3% in the amount of \$52.74 per month. The rent decrease will remain in effect until the security cameras are repaired and replaced.

What, if any, restitution is owed between the parties and how does it affect the rent?

The tenant is entitled to an ongoing rent decrease of 4% (\$70.32) a month for the unclean elevator and common areas; 4% (\$70.32) a month for the broken security gate; and 3% (\$52.74) a month for the missing and inoperable security cameras. Her total ongoing rent decrease is \$193.38 a month. Therefore, before consideration of restitution, the tenant's ongoing rent is \$1,564.72 a month, effective April 1, 2020.

The chart below documents restitution owed to the tenant for loss of services.

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Debris in and Failure to Clean Elevator and Common Areas	31-Jan-19	5-Jan-22	\$1,758	4%	\$ 70.32	35.18	\$2,473.86
Missing and Defective Security Cameras	31-Jan-19	5-Jan-22	\$1,758	3%	\$ 52.74	35.18	\$1,855.40
Broken Security Gate	31-Jan-19	5-Jan-22	\$1,758	4%	\$ 70.32	35.18	\$2,473.86
TOTAL LOST SERVICES							\$6,803.12

RESTITUTION	
MONTHLY RENT	\$1,564.72
TOTAL TO BE REPAID TO TENANT	\$6,803.12
TOTAL AS PERCENT OF MONTHLY RENT	434.78%
AMORTIZED OVER	MO. BY REG. IS
OR OVER 36	MONTHS BY HRG. OFFICER IS \$ 188.98

Additionally, the tenant has overpaid rent based on the restitution for lost services as discussed above. The total lost services amounts to \$6,803.12. An overpayment is normally adjusted over a period of 12 months, however this period can be extended when the restitution is over 400% of the monthly rent.¹⁰ In this case, the restitution is amortized over 36 months, for a deduction of \$188.98 a month. The tenant is entitled to begin to deduct the restitution owed from her rent, after this Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to the parties.

However, should the Owner ensure the common areas are kept clean by posting a Janitorial or Cleaning Log in the elevator, parking garage, and in an interior common

¹⁰ Regulations, Section 8.22.110(F)

area near the entrance, establishing that cleaning is done monthly, and within 72 hours of a tenant complaint of the elevator being dirty, the owner can increase the rent by 4% (\$70.32 a month); if the owner repairs the security gate so that it latches properly, the owner can increase the rent by 3% (52.74 a month); and, if the owner repairs and replaces the broken and missing security cameras, the owner may increase the rent by 4% (\$70.32 a month). **In order to increase the rent after repairs, the owner must provide the necessary notice pursuant to Civil Code § 827.**

Additionally, if the owner wishes to pay the tenant the restitution in one lump sum, the owner may do so. If the owner does pay the tenant in one lump sum, the tenant must stop deducting \$188.98 per month for restitution.

ORDER

1. Petition T19-0278 is granted in part.
2. The tenant's base rent is \$1,758.10 a month before consideration of restitution and decreased services.
3. Due to ongoing conditions, the tenant is entitled to an 11% rent decrease. The tenant's current legal rent, effective March 31, 2020, before consideration of restitution is \$1,564.72.
4. Due to past decreased services and rent overpayments, the tenant is owed restitution of \$6,803.12. This overpayment is adjusted by a rent decrease for 36 months in the amount of \$188.98.
5. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final.
6. The owner can repay the restitution owed to the tenant at any time before the 36 months expires, if the owner wishes. When the owner repays the restitution, the monthly decrease for restitution ends.

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: January 7, 2022



Cometria C. Cooper
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T19-0278

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 documents listed below by placing a true copy 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:

Documents Included

Amended Hearing Decision

Owner

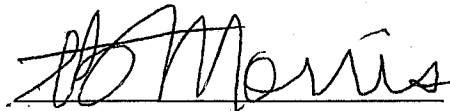
Ena Rodriquez, SF Rents
1201 Fulton Street
San Francisco, CA 94117

Tenant

Geraidine Ivory
411 Fairmount Avenue Unit 101
Oakland, CA 94611

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **January 20, 2022** in Oakland, CA.



Teresa Brown-Morris

Oakland Rent Adjustment Program

000079



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

APPEAL

Appellant's Name SF Rent	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant
Property Address (Include Unit Number) 411 Fairmount Avenue #101, Oakland, CA	
Appellant's Mailing Address (For receipt of notices) 1201 Fulton Street SF, CA 94117	Case Number T-19-0278 Date of Decision appealed Jan 07, 2022
Name of Representative (if any) Kevin Kumana; Lavinia Frank	Representative's Mailing Address (For notices) 1201 Fulton Street, SF CA 94117

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.)*

- 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 the Owner's 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.)

Supporting documents (in addition to this form) must *not* exceed 25 pages, and must be received by the Rent Adjustment Program, along with a proof of service on the opposing party, within 15 days of the filing of this document. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(4). *Please number attached pages consecutively. Number of pages attached: _____.*

- **You must serve a copy of your appeal on the opposing parties, or your appeal may be dismissed.** •
 I declare under penalty of perjury under the laws of the State of California that on 1/29, 2022, 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>	SF Rent
<u>Address</u>	1201 Fulton Street
<u>City, State Zip</u>	SF CA 94117
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

	01/26/2022
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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 the information required, or your appeal cannot be processed and may be dismissed.
- **Any response to the appeal by the responding party must be received by the Rent Adjustment Program, along with a proof of service on appealing party, within 15 days of service of the service of the appeal if the party was personally served. If the responding party was served the appeal by mail, the party must file the response within 20 days of the date the appeal was mailed to them.**
- There is no form for the response, but the entire response is limited to 25 pages or less.
- The Board will not consider new claims. All claims, except jurisdictional issues, 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 that you want the Board to review must be pre-designated to Rent Adjustment Staff.

01/26/2022

Dear Oakland Rent Adjustment Program,

Please forgive the unpolished nature of this written appeal. I and several of my colleagues in SF Rent's maintenance department have been recovering from Covid-19 over the past 5 weeks and I am just getting back into the office. I was very much surprised to see this petition as we hadn't received notice that the hearing had been amended and extended. If the evidence I have provided in this statement and the attached documents is insufficient, please allow me to provide a complete submission at a later date.

Appeal:

Rent Board case number **T-19-0278 at 411 Fairmount Ave**, submitted by Ms. Geraldine Ivory the resident in unit #101, claims health, safety, fire, or building code violation(s) exist at the property. In brief, she asserts decreased housing services due to:

1. Unclean elevator and common areas;
2. Broken security gate; and
3. Missing or defective security cameras.

We dispute these claims based on the following:

- **Unclean elevator and common areas:**

411 Fairmount was built in 1959. While the elevator is of age, it is not unsanitary as Ms. Ivory's petition claims. The elevator receives regular monthly maintenance by certified technicians and is cleaned regularly and as needed by vendors as well as the current resident manager.

Ms. Ivory testified that she has made multiple requests for elevator cleaning via our online work order management system, SFRent.net. However, our records indicate only one instance of a request for elevator cleaning from Ms. Ivory on **10/29/20**. Our records also show that the elevator was cleaned on **11/01/2020**, per the resident manager's weekly timesheet.

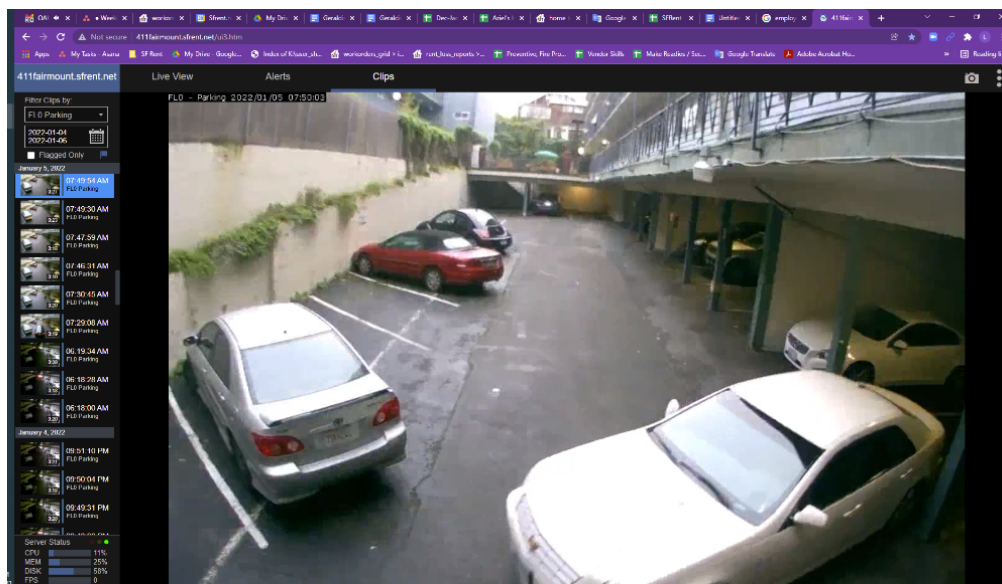
Ms. Ivory also testified that she cleans the elevator herself, as much as 2x a week. Footage from on-site security cameras does not support that testimony. See below for a photo of the condition of the elevator.

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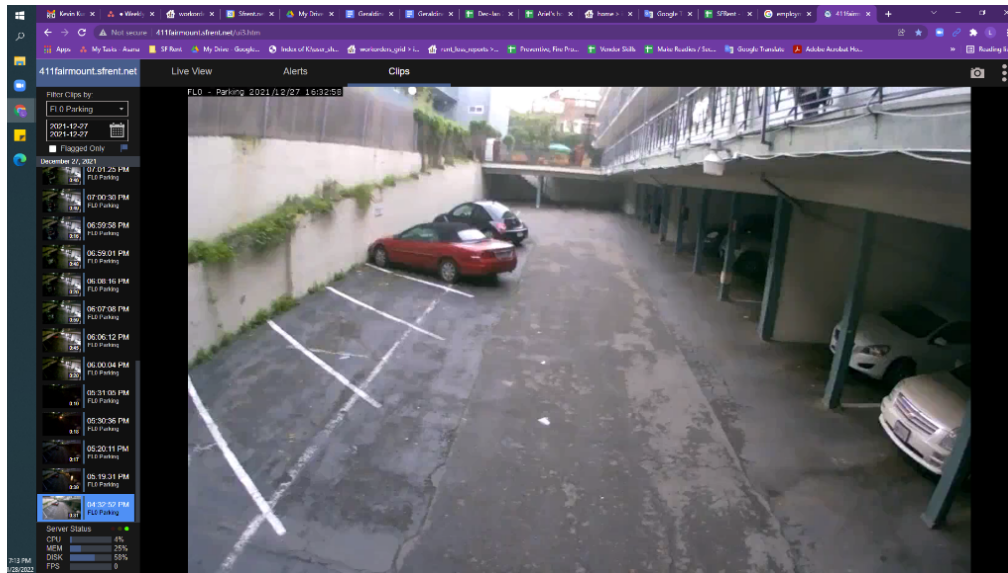


- **Unclean Parking Areas:**

411 Fairmount has 49 adult residents. While a few residents occasionally improperly discard or store personal items on occasion, SF Rent provides a regular cleaning service as well as Junk Removal services to mitigate against this. Offenders, when we can identity them, are notified of violations. Egregious and repeat offenders are charged the costs of the hauling service. SF Rent is managing the property responsibly and takes active steps to maintain a healthy and comfortable environment. Please see below for an image of the conditions in the parking lot taken from security cameras on **Jan 5, 2022**,



And another from Dec 27, 2021.



The adjustment assessed by OAK RAP for unsanitary common and parking areas dates back to **Jan 31, 2019**. This assessment is inherently unwarranted, unsubstantiated, and contracted by the evidence. The tenant has not met the burden of proof.

- **Broken security gate:**

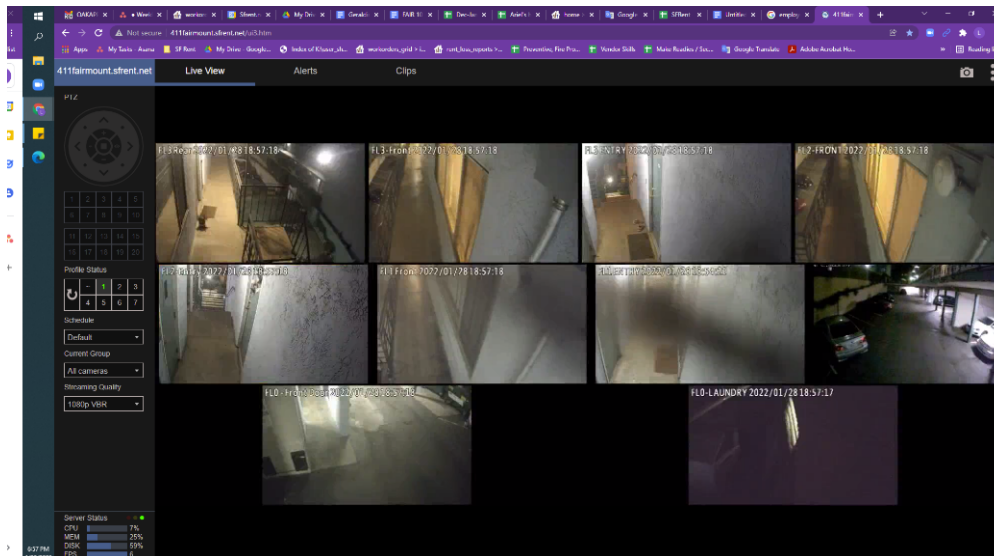
411 Fairmount has a working and secure front gate that requires tenants and authorized vendors to use either a key or an access code. This gate and all locks are in normal working condition – slamming of the gate is not required for it to close securely. Again, all evidence contradicts Ms. Ivory’s claims. I have attached a zoomed in photo taken on Dec 8, 2021 when we did a site visit. The gate is securely closed and required no slamming do be so.

The adjustment assessed by OAK RAP for a broken entry gate dates back to **Jan 31, 2019**. This assessment is inherently unwarranted, unsubstantiated, and contracted by the evidence. The tenant has not met the burden of proof.



- **Missing/Defective Security Cameras:**

As indicated previously, the cameras are in good working order. Their footage allowed us to investigate and verify that Ms. Ivory's claims are fictitious and mercenary in nature. We have no understanding of this. Currently, there are 10 cameras at 411 Fairmount, all in good working order.



The adjustment assessed by OAK RAP for unclean elevator and common areas dates back to **Jan 31, 2019**. This assessment is inherently unwarranted, unsubstantiated, and contradicted by the evidence. The tenant has not met the burden of proof.

