

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

February 16, 2017

7:00 P.M.

**CITY HALL, HEARING ROOM #1
ONE FRANK H. OGAWA PLAZA
OAKLAND, CA**

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. OPEN FORUM
4. NEW BUSINESS
 - i. Appeal Hearing in Cases:
 - a. T15-0615; Foucault v. Beacon
T15-0626; Lyngen v. Beacon
T15-0627; Ballinger v. Beacon
T15-0633; Langston v. Beacon
 - b. T16-0086; Fredrick v. Raj Properties
5. ADJOURNMENT

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

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

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

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2017 FEB - 8 PM 2: 24

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

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

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

CHRONOLOGICAL CASE REPORT

Case Nos.: T15-0615; T15-0626; T15-0627; T15-0633

Case Names: Foucault v. Beacon; Lyngen v. Beacon;
Ballinger v. Beacon; Langston v. Beacon.

Property Addresses: 580 Jean Street, No. 1, 5, 7, 9, Oakland, CA

Parties: Erik Lyngen; Carole Langston; Peter Foucault;
Shannon Foucault; Jana Ballinger (Tenants)
Beacon Properties (Landlord)

LANDLORD AND TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petitions filed	November 19, 20, 23, & 26, 2016
Landlord Responses filed	January 4, 6, & 7, 2016
Hearing Decision issued	May 5, 2016
Tenant Appeal filed (T15-0626)	May 20, 2016
Landlord Appeal Filed (all cases)	May 25, 2016

000003

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		2016 MAY 25 PM 12:38 <p style="text-align: center;">APPEAL</p>	
Appellant's Name Mark Slafkes, Karen Graf		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 580 Jean Street Units: 1, 5, 7, 9 Oakland CA 94610			
Appellant's Mailing Address (For receipt of notices) BEACON PROPERTIES 466 40th Street Oakland, CA 94609-2522		Case Number T15 - 0615, 0626, 0627, 0633 Date of Decision appealed 4/27/16	
Name of Representative (if any) BEACON PROPERTIES 466 40th Street Oakland, CA 94609-2522		Representative's Mailing Address (For notices) BEACON PROPERTIES 466 40th Street Oakland, CA 94609-2522	

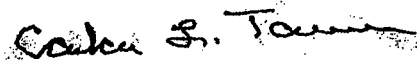
I appeal the decision issued in the case and on the date written above on the following grounds:
(Check the applicable ground(s). Additional explanation is required (see below). Please attach additional pages to this form.)

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2. **The decision is inconsistent with decisions issued by other hearing officers.** You must identify the prior inconsistent decision and explain how the decision is inconsistent.
3. **The decision raises a new policy issue that has not been decided by the Board.** You must provide a detailed statement of the issue and why the issue should be decided in your favor.
4. **The decision is not supported by substantial evidence.** You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.
6. **The decision denies me a fair return on my investment.** You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached 2. Please number attached pages consecutively.

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on 5/25/2016, ~~200~~, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<u>Name</u>	Erik Lyngen	Carole Langston	<u>Name</u>
<u>Address</u>	580 Jean Street #1	580 Jean Street #7	<u>Address</u>
<u>City, State Zip</u>	Oakland, CA 94610	Oakland, CA 94610	<u>City/State</u>
<u>Name</u>	Peter and Shannon Foucalt	Jana Ballinger, Jim Gilman	<u>NAME</u>
<u>Address</u>	580 Jean Street #5	580 Jean Street #9	<u>ADDRESS</u>
<u>City, State Zip</u>	Oakland, CA 94610	Oakland, CA 94610	<u>City/State</u>

	5/24/16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

Based on the hearing decision, dated April 27th, 2016, which denies grandfathered status to the capital improvement pass through because of the year long duration of the project, the Owners of 580 Jean Street humbly appeal for reinstatement of grandfathered status based on the following points:

1. The hearing decision to deny grandfathered status does not account for uncontrollable events, which compounded delays to the project completion despite the Owner's good faith efforts to complete the project in a timely fashion. These events include:
 - A. The first project engineer (W.J. Cain) died after the project began. His designs had been made, stucco removed and expensive Moment Frames had been manufactured, which cost approximately \$40,000. A subsequent engineer, meant to replace the deceased one, would not use the first engineer's designs and Moment Frames. This would likely have increased the capital expense of the project by a large percentage, possibly as much as 40%-50%, because the Moment Frames had been manufactured already (at a cost of approximately \$40,000.) Another Engineer had to be found that would work with the project as it stood at the time. The final project engineer (Tuan and Robinson) was finally found who was willing to use the first engineer's Moment Frames, but still required new designs to be made. This unavoidable process took a great deal of time and effort on both the owner and general contractor's part.
 - B. Material supply delays and work delays outside of the Owner's control stalled the project's progress at various points. The delays caused by the engineer's death and the material supply delays caused numerous scheduling and logistical problems for the contractor and further compounded the delay in project completion. The owner was in regular contact with the parties involved in the project in a good faith effort to reach project completion as quickly as possible.
2. Substantial work and effort occurred before the August 1st, 2014 deadline for grandfathered status to a