Regarding testimony by Mr. Hiawatha Harvell in support of Ms. Ivory's petition, Mr. Harvell is not a reliable witness. Mr. Harvell was a major contributor to unhygienic, unsafe, and unhealthy conditions at 411 Fairmount before SF Rent took ownership. SF Rent had to hire removal services for large amounts of debris and waste from common areas, utility rooms, and storage spaces when we purchased the property. Mr. Harvell then filed a small claims case against SF Rent for removing these items he had dumped in common areas. The judge dismissed the case because SF Rent had given him proper notice. The small claims case record is attached and will verify that Mr. Harvell is by no means unbiased or reliable.

In summary, we wholeheartedly dispute the claims of Ms. Ivory. The hearing decision was amended and extended without notice, precluding SF Rent an opportunity to provide refuting evidence of these unfounded claims before a decision was made.

Ms. Ivory has not met the burden of proof and we request OAK RAP dismiss Rent Board Petition #T19-0278 with prejudice.

CHRONOLOGICAL CASE REPORT

Case No.: T22-0015

Case Name: Fleurentin v. Meridian Management Group

Property Address: 315 Wayne Place, Oakland, CA 94606

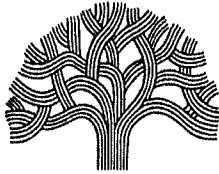
Parties: Laurie Fleurentin (Tenant)
Johanna Kanes (Tenant Representative)
Jennifer Weingand (Manager)
Greg & JR McConnell (Owner Representatives)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	January 3, 2022
Owner Response filed	February 8, 2022
Business Tax Renewal submitted	February 9, 2022
Administrative Decision mailed	March 16, 2022
Tenant Appeal filed	April 4, 2022
Owner Response to Tenant Appeal	April 11, 2022

000088

T22-0015 LM/RC



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612-0243
 (510) 238-3721
 CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

RECEIVED

JAN - 3 2022

**RENT ADJUSTMENT PROGRAM
OAKLAND**

4/4

TENANT PETITION

Please fill out this form as completely as you can. Use this form to contest a rent increase, seek a rent decrease, and/or contest an owner exemption from the Rent Adjustment Program. Failure to provide the required information may result in your petition being rejected or delayed. See the last pages of this petition packet ("Important Information Regarding Filing Your Petition") or the RAP website for more information. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR PETITION BEFORE SUBMITTING.** To make an appointment email RAP@oaklandca.gov.

Rental Unit Information

315	Wayne Place	307	Oakland, CA	94606
Street Number	Street Name	Unit Number		Zip Code

 Move-in Date: 3/2013 Initial Rent at Move-In: \$ 950.00 Current Rent: \$ 1,178.00

 Is your rent subsidized or controlled by a government agency (such as HUD or Section 8), other than Oakland Rent Adjustment Program? (See page 5 "Jurisdiction" for more information)

<input type="checkbox"/> Yes
<input checked="" type="checkbox"/> No
<input type="checkbox"/> Not sure

 Are you current on rent? ☒ Yes ☐ No* (*Note: You must be current on your rent or lawfully withholding rent in order to file a petition. Checking "No" without providing an adequate explanation may result in your petition being dismissed.)

If not current on rent, explain why: _____

 When (if ever) did the property owner first provide you with the City form, NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")?

<input type="checkbox"/> I first received the RAP Notice on: _____
<input checked="" type="checkbox"/> I was never provided with the RAP Notice
<input type="checkbox"/> I do not remember if I ever received the RAP Notice

Case number(s) of any relevant prior Rent Adjustment case(s): _____

Tenant Information (List each tenant petitioner in unit. If you need more space, attach additional sheet.)

Laurie	Fleurentin
First Name	Last Name
Mailing Address (if different from above): _____	
Primary Telephone: <u>415-424-7919</u>	Other Telephone: _____ Email: <u>loyfle10@gmail.com</u>

First Name	Last Name
Mailing Address (if different from above): _____	
Primary Telephone: _____	Other Telephone: _____ Email: _____

Tenant Representative (Check one): ☐ No Representative ☒ Attorney ☐ Non-Attorney

Johanna	Kanes	Housing & Economic Rights Advocates
First Name	Last Name	Firm/Organization (if any)
Mailing Address: <u>PO Box 29435, Oakland, CA 94604</u>		
Phone Number: <u>510-775-1576</u>	Email: <u>jkanes@heraca.org</u>	

Property Owner Information

Property Owner

First Name

Last Name

Company/LLC/LP (if applicable): University President Associates, LPMailing Address: 1717 Powell St., Suite 300, San Francisco, CA 94133

Phone Number: _____ Email: _____

Property Manager (if applicable)

Jennifer

Weingand

Meridian Management Group

First Name

Last Name

Name of Management Company

Mailing Address: 614 Grand Ave. #206, Oakland CA 94610Phone Number: _____ Email: jweingand@mmgprop.com**GROUND'S FOR PETITION**

Select the grounds for this petition from the list below. Check all that apply. You must check at least one box. To contest a rent increase, select item(s) from Category A. If you have experienced a decrease in housing services and/or have issues with the condition of your unit, or are being charged for utilities in violation of the law, select item(s) from Category B. For more information on each of the grounds, see Oakland Municipal Code (O.M.C.) Sections 8.22.070 and 8.22.090 (Rent Adjustment Ordinance) and the corresponding Regulations. A copy of the Ordinance and Regulations are available here: www.oaklandca.gov/resources/read-the-oakland-rent-adjustment-program-ordinance.

A.	Unlawful Rent Increase(s) <i>(Complete section A on page 3)</i>	<input checked="" type="checkbox"/> (A1) I received a rent increase above the allowable amount.
		<input checked="" type="checkbox"/> (A2) I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice ("Notice to Tenants of the Residential Rent Adjustment Program").
		<input type="checkbox"/> (A3) I received a rent increase and do not believe I should be required to pay it because a government agency has cited my unit for serious health, safety, fire, or building code violations. (You must attach a copy of the citation to your petition.)
B.	Decreased Housing Services <i>(Complete section B on page 3)</i>	<input type="checkbox"/> (B1) The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. (Check this box for petitions based on bad conditions/failure to repair.)
		<input type="checkbox"/> (B2) I am being unlawfully charged for utilities.
C.	Other	<input type="checkbox"/> (C1) My rent was not reduced after a prior rent increase period for capital improvements.
		<input type="checkbox"/> (C2) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.
		<input type="checkbox"/> (C3) The initial rent amount when I first moved in was unlawful because the property owner was not permitted to set the initial rent without limitation. O.M.C. § 8.22.080 (C).

A.	Unlawful Rent Increase(s)																																										
	<i>(Complete this section if any of the grounds for petition fall under category A, above)</i>																																										
<p>List all rent increases you wish to contest. Begin with the most recent increase and work backwards. If you never received the RAP Notice, you can contest all past increases. See the "Important Information" page at the end of this petition packet for more information on time limits for contesting rent increases. If you need additional space, attach a separate sheet or an additional copy of this form.</p> <ul style="list-style-type: none"> For petitions contesting a rent increase on the grounds that the unit has been cited by a government agency for serious health, safety, fire, or building code violations, you must attach a copy of the citation to your petition. Failure to attach a copy of the citation may result in your petition being dismissed. 																																											
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Date received rent increase notice: (Month/Day/Year)</th> <th style="width: 20%;">Date rent increase went into effect: (Month/Day/Year)</th> <th colspan="2" style="width: 40%;">Amount of increase:</th> <th colspan="2" style="width: 20%;">Received RAP Notice with notice of rent increase?</th> </tr> <tr> <th></th> <th></th> <th style="width: 20%;">FROM</th> <th style="width: 20%;">TO</th> <th style="width: 10%;">YES</th> <th style="width: 10%;">NO</th> </tr> </thead> <tbody> <tr> <td>4/15/2020</td> <td>1/1/2021</td> <td>\$ 1,178.00</td> <td>\$ 2,800.00</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td>\$</td> <td>\$</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td>\$</td> <td>\$</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td>\$</td> <td>\$</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td></td> <td></td> <td>\$</td> <td>\$</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		Date received rent increase notice: (Month/Day/Year)	Date rent increase went into effect: (Month/Day/Year)	Amount of increase:		Received RAP Notice with notice of rent increase?				FROM	TO	YES	NO	4/15/2020	1/1/2021	\$ 1,178.00	\$ 2,800.00	<input type="checkbox"/>	<input checked="" type="checkbox"/>			\$	\$	<input type="checkbox"/>	<input type="checkbox"/>			\$	\$	<input type="checkbox"/>	<input type="checkbox"/>			\$	\$	<input type="checkbox"/>	<input type="checkbox"/>			\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
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B.	Decreased Housing Services																														
	<i>(Complete this section if any of the grounds for petition fall under category B, above)</i>																														
<p>List all the conditions that you believe entitle you to a rent decrease. If your petition is based on problems related to your unit, or because the owner has taken away service(s) or is charging for services originally provided by the owner, you must complete this section. If you need more space, attach a separate sheet or an additional copy of this form.</p> <ul style="list-style-type: none"> You are strongly encouraged to submit documentary evidence (photographs, inspection reports, correspondence with your landlord, etc.) together with your petition. Evidence may be submitted up to seven calendar days prior to your hearing. You may wish to have a City inspector come inspect your unit for possible code violations in advance of your hearing. Copies of any inspection report(s) may be submitted in support of your petition. To schedule an inspection, contact the City of Oakland Code Enforcement Unit at (510) 238-3381, or file a complaint online at https://www.oaklandca.gov/services/file-a-complaint-with-code-enforcement. <i>Note: if additional items are cited in an inspection report that were not included in your original petition (below), you must file an additional petition listing those items in order for RAP staff to consider them as a part of your claim.</i> 																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">#</th> <th style="width: 30%;">Description of problem or decreased housing service (list separately):</th> <th style="width: 20%;">Date problem or decreased service started: (Month/Day/Year)</th> <th style="width: 20%;">Date first notified owner or manager of problem: (Month/Day/Year)</th> <th style="width: 20%;">Date problem or service was fixed, if ever: (Month/Day/Year)</th> <th style="width: 25%;">What is the dollar value of your claimed loss?</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1.</td> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">2.</td> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">3.</td> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">\$</td> </tr> <tr> <td style="text-align: center;">4.</td> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">\$</td> </tr> </tbody> </table>		#	Description of problem or decreased housing service (list separately):	Date problem or decreased service started: (Month/Day/Year)	Date first notified owner or manager of problem: (Month/Day/Year)	Date problem or service was fixed, if ever: (Month/Day/Year)	What is the dollar value of your claimed loss?	1.					\$	2.					\$	3.					\$	4.					\$
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1.					\$																										
2.					\$																										
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4.					\$																										

TENANT VERIFICATION

(Required)

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

Fleurentin Alta Laure

Tenant 1 Signature

12/29/2021

Date

Tenant 2 Signature

Date

CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

Check the box below if you agree to have RAP staff send you documents related to your case electronically. If you agree to electronic service, the RAP may send certain documents only electronically and not by first class mail.

- ☒ **I/We consent to receiving notices and documents in this matter from the RAP electronically at the email address(es) provided in this response.**

MEDIATION PROGRAM

Mediation is an optional process offered by RAP to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. A trained third party will work with the parties prior to the hearing to see if a mutual agreement can be reached. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

Mediation will only be scheduled if both parties agree to mediate. Sign below if you agree to mediation in your case.

I agree to have the case mediated by a Rent Adjustment Program staff mediator.

Tenant Signature

Date

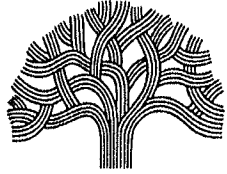
INTERPRETATION SERVICES

If English is not your primary language, you have the right to an interpreter in your primary language/dialect at the Rent Adjustment hearing and mediation session. You can request an interpreter by completing this section.

- ☒ **I request an interpreter fluent in the following language at my Rent Adjustment proceeding:**

- ☐ Spanish (Español)
☐ Cantonese (廣東話)
☐ Mandarin (普通话)
☒ Other: _____ Creole or French

-END OF PETITION-



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION (PLUS ANY ATTACHMENTS) ON THE PROPERTY OWNER PRIOR TO FILING YOUR PETITION WITH RAP. You must include a copy of the RAP form "NOTICE TO PROPERTY OWNER OF TENANT PETITION" (the preceding page of this petition packet) and a completed PROOF OF SERVICE form together with your Petition.

- 1) Use this PROOF OF SERVICE form to indicate the date and manner of service and the person(s) served.
- 2) Note: Email is not a form of allowable service on a party of a petition or response pursuant to the Ordinance.
- 3) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 4) File a completed copy of this PROOF OF SERVICE form with RAP together with your Petition. Your Petition will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 01 / 04 / 22 I served a copy of (check all that apply):

- ☒ **TENANT PETITION** plus 35 attached pages (number of pages attached to Petition not counting the Petition form, NOTICE TO PROPERTY OWNER OF TENANT PETITION, or PROOF OF SERVICE)
- ☒ **NOTICE TO PROPERTY OWNER OF TENANT PETITION**
- ☐ Other: _____

by the following means (check one):

- ☒ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ **Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

///

///

///

PERSON(S) SERVED:

Name	David P. Wasserman, Wasserman-Stern Law Offices
Address	2960 Van Ness Avenue
City, State, Zip	San Francisco, CA 94109

Name	University President Associates, LP
Address	1717 Powell Street, Suite 300
City, State, Zip	San Francisco, CA 94133

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Jamie Campbell

PRINTED NAME

Jamie Campbell

SIGNATURE

01/04/22

DATE SIGNED



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economic
rights advocates

Rent Adjustment Program
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
hearingsunit@oaklandca.gov

Sent via Email and US Mail

Date:

Re: Tenant Petition, Contested Rent Increase – Laurie Fleurentin – 315 Wayne Place, Unit #307, Oakland, CA 94606

To the Rent Adjustment Program,

My name is Johanna Kanes and I represent Tenant Laurie Fleurentin of 315 Wayne Place, Unit #307 (“Unit #307”) in this Petition. Ms. Fleurentin’s landlord imposed an illegal rent increase which Ms. Fleurentin now contests.

Ms. Fleurentin’s unit is owned and represented by the following individuals (collectively known hereinafter as the “Landlord”):

Owner:

University President Associates, LP.
1717 Powell St. Suite 300
San Francisco, CA 94133

Attorney:

David P. Wasserman
Wasserman-Stern Law Offices
2960 Van Ness Avenue
San Francisco, CA 94109
Fax: (415) 567-9696
Email: dwasserman@wassermanstern.com

Property Manager:

Jennifer Weingand
Property Supervisor
Meridian Management Group
614 Grand Ave. #206
Oakland, CA 94610
jweingand@mmgprop.com

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FACTS

Ms. Fleurentin and her daughter moved into Unit #307 in March of 2013. Ms. Fleurentin rented a room in Unit #307 and paid rent to another tenant, Antoine Bellot who was already living in the apartment as the master tenant. Another tenant, Jean Claude Guerrier moved into the unit in June of 2013 and Ms. Fleurentin's mother moved in in September of 2013. Ms. Fleurentin began paying rent to Jean Claude Guerrier in 2015, who then paid the landlord directly. Despite repeated requests, Ms. Fleurentin was never added to the lease agreement. Jean Claude Guerrier moved out of the apartment in January of 2020.

On April 1, 2020, Ms. Fleurentin began paying rent directly to Meridian Management Group in the amount of \$1,178.00. She did not receive a new lease agreement nor a RAP notice at this time.

On April 15, 2020, Ms. Fleurentin received the Costa Hawkins and Change in Terms of Tenancy Notice (the "Notice"), dated April 15, 2020. [Exhibit One.] Per the Notice, starting January 1, 2021, Laurie's rent would be raised from \$1,178.00 to \$2,800.00. Included with the Notice was a one-page RAP Notice in English. [Exhibit One.]

On March 10, 2021, Ms. Fleurentin was told by the Landlord that she cannot amend the lease to add persons and that the operative lease agreement remains in place despite the fact that all original tenants have vacated. [Exhibit Two.]

On August 31, 2021, Ms. Fleurentin received an Outstanding Rent Balances Owed notice for \$4,866.00 in rent due from Meridian Management Group, which was not signed. [Exhibit Three.] In response, Ms. Fleurentin emailed Jennifer Weingand, of Meridian Management Group, on September 1, 2021 requesting the months and amounts of rent she had allegedly missed in writing. [Exhibit Four.]

On October 1, 2021, Ms. Fleurentin went to the leasing office to talk with Ms. Weingand about the notices. Ms. Weingand said the August 31, 2021 notice was a mistake and refused to give the amount allegedly owed in person.

Later on October 1, 2021, Ms. Fleurentin received an email from Ms. Weingand stating the August 31, 2021 notice indicating two months past due rent was sent in error. [Exhibit Five.] Attached to the email was the Resident Ledger with a significantly higher balance. [Exhibit Five.] The Resident Ledger prepared October 1, 2021, has Ms. Fleurentin's rent listed as \$2,800.00 per month and an overdue balance of \$17,398.00.

On October 11, 2021, Ms. Flurentin received an email from the Landlord requesting she fill out a Rental Assistance Application under the CA COVID-19 Rent Relief Program for a rent of \$2,800.00. [Exhibit Six.]

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On November 15, 2021, our office sent Meridian Management Group and Mr. Dace Wasserman, representative of her landlord, a letter explaining the illegal rent increase and requesting relief via rescission of the rent increase. [Exhibit Seven.]

On November 17, 2021, Mr. Wasserman responded with an updated tenant ledger and notice that the April 15, 2020 rent increase notice stands. [Exhibit Eight.] Mr. Wasserman takes the position that Ms. Fleurentin “is a subsequent occupant. The last original occupant permanently vacated, and the rent was adjusted promptly thereafter.” As of November 17, 2021, Mr. Wasserman alleges Ms. Fleurentin owes \$17,842.00 in back rent.

Ms. Fleurentin has paid rent in the amount of \$1,178.00 since April 1, 2020. Ms. Fleurentin is current on her rent.

STANDING

Ms. Fleurentin brings this Petition to the Rent Adjustment Program. Ms. Fleurentin pays rent in return for the occupancy of Unit #307. Oakland Municipal Code section 8.22.030(A)(1). Unit #307 is not an exempt dwelling unit because it is not subsidized, it is not newly constructed or substantially rehabilitated and it is not exempt under Costa Hawkins. Oakland Municipal Code section 8.22.030(B).

Ms. Fleurentin was issued the Notice of rent increase on April 15, 2020, along with a RAP Notice in English. However, Ms. Fleurentin never received a proper RAP Notice under Oakland Municipal Code section 8.22.060, which required Ms. Fleurentin to receive the RAP Notice at the commencement of her tenancy (April 1, 2020) *in English, Spanish and Chinese*. Ms. Since she never received a proper RAP Notice, she is entitled to contest all rent increases before the Rent Adjustment Program. Oakland Municipal Code section 8.22.090(1)(b).

LEGAL ARGUMENT

When Ms. Fleurentin paid rent directly to her landlord in the amount of \$1,178.00 on April 1, 2020, it created a new month-to-month tenancy between herself and her landlord with the rent ceiling for Unit #307 established at \$1,178.00. Any subsequent rent increases must comply with Oakland’s Rent Ordinance.

The Notice issued April 15, 2020 was an illegal rent increase. First, any rent increases should have been set at the establishment of her tenancy on April 1, 2020. Second, the Notice did not comply with the RAP Notice requirements under Oakland Municipal Code section 8.22.060, which required Ms. Fleurentin to receive the RAP Notice at the commencement of her tenancy in English, Spanish and Chinese. Additionally, the rent increase which allegedly took effect on January 1, 2021, raised Ms. Fleurentin’s rent from \$1,178.00 to \$2,800.00, a 137.7% increase in violation of Oakland Ordinance No. 13589 C.M.S. (as extended on July 21, 2020), which

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established a moratorium on rent increases above the consumer price index of 1.9%. Finally, the Notice sets the date of the increase at "January 1, 2021, not less than ninety (90) days after service of this notice." January 1, 2021 was more than ninety days after Ms. Fleurentin received the Notice of April 15, 2020, rendering the Notice invalid upon January 1, 2021.

Despite being made aware of the illegality of the Notice and alleged rent increase, Ms. Fleurentin's Landlord refuses to rescind the Notice.

Per the Notice, the Landlord's position is that Unit #307 and Ms. Fleurentin are not subject to the City of Oakland's Rent Adjustment Program for purposes of this rent increase because: (1) the last original occupant no longer permanently resides and all current occupants are subsequent occupants and sublessees; and therefore (2) the Costa-Hawkins Act, California Civil Code Section 1954.50, *et seq.*, applies, providing the legal basis for the attempted 137.7% increase in rent.

An owner may establish the initial and all subsequent rental rates for a dwelling unit if it 1) has a certificate of occupancy issued after February 1, 1995; 2) it has already been exempt from the residential rent control ordinances of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units; and/or 3) it is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision. Cal. Civ. Code section 1954.52(a). Unit #307 is not new construction with a certificate of occupancy issued after February 1, 1995. According to public records, the building was built in 1966. Further, because it was built in 1966, it is not exempt from local price control laws. Finally, Unit #307 is not alienable separate from the title of any other units at Wayne Place.

Cal. Civ. Code section 1954.53(d)(2) (which allows for an increase in rent by any amount if the original occupant no longer resides in the unit, and upon which the Landlord relies) does not apply because of section 1954.53(d)(3), governing partial changes in occupancy. Under section 1954.53(d)(3), the subsection does not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises remains an occupant in lawful possession of the unit. Ms. Fleurentin remained in lawful possession of the unit after Mr. Guerrier (the last original occupant according to the Notice) moved out.

Cal. Civ. Code section 1954.53(d)(2) states that an owner may increase the rent to a *lawful sublessee or assignee*. Ms. Fleurentin never signed a lease agreement, sublease agreement, nor assignment. Therefore, Ms. Fleurentin is not a sublessee or assignee and section 1954.53(d)(2) does not apply.

Despite maintaining that Ms. Fleurentin was not an original occupant but a "subsequent occupant" and thus subject to the rent increase (*see* Exhibits One and Eight), the Landlord has also maintained that Ms. Fleurentin is still party to the "original lease agreement" and that all other terms remained the same (*see* Exhibits One and Two). However, Ms. Fleurentin never signed a

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lease agreement, sublease agreement nor assignment, she was not allowed to. The Landlord is clearly trying to have it both ways, avoid a new written lease with Ms. Fleurentin and raise her rent. This circumvents the law and ignores the new month-to-month tenancy established on April 1, 2020 when the Landlord accepted rent directly from Ms. Fleurentin.

By having established a direct rental relationship with Ms. Fleurentin in April of 2020 at the original rent level, the landlord gave up its right to claim a Costa Hawkins increase based on the move-out of the last original tenant. Local rent control laws apply, making the attempted 137.7% increase illegal.

Unit #307 is subject to the City of Oakland's Rent Adjustment Ordinance as the Landlord receives rent from Ms. Fleurentin in return for the occupancy of the dwelling unit and Unit #307 is not an exempted unit. Oakland Ordinance No. 13589 C.M.S. (as extended on July 21, 2020), establishes a moratorium on residential evictions, rent increases above the consumer price index of 1.9%, and a prohibition on late fees. The Ordinance applies to units regulated under the Oakland Just Cause for Eviction and Oakland Rent Adjustment Ordinances, including Unit #307. The Notice attempts to increase Ms. Fleurentin's rent 137.7%, above the 1.9% allowed by the moratorium, and thus an unlawful amount.

In the alternative, even if Unit #307 was not covered by Oakland's rent control laws, Ms. Fleurentin's tenancy is still protected under California state law. Under California Civil Code section 1947.12(a), an owner of residential real property shall not raise the rent of a unit more than 5% plus the CPI, or 10%, whichever is lower, over the course of a 12-month period. No exception applies to remove Unit #307 from section 1947.12(a); unless Oakland rent control laws are applied. Please note that section 1947.12(b) does not apply to this case. Ms. Fleurentin was a prior lawful occupant in possession of the unit prior to April 1, 2020. The Notice attempts to raise Ms. Fleurentin's rent 137.7%, an illegal rent increase under California state rent control laws.

For the aforementioned reasons, under California state and local law, the Costa Hawkins and Change in Terms of Tenancy Notice, dated April 15, 2020, is an illegal rent notice; and as such, the Resident Ledger dated November 17, 2021 is inaccurate. Ms. Fleurentin is entitled to a rescission of the Notice and any alleged rental increase.

We thank you for your time and attention to this matter.

Sincerely,

Johanna Kanés
Staff Attorney

Phone: 510-775-1576

Fax: 510-225-3891

Mail: PO Box 29435, Oakland CA 94604

EXHIBIT ONE

THIS NOTICE TO CHANGE TERMS OF TENANCY HEREBY SUPERSEDES AND REPLACES ANY OTHER NOTICE TO CHANGE TERMS OF TENANCY AND/OR ANY OTHER RENT INCREASE NOTICE(S) PREVIOUSLY SERVED UPON YOU.

**NOTICE TO CHANGE TERMS OF TENANCY AND
RENT INCREASE NOTICE**

To **Antione Bellot (original occupant), Willie Bellot (original occupant), Hubert Coleman (original occupant), Jean Claude Guerrier (original occupant), Laurie Fleurentin (subsequent occupant), AND ALL SUBTENANTS IN POSSESSION, name(s) unknown**, as well as any other occupant(s) claiming the right to possession of the following residential rental premises:

315 Wayne Place, Unit Number 307
City of Oakland, County of Alameda, State of California 94606
--including all housing privileges, storage and parking-- (the "Premises")

You are hereby notified that, effective **January 1, 2021**, not less than ninety (90) days after service of this notice is completed upon you, the terms of your tenancy of the Premises will be changed as follows:

The monthly rental thereof will be changed from \$1,178.00 per month to two thousand-eight hundred dollars (\$2,800) per month, payable in the advance of the first day each and every month you continue to hold possession of the Premises.

All other terms of the tenancy and the *Residential Lease* dated on or about October 2, 1996 will remain unchanged.

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

You are hereby notified that, pursuant to California Civil Code Section 1954.50, *et seq.* (Costa-Hawkins Rental Housing Act), the Premises and/or your tenancy therein are not subject to the City of Oakland's Rent Adjustment Program (Chapter 8.22 of the Oakland Municipal Code) for purposes of this rent increase. The landlord and owner of the Premises contends that the last original occupant, Jean Claude Guerrier, no longer permanently resides at the Premises, and that all current occupants are subsequent occupants and sublessees who commenced occupancy of the Premises on or after January 1, 1996.

Pursuant to the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50, et seq.), please note as follows:

Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment:

(A) Where the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this section to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996. However, such a rent increase shall not be permitted while:

(i) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the California Health and Safety Code, excluding any violation caused by a disaster; and,

(ii) The citation was issued at least 60 days prior to the date of the vacancy; and,

(iii) The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.

(B) This provision shall not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner, remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.

(C) Acceptance of rent by the owner shall not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.

Information regarding this NOTICE may be obtained from the City of Oakland's Rent Adjustment Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612, 510.238.3721, website: www.oaklandnet.com. Please refer to the attached City of Oakland Rent Adjustment Program *Notice to Tenants of Residential Rent Adjustment Program*.

Rent increases imposed pursuant to the Costa-Hawkins Rental Housing Act are effective upon the expiration of the notice period prescribed by California Civil Code section 827.

Pursuant to the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50, et seq.), please note as follows:

Conditions for Establishing the Initial Rental Rate Upon Sublet or Assignment:

(A) Where the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this section to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996. However, such a rent increase shall not be permitted while:

(i) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the California Health and Safety Code, excluding any violation caused by a disaster; and,

(ii) The citation was issued at least 60 days prior to the date of the vacancy; and,

(iii) The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.

(B) This provision shall not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner, remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit.

(C) Acceptance of rent by the owner shall not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.

Information regarding this NOTICE may be obtained from the City of Oakland's Rent Adjustment Program. Parties seeking legal advice concerning evictions should consult with an attorney. The Rent Program is located at 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612, 510.238.3721, website: www.oaklandnet.com. Please refer to the attached City of Oakland Rent Adjustment Program *Notice to Tenants of Residential Rent Adjustment Program*.

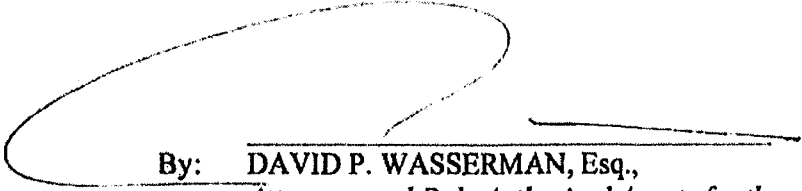
Rent increases imposed pursuant to the Costa-Hawkins Rental Housing Act are effective upon the expiration of the notice period prescribed by California Civil Code section 827.

000104

Questions about this NOTICE may be directed to the undersigned, who is the agent for the landlord and owner.

WASSERMAN-STERN

Dated: April 15, 2020



By: **DAVID P. WASSERMAN, Esq.,**
*Attorneys and Duly Authorized Agents for the
Landlord/Owner*

Wasserman-Stern Law Offices
2960 Van Ness Avenue
San Francisco, CA 94109
Tel. No.: (415) 567-9600
Fax. No.: (415) 567-9696
Email: dwasserman@wassermanstern.com

CITY OF OAKLAND



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

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. For more information on which units are covered, contact the RAP office.
- Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase ("CPI increase") or allowed "banked" rent increases. These include capital improvements and operating expense increases. For these types of rent increases, the owner may raise your rent only after a hearing officer has approved the increase. No annual rent increase may exceed 10%. You have a right to contest the proposed rent increase by responding to the owner's petition. You do not have to file your own petition.
- **Contesting a Rent Increase:** You can file a petition with the RAP to contest unlawful rent increases or decreased housing services. To contest a rent increase, you must file a petition (1) within ninety (90) days of the notice of rent increase if the owner also provided this Notice to Tenants with the notice of rent increase; or (2) within 120 days of the notice of rent increase if this Notice to Tenants was not given with the notice of rent increase. If the owner did not give this Notice to Tenants at the beginning of your tenancy, you must file a petition within ninety (90) days of first receiving this Notice to Tenants. Information and the petition forms are available from the RAP drop-in office at the Housing Assistance Center: 250 Frank H. Ogawa Plaza, 6th Floor, Oakland and at: <http://www2.oaklandnet.com/Government/a/hcd/6/RentAdjustment>.
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. If the increase is approved and you did not pay the increase, you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Tenants in subsidized units are not required to pay the tenant portion of the fee.
- Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600). (City Council Ordinance No. 13265 C.M.S.)
- The owner x is is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act). If the owner is not permitted to set the initial rent without limitation, the rent in effect when the prior tenant vacated was .

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or ~~(S NOT)~~ permitted in Unit 307, the unit you intend to rent.
- Smoking (circle one) ~~IS~~ or IS NOT permitted in other units of your building. (If both smoking and non-smoking units exist in tenant's building, attach a list of units in which smoking is permitted.)
- There (circle one) IS or ~~(S NOT)~~ a designated outdoor smoking area. It is located at .

I received a copy of this notice on (Date) (Tenant's signature)

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.

EXHIBIT TWO



1 message

----- Forwarded message -----

From: **Jennifer Weingand** <jweingand@mmgprop.com>
Date: Wed, Mar 10, 2021, 2:10 PM
Subject: RE: Lease Renewal Request
To: loyfle10@gmail.com <loyfle10@gmail.com>
Cc: 315 Wayne Place Apartments <171wn2@mmgprop.com>

Dear Alto Laure:

I am sorry but management cannot amend the lease to add persons. That is the company's policy. Rent was re-set pursuant to a state law. That law essentially acknowledges that the current and operative lease agreement remains in place despite the fact that all original tenants have permanently vacated. I am sorry that we cannot accommodate your request."

Thank you for your time and consideration.



MERIDIAN MANAGEMENT GROUP

Jennifer Weingand
DRE #01809480
Property Supervisor
Meridian Management Group
614 Grand Ave. #206
Oakland, CA 94610
jweingand@mmgprop.com
510.444.9700 ext. 302

000108

EXHIBIT THREE

3/24/2020 (date)

Unit - 307

RE: Outstanding Rent Balances Owed

Dear Cherie Flanagan,

During these uncertain times we understand people are facing unprecedented challenges and want to do what we can to provide as much support as possible.

However, our records show there is an outstanding balance of \$ 4,844.00 on your account for non-payment of rent for months. We would greatly appreciate if you could work to bring your account current as soon as possible to avoid falling further behind. If you would like to discuss setting up a payment plan, please feel free to contact me. I can be reached at 17144420000 or 571-124-4616.

There are several organizations that can assist with the rent payments. See attached.

Please remit payment to bring your account current.

If you feel this notice is in error, please contact me to discuss.

Thank you for your immediate attention to this matter.

Sincerely,

Michael Flanagan
Michael Flanagan Group

EXHIBIT FOUR

From: Laurie Fleurentin <loyfle10@gmail.com>
Sent: Wednesday, September 1, 2021 3:58 PM
To: Jennifer Weingand <jweingand@mmgprop.com>
Cc: brandiplumleylmft@gmail.com; Brandi Plumley <brandiplumley@yahoo.com>
Subject: Rent - 315 Wayne Place # 307 Oakland

To : Property management

I received a letter on my door on August 31, 2021 which stated that I owe \$4866.00 in back rent. I have attached a picture of this letter in this email for your reference. The letter does not state what months of rent I am missing or what the total amount owed (alleged) is pertaining to. I have not missed any months in rent and I have pictures and receipts to prove this. I have never received a late notice or missed my rent for apartment number 307 (315 Wayne place Oakland CA)

This letter did not come as a certified letter as any past due rent charges should. Furthermore, this letter was not signed by any person and it did not detail months that I have allegedly missed rent.

I later ran into the onsite property manager, Kevin, outside the building in the evening on 8/31/2021, I acknowledged that I received his letter and he said ok and I told him I can discuss later, to which he replied " ok".

My friend was picking me up and I showed her the letter. Because English is my second language she had some questions for him and he refused to answer what months of rent I am being alleged that I missed. He was rude and refused to engage in a discussion. He even called my friend aggressive (she was sitting in her car the entire time) when she was simply engaging him in a conversation . At the least he could have showed professionalism and advised us on how to proceed with getting our questions answered.

I request that you inform me what alleged months and amount I have missed in rent in writing. Please send the date, month and year. I am certain this can be easily cleared up as I have never missed rent nor have I ever been sent any notice regarding late or missing rent.

This letter was not delivered certified which makes it even more concerning and it was not signed, nor did it have details of what months I am being alleged of missing rent. In addition, the letter stated that "several organizations can help with rent, see attached" There were no papers attached to this one page letter. I am certainly prepared to contact the housing authorities if this matter is not swiftly resolved.

I am cc'ing my friend Brandi Plumley on this email as she read the letter and witnessed Kevin being rude and unhelpful.

Thank you kindly for your attention to this matter which I am sure can be quickly resolved. Please respond in writing.

Alta Laure Fleurentin
315 Wayne Place #307

000112

EXHIBIT FIVE



1 message

----- Forwarded message -----

From: **Jennifer Weingand** <jweingand@mmgprop.com>
Date: Fri, Oct 1, 2021, 3:20 PM
Subject: RE: Rent - 315 Wayne Place # 307 Oakland
To: Laurie Fleurentin <loyfle10@gmail.com>

Laurie,

Attached is the tenant ledger indicating the outstanding balance. The notice that was sent in error only indicated two months past due rent however, as listed in the ledger attached, the balance is significantly higher.

You indicated you had prepared a maintenance request for heater repairs however, Kevin has not received a written maintenance request. Kevin will drop a blank maintenance request form to your unit and in the future blank maintenance request can be obtained from the box in the lobby for your convenience.

Thank you for your time and consideration.



MERIDIAN MANAGEMENT GROUP

Jennifer Weingand

DRE #01809480

Property Supervisor

Meridian Management Group

614 Grand Ave. #206

000114

Resident Ledger

A. Laurie Fleurentin
315 Wayne Place 307
Oakland, CA, 94606

Date: 10/01/2021
 Resident Code: t0019940
 Property: 0171
 Unit: 307
 Status: Current
 Rent: \$2,800.00
 Deposit:
 Move In Date: 10/03/1996
 Move Out Date: 01/01/0001
 Due Day: 1
 Tel Num(Office):
 Tel Num(Home):

Date	Description	Charges	Payments	Balance
	Balance Forward	26.70	0.00	26.70
01/01/20	Rent Board Fees (01/2020)	34.00	0.00	60.70
01/01/20	Rent (01/2020)	1,178.00	0.00	1,238.70
01/07/20	Chk# 1169	0.00	1,178.00	60.70
02/01/20	Rent (02/2020)	1,178.00	0.00	1,238.70
02/20/20	Chk# 1198	0.00	1,238.70	0.00
03/01/20	Rent (03/2020)	1,178.00	0.00	1,178.00
03/09/20	Chk# 197	0.00	1,178.00	0.00
04/01/20	Rent (04/2020)	1,178.00	0.00	1,178.00
05/01/20	Rent (05/2020)	1,178.00	0.00	2,356.00
06/01/20	Rent (06/2020)	1,178.00	0.00	3,534.00
06/05/20	Chk# 000271	0.00	500.00	3,034.00
06/05/20	Chk# 000272	0.00	500.00	2,534.00
06/05/20	Chk# 000273	0.00	178.00	2,356.00
06/05/20	Chk# 0992645	0.00	500.00	1,856.00
06/05/20	Chk# 0992644	0.00	500.00	1,356.00
06/05/20	Chk# 0992646	0.00	178.00	1,178.00
07/01/20	Rent (07/2020)	1,178.00	0.00	2,356.00
07/08/20	Chk# 10866001021	0.00	500.00	1,856.00
07/08/20	Chk# 10866001020	0.00	500.00	1,356.00
07/08/20	Chk# 10866001022	0.00	178.00	1,178.00
07/10/20	Chk# 10865997268	0.00	500.00	678.00
07/10/20	Chk# 10865997267	0.00	500.00	178.00
07/10/20	Chk# 1086599729	0.00	178.00	0.00
08/01/20	Rent (08/2020)	1,178.00	0.00	1,178.00
08/05/20	Chk# 10865994465	0.00	500.00	678.00
08/05/20	Chk# 10865994464	0.00	500.00	178.00
08/05/20	Chk# 10865994468	0.00	178.00	0.00
09/01/20	Rent (09/2020)	1,178.00	0.00	1,178.00
09/09/20	Chk# 2	0.00	1,178.00	0.00
10/01/20	Rent (10/2020)	1,178.00	0.00	1,178.00
10/09/20	Chk# 10840091449	0.00	500.00	678.00
10/09/20	Chk# 10840091450	0.00	500.00	178.00
10/09/20	Chk# 10840091451	0.00	178.00	0.00
11/01/20	Rent (11/2020)	1,178.00	0.00	1,178.00
11/06/20	Chk# 10840092005	0.00	500.00	678.00
11/06/20	Chk# 10840092006	0.00	500.00	178.00
11/06/20	Chk# 10840092007	0.00	178.00	0.00
12/01/20	Rent (12/2020)	1,178.00	0.00	1,178.00
12/04/20	Chk# 1	0.00	178.00	1,000.00
12/04/20	Chk# 1	0.00	500.00	500.00
12/04/20	Chk# 1	0.00	500.00	0.00
01/01/21	Rent (01/2021)	1,178.00	0.00	1,178.00
01/01/21	Rent	1,622.00	0.00	2,800.00
01/08/21	Chk# 10840098902	0.00	500.00	2,300.00

000115

Resident Ledger

A. Laurie Fleurentin
315 Wayne Place 307
Oakland, CA, 94606

Date: 10/01/2021
Resident Code: t0019940
Property: 0171
Unit: 307
Status: Current
Rent: \$2,800.00
Deposit:
Move In Date: 10/03/1996
Move Out Date: 01/01/0001
Due Day: 1
Tel Num(Office):
Tel Num(Home):

Date	Description	Charges	Payments	Balance
01/08/21	Chk# 10840098903	0.00	500.00	1,800.00
01/08/21	Chk# 10840098904	0.00	178.00	1,622.00
02/01/21	Rent (02/2021)	1,178.00	0.00	2,800.00
02/01/21	Rent	1,622.00	0.00	4,422.00
02/12/21		0.00	1,178.00	3,244.00
03/01/21	Rent (03/2021)	1,178.00	0.00	4,422.00
03/01/21	Rent	1,622.00	0.00	6,044.00
03/05/21	Chk# 10840095572	0.00	500.00	5,544.00
03/05/21	Chk# 10840095573	0.00	500.00	5,044.00
03/05/21	Chk# 10840095574	0.00	178.00	4,866.00
04/01/21	Rent (04/2021)	1,178.00	0.00	6,044.00
04/01/21	Rent	1,622.00	0.00	7,666.00
04/14/21	Chk# 10888475057	0.00	500.00	7,166.00
04/14/21	Chk# 10888475058	0.00	500.00	6,666.00
04/14/21	Chk# 10888475059	0.00	178.00	6,488.00
05/01/21	Chk# 10888476652	0.00	500.00	5,988.00
05/01/21	Chk# 10888476553	0.00	500.00	5,488.00
05/01/21	Chk# 10888476654	0.00	178.00	5,310.00
05/01/21	Rent (05/2021)	1,178.00	0.00	6,488.00
05/01/21	Rent	1,622.00	0.00	8,110.00
06/01/21	Rent (06/2021)	1,178.00	0.00	9,288.00
06/01/21	Rent	1,622.00	0.00	10,910.00
06/07/21	Chk# 1088478107	0.00	500.00	10,410.00
06/07/21	Chk# 10888478108	0.00	500.00	9,910.00
06/07/21	Chk# 10888478109	0.00	178.00	9,732.00
07/01/21	Rent (07/2021)	1,178.00	0.00	10,910.00
07/01/21	Rent	1,622.00	0.00	12,532.00
07/04/21	Chk# 10888480124	0.00	500.00	12,032.00
07/04/21	Chk# 10888480125	0.00	178.00	11,854.00
07/04/21	Chk# 10888480123	0.00	500.00	11,354.00
08/01/21	Rent (08/2021)	1,178.00	0.00	12,532.00
08/01/21	Rent	1,622.00	0.00	14,154.00
08/09/21	Chk# 10888481482	0.00	500.00	13,654.00
08/09/21	Chk# 10888481483	0.00	178.00	13,476.00
08/09/21	Chk# 10888481481	0.00	500.00	12,976.00
09/01/21	Rent (09/2021)	1,178.00	0.00	14,154.00
09/01/21	Rent	1,622.00	0.00	15,776.00
09/07/21	Chk# 10888483580	0.00	500.00	15,276.00
09/07/21	Chk# 10888483581	0.00	500.00	14,776.00
09/07/21	Chk# 10888483582	0.00	178.00	14,598.00

000116

Resident Ledger

A. Laurie Fleurentin 315 Wayne Place 307 Oakland, CA, 94606	Date:	10/01/2021
	Resident Code:	t0019940
	Property:	0171
	Unit:	307
	Status:	Current
	Rent:	\$2,800.00
	Deposit:	
	Move In Date:	10/03/1996
	Move Out Date:	01/01/0001
	Due Day:	1
Tel Num(Office):		
Tel Num(Home):		

Date	Description	Charges				Payments	Balance	
10/01/21	Rent (10/2021)					2,800.00	0.00	17,398.00
	Current	30 Days	60 Days	Over 90	Current Owed			
	4,422.00	-1,178.00	1,622.00	12,532.00	17,398.00			

000117

EXHIBIT SIX



1 message

----- Forwarded message -----

From: **Neighborly Software** <no-reply@neighborlysoftware.com>

Date: Mon, Oct 11, 2021, 3:36 PM

Subject: You Are Invited: CA COVID-19 Rent Relief Program

To: <loyfle10@gmail.com>

Cc: <jweingand@mmgprop.com>

Dear A. Laurie Fleurentin ,

Your current landlord, **University President Associates, LP** , is inviting you to apply for the CA COVID-19 Rent Relief Program for the property located at, **315 Wayne Place #307 Oakland CA 94606**. This program will help income-eligible households pay for past-due and future rent and utilities. Assembly Bill No. 832, which was approved by Governor Newsom on June 28, 2021, provides the basis for this rental assistance program and California's related tenant (renter) protection laws.


Submitting a completed application within 15 business days of this notice may provide you with eviction protection under California law.

To be eligible to benefit from this program, you must complete a Tenant Application in the : CA COVID-19 Rent Relief portal.


For additional details about the COVID-19 Rent Relief Program, please click here.

Thank you, Click here to login: <https://hornellp-ca.neighborlysoftware.com/CaliforniaCovid19RentRelief/Participant>

Thank you, Click here to login: <https://hornellp-ca.neighborlysoftware.com/CaliforniaCovid19RentRelief/participant>

 Neighborly Software Logo

2 attachments

 Neighborly Software **neighborly-logo.png**
12K

000119

EXHIBIT SEVEN

HERA

housing and
economic
rights advocates

David P. Wasserman
Wasserman-Stern Law Offices
2960 Van Ness Avenue
San Francisco, CA 94109
Fax: (415) 567-9696
Email: dwasserman@wassermanstern.com

CC: Jennifer Weingand
Property Supervisor
Meridian Management Group
614 Grand Ave. #206
Oakland, CA 94610
jweingand@mmgprop.com

CC: Laurie Fleurentin
315 Wayne Place, Unit #307
Oakland, CA 94606

Sent via US Mail, Email and Fax

11.15.2021

Re: Tenant Laurie Fleurentin – 315 Wayne Place, Unit #307, Oakland, CA 94606

Dear Mr. Wasserman,

My name is Johanna Kanes and I write on behalf of Tenant Laurie Fleurentin of 315 Wayne Place, Unit #307 ("Unit #307"). Ms. Fleurentin is in receipt of the Notice to Change Terms of Tenancy and Rent Increase Notice (the "Notice") dated April 15, 2020, and the Resident Ledger from Jennifer Weingand ("Resident Ledger"), dated October 1, 2021. **The Notice issued by your firm is an illegal attempt to raise Ms. Fleurentin's rent. I respectfully request that you and Meridian Management Group rescind the Notice and the Resident Ledger via writing within 5 days of receipt of this letter.**

Ms. Fleurentin moved into Unit #307 in March of 2013. Despite repeated requests, Ms. Fleurentin was never added to the lease agreement. Since April 1, 2020, Ms. Fleurentin has paid rent directly to Meridian Management Group. Ms. Fleurentin received the Costa Hawking and Change in Terms of Tenancy Notice, dated April 15, 2020. **Per the Notice, starting January 1, 2021, Laurie's rent would be raised from \$1,178.00 to \$2,800.00. The raise constitutes a 137.7% increase in rent.**

On August 31, 2021, Ms. Fleurentin received an Outstanding Rent Balances Owed notice for \$4,866.00 in rent due from Meridian Management Group, which was not signed. In response to the Notice and the Outstanding Rent Balances Owed notice, Ms. Fleurentin emailed Jennifer

000121

HERA

housing and
economic
rights advocates

Weingand on September 1, 2021 requesting the months and amounts of rent she had allegedly missed in writing.

Ms. Fleurentin went to the leasing office on October 1, 2021 to talk with Ms. Weingand about the notices. Ms. Weingand said the August 31, 2021 notice was a mistake and refused to give the amount allegedly owed in person. Later on October 1, 2021, Ms. Fleurentin received an email from Ms. Weingand stating the August 31, 2021 notice indicating two months past due rent was sent in error. Attached to the email was the Resident Ledger with a significantly higher balance. **The Resident Ledger prepared October 1, 2021, has Ms. Fleurentin's rent listed as \$2,800.00 per month and an overdue balance of \$17,398.00.**

Under California state and local law, the Costa Hawking and Change in Terms of Tenancy Notice, dated April 15, 2020, is an illegal rent notice; and as such, the Resident Ledger is inaccurate.

The Notice refers to the Costa-Hawkins Act as the legal basis for the attempted 137.7% increase in rent. However, the Costa-Hawkins Act does not apply to Unit #307. An owner may establish the initial and all subsequent rental rates for a dwelling unit if it 1) has a certificate of occupancy issued after February 1, 1995; 2) it has already been exempt from the residential rent control ordinances of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units; and/or 3) it is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision (Cal. Civ. Code section 1954.52(a)). Unit #307 is not new construction with a certificate of occupancy issued after February 1, 1995. According to public records, the building was built in 1966. Further, because it was built in 1966, it is not exempt from local price control laws. Finally, Unit #307 is not alienable separate from the title of any other units at Wayne Place.

Even if the Costa-Hawkins Act did apply, section 1954.53(d)(2) states that an owner may increase the rent to a *lawful sublessee or assignee*. Ms. Fleurentin never signed a lease agreement, sublease agreement, nor assignment. Therefore, Ms. Fleurentin is not a sublessee or assignee and section 1954.53(d)(2) does not apply.

While the Costa-Hawkins Act does not apply to Unit #307, local rent control laws do apply, making the attempted 137.7% increase illegal.

Unit #307 is subject to the City of Oakland's Rent Adjustment Ordinance as the owner receives rent from Ms. Fleurentin in return for the occupancy of the dwelling unit and Unit #307 is not an exempted unit. Oakland Ordinance No. 13589 C.M.S. (as extended on July 21, 2020), establishes a moratorium on residential evictions, rent increases above the consumer price index of 1.9%, and a prohibition on late fees. The Ordinance applies to units regulated under the Oakland Just Cause for Eviction and Oakland Rent Adjustment Ordinances, including Unit #307.

HERA

housing and
economic
rights advocates

The Notice attempts to increase Ms. Fleurentin's rent 137.7%, above the 1.9% allowed by the moratorium, and thus an unlawful amount.

In the alternative, even if Unit #307 was not covered by Oakland's rent control laws, Ms. Fleurentin's tenancy is still protected under California state law. Under California Civil Code section 1947.12(a), an owner of residential real property shall not raise the rent of a unit more than 5% plus the CPI, or 10%, whichever is lower, over the course of a 12-month period. No exception applies to remove Unit #307 from section 1947.12(a); unless Oakland rent control laws are applied. Please note that section 1947.12(b) does not apply to this case. Ms. Fleurentin was a prior lawful occupant in possession of the unit prior to April 1, 2020. The Notice attempts to raise Ms. Fleurentin's rent 137.7%, an illegal rent increase under California state rent control laws.

Since the Notice is an illegal attempt to raise rent, Ms. Fleurentin is not obligated to pay rent in the amount of \$2,800 per month and kindly requests an updated Resident Ledger reflecting an accurate account balance. Kindly note that California laws protect Ms. Fleurentin from retaliation, including constructive eviction. Further, the Alameda County Eviction Moratorium is still in effect and applies to Ms. Fleurentin's tenancy. Ms. Fleurentin reserves her legal rights, including taking the matter before the Oakland Rent Adjustment Program, if this matter is not resolved.

Please respond via writing within 5 days of receipt of this letter with an updated Resident Ledger and recession of the Notice dated April 15, 2020. Please respond to me (contact details provided below) and Ms. Fleurentin at 315 Wayne Place, Unit #307, Oakland, CA 94606.

I thank you for prompt attention to this matter.

Sincerely,

Johanna Kanes
Staff Attorney (She/Her)
Housing and Economic Rights Advocates (HERA)
Phone: (510) 775-1576
Fax: (510) 225-3891
Email: jkanes@heraca.org

EXHIBIT EIGHT



315 Wayne Place, Unit 307, Oakland

Dave Wasserman <dave@wassermanoffices.com>
To: "jkanes@heraca.org" <jkanes@heraca.org>
Cc: Jennifer Weingand <jweingand@mmgprop.com>

Wed, Nov 17, 2021 at 4:03 PM

Dear Ms. Kanes:


Thank you for your letter of November 15, 2021 on behalf of Laurie Fleurentin. Please find enclosed the most recent tenant ledger.

The April 15, 2020 rent increase notice stands. Your client is a subsequent occupant. The last original occupant permanently vacated, and the rent was adjusted promptly thereafter.

Sincerely,

Dave Wasserman

Please note email change. Going forward, please direct all emails to my new email address:
Dave@wassermanoffices.com

 **rs_Tenant_Ledger - 2021-11-17T152342.097.pdf**
150K

000125

Resident Ledger

A. Laurie Fleurentin
315 Wayne Place 307
Oakland, CA, 94606

Date: 11/17/2021
Resident Code: t0019940
Property: 0171
Unit: 307
Status: Current
Rent: \$2,800.00
Deposit:
Move In Date: 10/03/1996
Move Out Date: 01/01/0001
Due Day: 1
Tel Num(Office):
Tel Num(Home):

Date	Description	Charges	Payments	Balance
	Balance Forward	0.00	0.00	0.00
10/01/18	Rent (10/2018)	1,101.93	0.00	1,101.93
10/15/18	Chk# 1147	0.00	1,101.93	0.00
11/01/18	Rent (11/2018)	1,101.93	0.00	1,101.93
11/09/18	Late Charge	25.00	0.00	1,126.93
11/13/18	Chk# 819420044	0.00	1,126.93	0.00
12/01/18	Rent (12/2018)	1,101.93	0.00	1,101.93
12/06/18	Late Charge	25.00	0.00	1,126.93
12/12/18	Chk# 1149	0.00	1,126.93	0.00
01/01/19	Rent Board Fees (01/2019)	34.00	0.00	34.00
01/01/19	Rent (01/2019)	1,139.40	0.00	1,173.40
01/14/19	Chk# 1152	0.00	1,173.40	0.00
02/01/19	Rent (02/2019)	1,139.40	0.00	1,139.40
02/08/19	Chk# 1154	0.00	1,139.40	0.00
03/01/19	Rent (03/2019)	1,139.40	0.00	1,139.40
03/11/19	Chk# 1091	0.00	1,140.00	(0.60)
04/01/19	Rent (04/2019)	1,139.40	0.00	1,138.80
04/17/19	Chk# 1155	0.00	1,164.40	(25.60)
04/17/19	Late Charge	25.00	0.00	(0.60)
04/30/19	To clear credit balance per supervisor	0.60	0.00	0.00
05/01/19	Rent (05/2019)	1,139.40	0.00	1,139.40
05/20/19	Chk# 1158	0.00	1,164.40	(25.00)
05/20/19	Late Charge	25.00	0.00	0.00
06/01/19	Rent (06/2019)	1,139.40	0.00	1,139.40
06/13/19	Chk# 1093	0.00	1,164.00	(24.60)
06/13/19	Late Charge	25.00	0.00	0.40
07/01/19	Rent (07/2019)	1,139.40	0.00	1,139.80
07/24/19	Chk# 1095	0.00	1,164.00	(24.20)
07/24/19	Late Charge	50.00	0.00	25.80
08/01/19	Rent (08/2019)	1,139.40	0.00	1,165.20
08/16/19	Chk# 25788071193	0.00	1,000.00	165.20
08/16/19	Chk# 25788071204	0.00	139.70	25.50
09/01/19	Rent (09/2019)	1,139.40	0.00	1,164.90
09/05/19	Chk# 1161	0.00	1,139.40	25.50
10/01/19	Rent (10/2019)	1,139.40	0.00	1,164.90
10/07/19	Chk# 1162	0.00	1,139.00	25.90
11/01/19	Rent (11/2019)	1,139.40	0.00	1,165.30
11/06/19	Chk# 1166	0.00	1,139.00	26.30
12/01/19	Rent (12/2019)	1,139.40	0.00	1,165.70
12/06/19	Chk# 26090337306	0.00	1,000.00	165.70
12/06/19	Chk# 26090337317	0.00	139.00	26.70
01/01/20	Rent Board Fees (01/2020)	34.00	0.00	60.70
01/01/20	Rent (01/2020)	1,178.00	0.00	1,238.70
01/07/20	Chk# 1169	0.00	1,178.00	60.70
02/01/20	Rent (02/2020)	1,178.00	0.00	1,238.70

000126



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

CASE NUMBER T22- 0015

PROPERTY OWNER RESPONSE TO TENANT PETITION

Please fill out this form as completely as you can. Use this form to respond to the Tenant Petition you received. By completing this response form and submitting it in the required time for filing, you will be able to participate in the hearing. Failure to provide the required information may result in your response being rejected or delayed. See "Important Information Regarding Filing Your Response" on the last page of this packet for more information, including filing instructions and how to contact the Rent Adjustment Program ("RAP") with questions. Additional information is also available on the RAP website. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING.** To make an appointment email RAP@oaklandca.gov.

Rental Unit Information

315 Wayne Place 307 Oakland, CA 94606
Street Number Street Name Unit Number Zip Code

Is there more than one street address on the parcel? ☐ Yes ☒ No If yes, list all addresses: _____

Type of unit(s) (check one): ☐ Single family home ☐ Condominium ☒ Apartment, room, or live-work
Number of units on property: 36
Date acquired property: October 2014

Case number(s) of any relevant prior Rent Adjustment case(s): _____

Tenant Information

Name of Tenant Petitioner(s): Laurie Fleurentin

Date tenant(s) moved into rental unit: 3/2013 Initial rent amount: \$ 950 Is/are tenant(s) current on rent? ☐ Yes ☒ No

Property Owner Information

Jennifer Weingard (owner agent)
First Name Last Name
Company/LLC/LP (if applicable): Meridian Management / University President Associates
Mailing address: 1717 Powell St. #300, San Francisco CA
Primary Telephone: 415-470-8474 Other Telephone: _____ Email: jweingand@mmgprop.com

Property Owner Representative (Check one): ☐ No Representative ☐ Attorney ☐ Non-attorney

Greg / JR McConnell The McConnell Group
First Name Last Name Firm/Organization (if any)
Mailing Address: 1Embarcadero W. #168 Oakland CA 94607
Phone Number: 510-691-7365 Email: jr@themcconnellgroup.com

GENERAL FILING REQUIREMENTS

To file a Response to a Tenant Petition, the property owner must be current on the following requirements and submit supporting documentation of compliance. Property Owner Responses that are submitted without proof of compliance with the below requirements will be considered incomplete and may limit your participation in the hearing.

Requirement	Documentation
<input checked="" type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license. to be provided prior to hearing, per RAP regulations
<input checked="" type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee")	Attach proof of payment of the current year's RAP Fee for the subject property. to be provided prior to hearing, per RAP regulations
<input checked="" type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	Attach a signed and dated copy of the first RAP Notice provided to the petitioning tenant(s) or check the appropriate box below. upon acquiring the building and by prior owners. <input checked="" type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date) _____. <input type="checkbox"/> I have never provided a RAP Notice. <input type="checkbox"/> I do not know if a RAP Notice was ever provided.

PROPERTY OWNER CLAIM OF EXEMPTION

If you believe that the subject property is exempt from the Rent Adjustment Ordinance (pursuant to O.M.C. § 8.22.030), check each box below that is the claimed basis of exemption. Attach supporting documentation together with your response form. If you do not claim any exemption, proceed to the "Response to Tenant Petition" section on the following page.

- ☐ The unit is a single-family residence or condominium exempted by the Costa Hawkins Rental Housing Act (Civil Code 1954.50, et seq.). **If claiming this exemption, you must answer the following questions. Attach a separate sheet if necessary.**
1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
 2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
 3. Was the prior tenant evicted for cause?
 4. At the time the prior tenant vacated were there any outstanding violations of building housing, fire or safety codes in the unit or building?
 5. Is the unit separately alienable, meaning it can be sold separately from any other unit on the parcel?
 6. Did the petitioning tenant have roommates when he/she moved in?
 7. If the unit is a condominium, did you purchase it? If so: 1) From whom? 2) Did you purchase the entire building?
- ☐ The rent for the unit is controlled, regulated, or subsidized by a governmental unit, agency, or authority other than the City of Oakland Rent Adjustment Ordinance. (Attach documentation.)
- ☐ The unit was newly constructed and issued a Certificate of Occupancy on or after January 1, 1983. (Attach copy of Certificate of Occupancy.)
- ☐ The unit is located in a motel, hotel, or rooming/boarding house, which the tenant petitioner has occupied for less than 30 days.
- ☐ The unit is in a building that was previously issued a certificate of exemption from RAP based on substantial rehabilitation. (Attach copy of Certificate of Exemption.)
- ☐ The unit is an accommodation in a hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged, or dormitory owned and operated by an educational institution. (Attach documentation.)

RESPONSE TO TENANT PETITION

Use the chart(s) below to respond to the grounds stated in the Tenant Petition. Enter your position on each claim in the appropriate section(s) below. You may attach any documents, photographs, or other tangible evidence that support your position together with your response form. If you need more space, attach additional copies of this page or state your response in a separate sheet attached to this form.

A.	Unlawful Rent Increase(s)
	<i>Complete this section if any of the grounds for the Tenant Petition fall under Category A on the Tenant Petition.</i>

List all rent increases given within the past five years, starting with the most recent increase.

Date tenant given notice of rent increase:	Date rent increase went into effect:	Amount of increase:		Did you provide a RAP Notice with the notice of rent increase?		Reason for increase (CPI, banking, or other):
		FROM	TO	YES	NO	
(mm/dd/yy)	(mm/dd/yy)					
4/15/2020	1/1/21	\$ 1178	\$ 2800	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Costa - Hawkins
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	

If the Tenant Petition is based on either of the following grounds, state your response in the space below or in a separate sheet attached to this form.

Tenant Petition Grounds		Owner Response
(A2)	Tenant did not receive proper notice, was not properly served, and/or was not provided with the required RAP form with rent increase(s).	Owner denies this claim and will provide testimony at hearing and evidentiary documentation prior to hearing per RAP regulations. - See Attachment A
(A3)	A government agency has cited the unit for serious health, safety, fire, or building code violations.	Owner denies this claim and will provide testimony at hearing and evidentiary documentation prior to hearing per RAP regulations. - See Attachment A

B.	Decreased Housing Services
	<i>Complete this section if any of the grounds for the Tenant Petition fall under Category B on the Tenant Petition.</i>

Tenant Petition Grounds		Owner Response
(B1)	The owner is providing tenant(s) with fewer housing services and/or charging for services originally paid for by the owner.	
(B2)	Tenant(s) is/are being unlawfully charged for utilities.	

C.	Other
	<i>Complete this section if any of the grounds for the Tenant Petition fall under Category C on the Tenant Petition.</i>

Tenant Petition Grounds		Owner Response
(C1)	Rent was not reduced after a prior rent increase period for capital improvements.	
(C2)	Owner exemption based on fraud or mistake.	
(C3)	Tenant's initial rent amount was unlawful because owner was not permitted to set initial rent without limitation (O.M.C. § 8.22.080 (C)).	

OWNER VERIFICATION

(Required)

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



Property Owner 1 Signature

Owner Representative

2/8/2022

Date

Property Owner 2 Signature

Date

CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

Check the box below if you agree to have RAP staff send you documents related to your case electronically. If all parties agree to electronic service, the RAP will send certain documents only electronically and not by first class mail.

☒ I/We consent to receiving notices and documents in this matter electronically at the email address(es) provided in this response.

MEDIATION PROGRAM

Mediation is an optional process offered by RAP to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. A trained third party will work with the parties prior to the hearing to see if a mutual agreement can be reached. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

Mediation will only be scheduled if both parties agree to mediate. Sign below if you agree to mediation in your case.

I agree to have the case mediated by a Rent Adjustment Program staff mediator.

Property Owner Signature

Date

INTERPRETATION SERVICES

If English is not your primary language, you have the right to an interpreter in your primary language/dialect at the Rent Adjustment hearing and mediation session. You can request an interpreter by completing this section.

☐ I request an interpreter fluent in the following language at my Rent Adjustment proceeding:

- ☐ Spanish (Español)
- ☐ Cantonese (廣東話)
- ☐ Mandarin (普通话)
- ☐ Other: _____

-END OF RESPONSE-



CITY OF OAKLAND

CITY OF OAKLAND

RENT ADJUSTMENT PROGRAM

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612-0243

(510) 238-3721

CA Relay Service 711

www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR RESPONSE (PLUS ANY ATTACHMENTS) ON THE TENANT(S) PRIOR TO FILING YOUR RESPONSE WITH RAP.

- 1) Use this PROOF OF SERVICE form to indicate the date and manner of service and the person(s) served.
- 2) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 3) File a completed copy of this PROOF OF SERVICE form with RAP together with your Response. Your Response will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 2 / 8 / 2022 I served a copy of (check all that apply):

☒ **PROPERTY OWNER RESPONSE TO TENANT PETITION** plus 1 attached pages
(number of pages attached to Response not counting the Response form or PROOF OF SERVICE)

☐ Other: _____

by the following means (check one):

☐ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

☐ **Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.

☐ **Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

☒ **Electronic Service**

PERSON(S) SERVED:

Name	Laurie Fleurentin
Address	loyfle10@gmail.com
City, State, Zip	

Name	Johanna Kanesh
Address	jkanesh@heraca.org
City, State, Zip	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

JR McConnell, Owner Representative

PRINTED NAME



SIGNATURE

2/8/2022

DATE SIGNED

IMPORTANT INFORMATION REGARDING FILING YOUR RESPONSE

TIME TO FILE YOUR RESPONSE

Your Property Owner Response form must be received by the Rent Adjustment Program within 35 days after the Tenant Petition was mailed to you (30 days if the Petition was delivered in-person). RAP staff cannot grant an extension of time to file.

CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING

To make an appointment, email RAP@oaklandca.gov or call (510) 238-3721. Although the Housing Resource Center is temporarily closed for drop-in services, assistance is available by email or telephone.

DOCUMENTS SUBMITTED IN SUPPORT OF RESPONSE

All attachments submitted together with your Response must be numbered sequentially. You may submit additional evidence in support of your Response up to seven days before your hearing. You must serve a copy of any documents filed with RAP on the other party and submit a PROOF OF SERVICE form.

SERVICE ON TENANT(S)

You are required to serve a copy of your Property Owner Response form (plus any attachments) on the tenant or the tenant's representative and submit a PROOF OF SERVICE form together with your Response.

- (1) Serve a copy of your Response on the tenant by mail or personal delivery.
- (2) Complete a PROOF OF SERVICE form (*included in this Response packet and available on RAP website*) indicating the date and manner of service and the person(s) served.
- (3) Provide the tenant with a completed copy of the PROOF OF SERVICE form together with the document(s) being served.
- (4) File a completed copy of the PROOF OF SERVICE form together with your Response when submitting to RAP.

Note: Your Response will not be considered complete until a PROOF OF SERVICE form has been filed indicating that the tenant has been served.

FILING YOUR RESPONSE

Although RAP normally does not accept filings by email or fax, RAP is temporarily accepting Responses via email during the COVID-19 local state of emergency. You may also fill out and submit your Response online through the RAP website or deliver the Response to the RAP office by mail. If the RAP office is closed on the last day to file, the time to file is extended to the next day the office is open. If you send your Response by mail, a postmark date does not count as the date it was received. Remember to file a PROOF OF SERVICE form together with your Response.

Via email: hearingsunit@oaklandca.gov

Mail to: City of Oakland
Rent Adjustment Program
250 Frank H. Ogawa Plaza, Ste. 5313
Oakland, CA 94612-0243

File online: <https://www.oaklandca.gov/services/respond-to-a-tenant-petition-for-the-rent-adjustment-program>

In person: TEMPORARILY CLOSED
City of Oakland
Dalziel Building, 250 Frank H. Ogawa Plaza Suite
5313 Reception area
Use Rent Adjustment date-stamp to stamp your documents to verify timely delivery and place them in RAP self-service drop box.

AFTER RESPONSE IS FILED

In most cases, RAP will schedule a hearing to determine whether the Tenant Petition should be granted or denied. You will be mailed a Notice of Hearing indicating the hearing date. If you are unable to attend the hearing, contact RAP as soon as possible. The hearing will only be postponed for good cause.

FILE/DOCUMENT REVIEW

Either party may contact RAP to review the case file and/or to request copies of any documents pertaining to the case at any time prior to the scheduled hearing.

FOR MORE INFORMATION

Additional information on the petition and hearing process is located on the RAP website and in the Residential Rent Adjustment Program Ordinance and Regulations (see Oakland Municipal Code 8.22.010 *et seq.*). For more information on rent increases, including the list of the annual allowable CPI rates and calculators for certain justifications, see: <https://www.oaklandca.gov/resources/learn-more-about-allowable-rent-increases>, or you can refer to the Guide on Oakland Rental Housing Law at <https://cao-94612.s3.amazonaws.com/documents/Guide-to-Oakland-Rental-Housing-Law-1.pdf>. You may also contact a RAP Housing Counselor with questions at any time by emailing RAP@oaklandca.gov or calling (510) 238-3721.

Attachment A

- The rent increase is authorized by Costa Hawkins rental housing act
- The Petition is time barred
- Owner denies each and every allegation made by Tenant
- Owner reserves the right to amend the response as more information becomes available

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 Account # 00206650
 UNIVERSITY PRESIDENT ASSOCIATES LP

Business License Online Renewal
[PRINT THIS PAGE FOR YOUR RECORD](#)

Your business license renewal has been successfully submitted. You will receive a link to print your business license shortly. Please allow up to 10 working days. If you have any questions, please contact the Business Tax office at (510) 238-3704. Thank you. Business Tax Office City of Oakland

Submission Date	1/25/2021
Confirmation #	218919

Account Information

Account #	00206650
Expire Date	12/31/2021
Name	UNIVERSITY PRESIDENT ASSOCIATES LP
Address	315 WAYNE PL
City	OAKLAND
Phone	(415) 733-0828

Summary

	Input	Amount
STD		
Enter 2020 Gross Receipts *(Enter estimated 2021 Gross Receipts if business started in Oakland in 2020)*	822,886.9	\$11,479.27
BT SB1186 (AB1379)	1	\$4.00
BT Recordation and Tech	1	\$3.00
RAP		
a. Total # of units per Alameda County Records:	46	\$4,646.00
Total Due		\$16,132.27
Payment Information		
Payment Amount		\$16,132.27

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[Oakland Museum](#)

 For Assistance
 Email: btwebsupport@oaklandca.gov
 Phone: (510) 238-3704

 City of Oakland
 250 Frank H Ogawa Plaza, Suite 1320
 Oakland, CA 94612

 Hours:
 8:00 AM-4:00 PM
 Monday, Tuesday, Thursday, Friday



CITY OF OAKLAND

CITY OF OAKLAND

RENT ADJUSTMENT PROGRAM

250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

PROOF OF SERVICE

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- 2) Provide a completed copy of this PROOF OF SERVICE form to the person(s) being served together with the documents being served.
- 3) File a completed copy of this PROOF OF SERVICE form with RAP together with your Response. Your Response will not be considered complete until this form has been filed indicating that service has occurred.

On the following date: 2 / 9 / 2022 I served a copy of (check all that apply):

☐ **PROPERTY OWNER RESPONSE TO TENANT PETITION** plus attached pages
(number of pages attached to Response not counting the Response form or PROOF OF SERVICE)

☒ Other: Business License Renewal Receipt

by the following means (check one):

☐ **United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

☐ **Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.

☐ **Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

☒ **Electronic Service**

PERSON(S) SERVED:


Name	Laurie Fleurentin
Address	loyfle10@gmail.com
City, State, Zip	

Name	Johanna Kanes
Address	jkanes@heraca.org
City, State, Zip	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

JR McConnell, Owner Representative

PRINTED NAME



SIGNATURE

2/9/2022

DATE SIGNED

CITY OF OAKLAND



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

Department of Housing and Community Development
Rent Adjustment Program

TEL (510) 238-3721
FAX (510) 238-6181
CA Relay Service 711

ADMINISTRATIVE DECISION

CASE NUMBER: T22-0015, Fleurentin v. Meridian Management Group

PROPERTY ADDRESS: 315 Wayne Place, Unit #307, Oakland, CA

PARTIES: Laurie Fleurentin, Tenant
Johanna Kanes, Tenant's Representative
Meridian Management Group, Owner's Agent
The McConnell Group, Owner's Representative

INTRODUCTION AND EVIDENCE

On January 3, 2022, the tenant, Laurie Fleurentin, and her Attorney Representative, Johanna Kanes, filed a Tenant Petition, contesting a single rent increase.

The tenant stated in his Tenant Petition under penalty of perjury that she received the contested rent increase notice on April 15, 2020, and that the contested rent increase proposed to increase the monthly rent from \$1,178.00 to \$2,800.00, effective January 1, 2021. The tenant and her representative submitted Exhibit 1 to the Tenant Petition, that included a copy of the rent increase notice together with a notice of the Rent Adjustment Program (RAP Notice).

The contested rent increase is the only issue in the Tenant Petition.

REASON FOR ADMINISTRATIVE DECISION

An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to allow resolution of disputes of material fact. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing and there are no material facts in dispute. Therefore, an Administrative Decision is being issued.

000139

Timeliness of the Tenant Petition to Contest a Rent Increase

For a petition contesting a rent increase, the petition must be filed within 90 days of the date the owner serves the rent increase notice if the owner provided the RAP Notice with the rent increase.¹

The tenant stated in her petition under penalty of perjury that she received the rent increase notice on April 15, 2020. She submitted a copy of the rent increase notice that included the RAP Notice. To timely contest this rent increase, the tenant had 90 days from April 15, 2020, to contest it, which would have been July 13, 2020. The tenant petition was filed on January 3, 2022. Therefore, the tenant petition is not timely filed to contest this rent increase.

ORDER

1. The Tenant Petition T22-0015 is dismissed as untimely filed.
2. The Hearing scheduled for April 4, 2022, is cancelled.

Right to Appeal: This is the final decision of the Rent Adjustment Program (RAP). A party may appeal this decision by filing a completed RAP appeal form that must be received within 20 days after service of the decision, shown on the attached Proof of Service.

Dated: March 15, 2022

Linda Moroz

Linda M. Moroz, Hearing Officer
Rent Adjustment Program

¹ O.M.C. §8.22.090A(2)(a)(i)

PROOF OF SERVICE

Case Number T22-0015

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 documents listed below by placing a true copy 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:

Documents Included

Administrative Decision

Property Owner

Jennifer Weingard
Meridian Management/University President Associates
1717 Powell Street, Suite 300
San Francisco, CA 94133

Owner representative

Greg/JR McConnell
The McConnell Group
1 Embarcadero W. #168
Oakland, CA 94607

Tenant

Laurie Fleurentin
315 Wayne Place, Unit # 307
Oakland, CA 94606

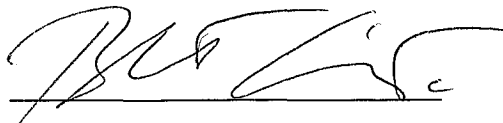
Tenant Representative

Johanna Kanes
Housing & Economic Rights Advocate
PO Box 29435
Oakland, CA 94604

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.

000141

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **March 16, 2022** in Oakland, CA.

A handwritten signature in black ink, appearing to read 'Robert F. Costa', written over a horizontal line.

Robert F. Costa

Oakland Rent Adjustment Program



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

APPEAL

Appellant's Name Laurie Fleurentin	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
Property Address (Include Unit Number) 315 Wayne Place, Unit 307, Oakland, CA 94606	
Appellant's Mailing Address (For receipt of notices) Same as property address	Case Number T22-0015
	Date of Decision appealed March 15, 2022
Name of Representative (if any) Christa Conry, Esq. Housing and Economic Rights Advocates (HERA)	Representative's Mailing Address (For notices) P.O. Box 29435 Oakland, CA 94604

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.)*

- 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 the Owner's 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.)

Supporting documents (in addition to this form) must *not* exceed 25 pages, and must be received by the Rent Adjustment Program, along with a proof of service on the opposing party, within 15 days of the filing of this document. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(4). *Please number attached pages consecutively. Number of pages attached: 3*.

- **You must serve a copy of your appeal on the opposing parties, or your appeal may be dismissed.** •
 I declare under penalty of perjury under the laws of the State of California that on April 4, 2022, 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>	Greg/JR McConnell, The McConnell Group
<u>Address</u>	1 Embarcadero W. #168
<u>City, State Zip</u>	Oakland, CA 94607
<u>Name</u>	Jennifer Weingard, Meridian Management/ University President Associates
<u>Address</u>	1717 Powell Street, Suite 300
<u>City, State Zip</u>	San Francisco, CA 94133

	04/02/22
---	----------

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 the information required, or your appeal cannot be processed and may be dismissed.
- **Any response to the appeal by the responding party must be received by the Rent Adjustment Program, along with a proof of service on appealing party, within 15 days of service of the service of the appeal if the party was personally served. If the responding party was served the appeal by mail, the party must file the response within 20 days of the date the appeal was mailed to them.**
- There is no form for the response, but the entire response is limited to 25 pages or less.
- The Board will not consider new claims. All claims, except jurisdictional issues, 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 that you want the Board to review must be pre-designated to Rent Adjustment Staff.



housing and
economic
rights advocates

Oakland Rent Adjustment Program
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, California 94612
hearingsunit@oaklandca.gov

Sent via Email

CC: David P. Wasserman
Wasserman-Stern Law Offices
2960 Van Ness Avenue
San Francisco, CA 94109
dwasserman@wassermanstern.com

CC: Jennifer Weingand
Property Supervisor
Meridian Management Group
614 Grand Ave. #206
Oakland, CA 94610
jweingand@mmgprop.com

CC: Greg/JR McConnell
The McConnell Group
1 Embarcadero W. #168
Oakland, CA 94607

Sent via US Mail and Email

April 4, 2022

Re: Case Number T22-0015, 315 Wayne Place, Unit 307, Oakland

To the Oakland Rent Adjustment Program:

My organization represents tenant Laurie Fleurentin regarding an invalid and unenforceable rent increase she received on April 15, 2020. The rent increase attempts to increase Ms. Fleurentin's rent at the aforementioned property by 137.7%, well above the allowable limits of Oakland and California law. Ms. Fleurentin filed a petition for unlawful rent increase with the City of Oakland Residential Rent Adjustment Program on January 4, 2022. On March 15, 2022, she received notice of cancellation of hearing and the Hearing Officer's administrative decision dismissing her petition as untimely filed.

Ms. Fleurentin appeals the order dismissing her petition and cancelling her hearing on the following grounds:

1) **The decision is inconsistent with OMC Chapter 8.22 and Rent Board Rules and Regulations;**

Oakland Municipal Code section 8.22.090(2)(b) provides a tenant must file a petition contesting an illegal rent increase within ninety days “of the date the tenant first receives written notice of the existence and scope of [the Chapter of the Oakland Municipal Code titled Residential Rent Adjustments and Evictions] as required by Section 8.22.060.” OAKLAND MUNICIPAL CODE § 8.22.090(2)(b). Section 8.22.060 requires an owner to give this initial written notice in a form prescribed by the Rent Adjustment Program and that the notice be in English, Spanish, and Chinese. OAKLAND MUNICIPAL CODE § 8.22.060(A)(2).

As outlined in her initial petition, Ms. Fleurentin never received a proper RAP Notice in English, Spanish, and Chinese, as required by Section 8.22.060, at the commencement of her tenancy. Therefore, under Section 8.22.090(2)(b), there is no time limit by which Ms. Fleurentin is required to bring a petition contesting a rent increase. Only when the owner serves Ms. Fleurentin a proper RAP notice will the deadline to contest any rent increase, as outlined in Section 8.22.090, begin. *See* OAKLAND MUNICIPAL CODE § 8.22.090(2)(b). For this reason, the administrative decision dismissing Ms. Fleurentin’s petition as untimely filed is not consistent with Oakland Law.

2) **The decision violates local law;**

In response to the COVID-19 Pandemic, on March 27, 2020, Oakland Ordinance No. 13589 C.M.S. (as extended on July 21, 2020) (hereinafter the “Emergency Ordinance”), established a moratorium on rent increases above the consumer price index of 1.9%. The Emergency Ordinance applies to units regulated by the Oakland Just Cause for Eviction and Oakland Rent Adjustment Ordinances. The Emergency Ordinance provides as follows: “For rental units regulated by Oakland Municipal Code 8.22.010 et seq, any notice of rent increase in excess of the CPI Rent Adjustment, as defined in Oakland Municipal Code Section 8.22.020, **shall be void and unenforceable if the notice is served or has an effective date during the Local Emergency...**” OAKLAND ORDINANCE NO. 13589 C.M.S. § 4 (emphasis added). The Emergency Ordinance does not require a tenant who receives a rent increase notice above the consumer price index of 1.9% to challenge the notice within a certain time. Instead, it automatically invalidates a rent increase issued during its effective period. *Id.*

There is no dispute that Ms. Fleurentin’s unit is regulated by both the Oakland Just Cause for Eviction and Rent Adjustment Ordinances. The unit is not exempt from those laws under any framework. The proposed increase is well over the CPI Rent Adjustment and was served on April 15, 2020, while the Emergency Ordinance was in



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effect. For these reasons, the increase is void and unenforceable as a matter of law. The Oakland Rent Adjustment Program is charged with regulating rental units in the City of Oakland and should therefore use its powers to allow a hearing to determine, or alternatively issue an administrative decision, that rent increases in violation of local law are invalid. For this reason, Ms. Fleurentin's petition should not have been dismissed because the procedural requirements for bringing petitions outside the local emergency do not apply to this rent increase which was issued during the local emergency.

3) The decision is not supported by substantial evidence.

As described above, evidence found in the case record demonstrates that Ms. Fleurentin's petition regarding an illegal rent increase should not be dismissed. Because Ms. Fleurentin did not receive a proper RAP notice at the inception of her tenancy, the time requirements to bring a petition under Oakland Municipal Code section 8.22.090(A)(2)(a) do not apply. Instead, the provisions of Section 8.22.090(2)(b) apply and Ms. Fleurentin is only required to bring a petition for unlawful rent increase within ninety days *if and when* she receives a valid RAP notice.

Furthermore, the evidence found in the case record demonstrates that the owner's attempted rent increase was served during the effective period of the Oakland Emergency Ordinance prohibiting rent increases above the CPI Rent Adjustment. Ms. Fleurentin's petition, therefore, should not be dismissed so the Rent Adjustment Program can issue a ruling reflecting that the owner's rent increase notice violates this local emergency ordinance.

For the foregoing reasons, Ms. Fleurentin respectfully appeals the Rent Adjustment Program's Order of March 15, 2022 dismissing her petition and cancelling her hearing.

I thank you for prompt attention to this matter. Please let me know if I may provide any further documentation or information.

Sincerely,

Christa Conry
Staff Attorney (She/Her)
Housing and Economic Rights Advocates (HERA)
Phone: (510) 775-1576
Fax: (510) 225-3891
Email: cconry@heraca.org

WASSERMAN
S A N F R A N C I S C O

RL

April 6, 2022

RECEIVED

APR 11 2022

OAKLAND RENT
ADJUSTMENT PROGRAM

Oakland Rent Adjustment Program
250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612
hearingsunit@oaklandca.gov

Christa Conry
Staff Attorney
Housing and Economic Rights Advocates
P.O. Box 29435
Oakland, CA 94604
cconry@heraca.org

Re: Case Number T22-0015, 315 Wayne Place, Unit 307, Oakland

Dear Commissioners:

On behalf of the 315 Wayne Place housing provider ("Wayne Place"), I would like to submit a brief response to HERA's April 4th letter and appeal.

With regard to the contention that the Costa-Hawkins rent adjustment is invalid, Wayne Place respectfully disagrees. The notice, served when Wayne Place received written affirmation that the last original occupant was no longer permanently residing at the apartment, comports with Civil Code Section 827. The adjustment to market rate rent was given well more than 90 days in advance; indeed, the notice was issued in mid-April of 2020 with an effective date of January 1, 2021.

As you know, Section 8.22.060 speaks to a multilingual notice requirement at the inception or commencement of a tenancy. In this instance, there was no new tenancy; rather, per Costa-Hawkins, the existing tenancy continues with an adjusted rent. Indeed, the notice in question here was properly served upon all occupants, both the original lessees and the subsequent lessees.

For ease of reference, the pertinent portion of Section 8.22.060 is reprinted on the next page. Again, this is not a new tenancy. As Ms. Conry notes, her client moved into the apartment in March of 2013 and joined an already existing tenancy. The April 2020 noticed rent adjustment was simply just that: a rent increase for an existing and still existing tenancy.

8.22.060 - Notice of the existence of this chapter required at commencement of tenancy.

Notice at Commencement of Tenancy. The owner of any covered unit is required to comply with the following notice requirements at the commencement of any tenancy:

1. On or before the date of commencement of a tenancy, the owner must give the tenant a written notice in a form prescribed by the Rent Adjustment Program which must include the following information:

- a. The existence and scope of this chapter; and
- b. The tenant's rights to petition against certain rent increases.

2. The owner must give the initial notice in four languages: English, Spanish, Mandarin, and Cantonese.

B. Evidence of Giving Notice. When filing an owner's response to a tenant petition or an owner's petition for a rent increase, the owner must submit evidence that the owner has given the notice required by this section to the affected tenants in the building under dispute in advance of the filing. When responding to a tenant petition, the owner may allege that the affected dwelling units are exempt in lieu of providing evidence of complying with the notice requirement. If an owner fails to submit the evidence and the subject dwelling unit is not exempt, then the owner's petition or response to a tenant's petition must be dismissed. This evidence can be a statement of compliance given under oath, however, the tenant may controvert this statement at the hearing. An owner's filing the notice in advance of petition or response prevents the owner's petition or response from being dismissed, but the owner may still be subject to the rent increase forfeiture if the notice was not given at the commencement of the tenancy or within the cure period set out in Section 8.22.060(C).

C. Failing to Give Notice. An owner who fails to give notice of the existence and scope of the Rent Adjustment Program at the commencement of a tenancy, but otherwise qualifies to petition or respond to a petition filed with the Rent Adjustment Program, will forfeit six months of the rent increase sought unless the owner cured the failure to give the notice. An owner may cure the failure to give the notice at the commencement of a tenancy required by this section and not be subject to a forfeiture of a rent increase if the owner gives the notice at least six months prior to serving the rent increase notice on the tenant or, in the case of an owner petition, at least six months prior to filing the petition.

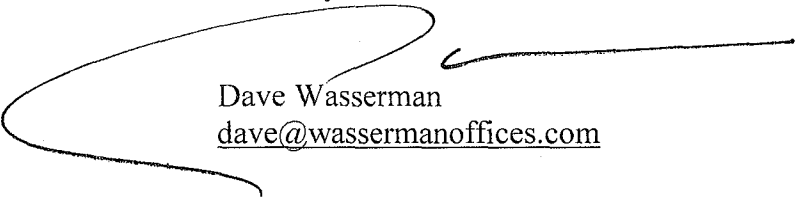
Next, Ms. Fleurentin argues that the local rent increase moratorium render this increase as null and void. It does not. This rent adjustment was given pursuant to Costa-Hawkins. OMC Section 8.22.030(A)(7) exempts rental units that are subject to Costa-Hawkins rent adjustments. Specifically, the rent law states in pertinent part as follows:

A. The following dwelling units are not covered units for purposes of this chapter...

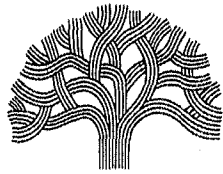
7. Dwelling units exempt pursuant to Costa-Hawkins (California Civil Code § 1954.52).

In sum, Wayne Place submits that Section 8.22.060 is inapplicable to this situation, as there is no new tenancy. The emergency ordinance is likewise inapplicable, as the apartment was exempt from coverage with regard to this rent adjustment. (Incidentally, the effective date of the rent adjustment, January 1, 2021, is well past the June 30, 2020 expiration date of the rent increase moratorium.) As such, this rent adjustment was neither void nor unenforceable. Ms. Fleurentin had plenty of time to contest it. She did not, and the 90-day rule applies absent evidence that Wayne Place, or its predecessor-in-interest, failed to provide the requisite RPA notice at the inception of the tenancy (e.g., circa March of 2013).

Sincerely,



Dave Wasserman
dave@wassermanoffices.com



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Suite 5313
Oakland, CA 94612-0243
(510) 238-3721
CA Relay Service 711
www.oaklandca.gov/RAP

For Rent Adjustment Program date stamp.

PROOF OF SERVICE

NOTE: YOU ARE REQUIRED TO SERVE A COPY OF YOUR PETITION OR RESPONSE (PLUS ANY ADDITIONAL DOCUMENTS) ON THE OPPOSING PARTIES.

- Use this PROOF OF SERVICE form to indicate the date and manner in which service took place, as well as the person(s) served.
- Provide a copy of this PROOF OF SERVICE form to the opposing parties together with the document(s) served.
- File the completed PROOF OF SERVICE form with the Rent Adjustment Program together with the document you are filing and any attachments you are serving.
- Please number sequentially all additional documents provided to the RAP.

PETITIONS FILED WITHOUT A PROOF OF SERVICE WILL BE CONSIDERED INCOMPLETE AND MAY BE DISMISSED.

I served a copy of:

Letter Re: Case Number T22-0015, 315 Wayne Place, Unit 307, Oakland

(insert name of document served)

☐ And Additional Documents

and (write number of attached pages) 3 attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- ☒ a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. 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 listed below.
- ☐ c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.

PERSON(S) SERVED:

Name	Oakland Rent Adjustment Program
Address	250 Frank H. Ogawa Plaza, Suite 5313
City, State, Zip	Oakland, CA 94612

Name	Christa Conry, Staff Attorney, Housing & Economic Rights Advocates
Address	P.O. Box 29435
City, State, Zip	Oakland, CA 94604

Name	Jennifer Weingand, Property Supervisor, Meridian Mangement Group
Address	614 Grand Avenue #206
City, State, Zip	Oakland, CA 94610

Name	Greg/ JR McConnell, The McConnell Group
Address	1 Embarcadero W. #168
City, State, Zip	Oakland, CA 94607

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

To serve more than 8 people, copy this page as many times as necessary and insert in your proof of service document. If you are only serving one person, you can use just the first and last page.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on 4 / 7 / 2022 (insert date served).

Linda Cikes

PRINT YOUR NAME


SIGNATURE

4/7/2022

DATE

CITY OF OAKLAND
Rent Adjustment Program



MEMORANDUM

Date: May 20, 2022
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Oliver Luby, Deputy City Attorney
Re: Appeal Summary in T19-0278, Ivory v. SF Rents
Appeal Hearing Date: May 26, 2022

Property Address: 411 Fairmount Ave., #101, Oakland, CA
Appellant/Owner: SF Rent
Respondent/Tenant: Geraldine Ivory

BACKGROUND

On May 1, 2019, the tenant filed a petition alleging health, safety, fire, or building code violations and claiming decreased housing services. The owner did not file a response.

A hearing on the petition was conducted on November 27, 2019. The hearing was attended by the tenant but not by the owner or an owner representative.

RULING ON THE CASE

Due to improper service on the parties of the original Hearing Decision in August of 2020, the Hearing Officer issued a Revised Hearing Decision on January 7, 2022, which was mailed to the parties on January 11, 2022 and again on January 20, 2022. Based on testimony of the tenant and a witness, a former property manager, the Decision:

- Granted ongoing rent reductions for (1) an unclean elevator and common areas (4% of base rent), (2) a broken security gate (4% of base rent), and (3) missing and defective security cameras (3% of base rent), effective April 1,

2020, and lasting until the conditions are addressed and proper notice of rent increase;

- Stated that addressing the unclean elevator and common areas would require posting a Janitorial or Cleaning Log in the elevator, parking garage, and interior common area near the entrance to document monthly cleaning and address tenant complaints regarding the elevator being dirty within 72 hours;
- Granted restitution for overpaid rent based on the decreased housing services, from 90 days before the petition date (January 31, 2019) to January 5, 2022, totaling \$6,803.12.

GROUND FOR APPEAL

The owner timely appealed on the following grounds:

- The decision is not supported by substantial evidence;
- Denial of sufficient opportunity to present claims.

The owner contends that (1) “the hearing decision was amended and extended without notice,” (2) the tenant’s witness, a former property manager, is not credible and had unsuccessfully sued the owner after the owner removed large amounts of debris and waste he had placed in common areas, utility rooms, and storage spaces, and (3) the tenant’s testimony was not accurate and the decreased housing services did not occur, proffering new evidence to support the contention.

ISSUES

1. Were the Hearing Decision’s determinations regarding decreased housing services supported by substantial evidence?
2. Regarding the owner’s proffer of new evidence, did the owner have good cause for failure to file a response to the petition?

APPLICABLE LAW AND PAST BOARD DECISIONS

1. Applicable Law

- a. Evidence at Appeal Hearing - Rent Adjustment Program Regulations Section 8.22.120(F)(1):

“As a general rule, the Board and Appeal Panels should not conduct evidentiary hearings. When the Board or Appeal Panel determines that additional evidence or reconsideration of evidence is necessary, the Board or Appeal Panel should remand the matter back to a Hearing Officer for consideration of the evidence.”

b. Past Board Decisions

a. Substantial Evidence

T00-0340, -0367, & -0368, Knox v. Progeny Properties

Board will not overturn factual findings made by Hearing Officer if there is substantial evidence to support the hearing decision.

b. Failure of Respondent to File Response

T02-0404, Santiago v. Vega

Party that fails to file a timely response is precluded from introducing evidence but is permitted to cross-examine opposing party and to present a closing argument.

#3176216v1

CITY OF OAKLAND
Rent Adjustment Program



MEMORANDUM

Date: May 20, 2022
To: Members of the Housing, Rent Residential & Relocation Board (HRRRB)
From: Oliver Luby, Deputy City Attorney
Re: Appeal Summary in T22-0015,
Fleurentin v. Meridian Management Group
Appeal Hearing Date: May 26, 2022

Property Address: 315 Wayne Place, Unit #307, Oakland, CA
Appellants/Tenant: Laurie Fleurentin
Respondent/Owner: University President Associates LP (Property Manager – Meridian Management Group)

BACKGROUND

On January 3, 2022, the tenant filed a petition contesting a monthly rent increase from \$1,178 to \$2,800, noticed on April 15, 2020, and effective January 1, 2021. The owner filed a response on February 8, 2022.

RULING ON THE CASE

The Hearing Officer issued an Administrative Decision on March 15, 2022, which was mailed to the parties on March 16, 2022. The Decision stated that the tenant petition was submitted with a copy of the rent increase notice that included the RAP Notice. The Decision dismissed the petition for lack of timeliness, citing to Oakland Municipal Code (“O.M.C.”) Section 8.22.090(A)(2)(a)(i), which requires petitions contesting a rent increase to be filed within ninety (90) days of the rent increase notice if the owner provided the RAP Notice both at the inception of tenancy and with the rent increase notice.

GROUND FOR APPEAL

On April 4, 2022, the tenant timely appealed on the following grounds:

- The decision is inconsistent with O.M.C. Chapter 8.22, Rent Board Regulations, or prior decisions of the Board;
- The decision violates federal, state or local law;
- The decision is not supported by substantial evidence.

The tenant contends that:

- (1) the owner has never provided the tenant with a complete RAP Notice, including notices in Spanish and Chinese as required by O.M.C. 8.22.060(A)(2), and therefore there is no time limit to file a petition contesting the rent increase until the complete RAP Notice is provided, pursuant to O.M.C. 8.22.090(A)(2)(b); and
- (2) the COVID-19 Local Emergency moratorium on evictions and rent increases that was in effect when the rent increase was noticed provides that any rent increase in excess of the Consumer Price Index (CPI) Rent Adjustment that is served while the moratorium is in effect is “void and unenforceable” and there is no time limit for challenging an automatically invalid rent increase.

The owner submitted a response to the tenant’s appeal, contending:

- (1) the tenant joined an existing tenancy that had commenced around March of 2013 and the 90-day time limit to petition applies absent evidence that the owner failed to provide the RAP Notice at that time; and
- (2) the rent increase moratorium does not apply because O.M.C. Section 8.22.030(A)(7) (“Dwelling units exempt pursuant to Costa-Hawkins (California Civil Code § 1954.52”) exempts Costa-Hawkins rent increases and the January 1, 2021, effective date of the rent increase is past the June 30, 2020, expiration date of the moratorium.

ISSUES

1. Timeliness of petition contesting rent increase: When did the tenant’s tenancy commence and did the owner provide a sufficient RAP Notice at that time? If not, did the owner later provide the tenant with a sufficient RAP Notice?
2. If a petition is untimely but alleges that a rent increase in excess of CPI was served or took effect while the Local Emergency rent increase moratorium was in effect, must RAP issue a Decision on the allegation despite the untimeliness due to the moratorium rendering applicable increases void and unenforceable?

APPLICABLE LAW AND PAST BOARD DECISIONS

1. Applicable Law

a. O.M.C. Section 8.22.060(A)¹:

“A. Notice at Commencement of Tenancy. The owner of any covered unit is required to comply with the following notice requirements at the commencement of any tenancy:

1. On or before the date of commencement of a tenancy, the owner must give the tenant a written notice in a form prescribed by the Rent Adjustment Program which must include the following information:

a. The existence and scope of this Chapter;

b. The tenant's rights to petition against certain rent increases;

c. Whether the Owner is permitted to set the initial Rent to the new Tenant without limitation (such as pursuant to the Costa-Hawkins Act (California Civil Code Sec. 1954.52));

d. If the Owner is not permitted to set the initial Rent to the new Tenant (such as after an eviction noticed pursuant to California Civil Code Sec. 1946), the Owner must state the Rent in effect when the prior Tenant vacated, and if the initial Rent is in excess of the Rent to the prior Tenant the basis for any Rent in excess of the Rent to the prior tenant (which can only be based on the CPI Rent Adjustment, Banking, and/or a final a final decision in an Owner's petition).

2. The Owner must give the initial notice in three languages: English, Spanish, and Chinese.”

b. Rent Adjustment Program Regulations Section 8.22.060 (“Notice of the Existence of Chapter 8.22 Required at Commencement of Tenancy”), subsection (A) (“Providing Notice in Multiple Languages”), sub part (1):

“The requirement to provide the Notice of the Existence of Chapter 8.22 Required at Commencement of Tenancy in multiple languages took effect on September 21, 2016 and only applies to new tenancies that commenced on or after that date.”

c. O.M.C. Section 8.22.090(A)(2):

“For a petition contesting a rent increase, the petition must be filed as follows:

a. If the owner provided written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy:

i. The petition must be filed within ninety (90) days of the date the owner serves the rent increase notice if the owner provided the RAP notice with the rent increase; or

¹ O.M.C. Section 8.22.060(A)(2) was added by amendment and became effective September 20, 2016.

ii. The petition must be filed within one hundred twenty (120) days of the date the owner serves the rent increase if the owner did not provide the RAP notice with the rent increase.

b. If the owner did not provide written notice of the existence and scope of this Chapter as required by Section 8.22.060 at the inception of tenancy, within ninety (90) days of the date the tenant first receives written notice of the existence and scope of this Chapter as required by Section 8.22.060. ”

d. COVID-19 Local Emergency eviction and rent increase moratorium ordinance:

On March 9, 2020, the Oakland City Administrator issued a proclamation of Local Emergency in response to the COVID-19 pandemic. The Local Emergency was ratified by the Oakland City Council on March 12, 2020. As of the date of this memorandum, the Local Emergency remains in effect. On March 27, 2020, the City Council adopted an emergency eviction and rent increase moratorium ordinance. Section 4 of the ordinance states (emphasis in original):

“Rent Increase Moratorium. For rental units regulated by Oakland Municipal Code 8.22.010 et seq, any notice of rent increase in excess of the CPI Rent Adjustment, as defined in Oakland Municipal Code Section 8.22.020, shall be void and unenforceable if the notice is served or has an effective date during the Local Emergency, unless required to provide a fair return. Any notice of rent increase served during the Local Emergency shall include the following statement in bold underlined 12-point font: **“During the Local Emergency declared by the City of Oakland in response to the COVID-19 pandemic, your rent may not be increased in excess of the CPI Rent Adjustment (3.5% until June 30, 2020), unless required for the landlord to obtain a fair return. You may contact the Rent Adjustment Program at (510) 238–3721 for additional information and referrals.”**”

b. **Past Board Decisions**

None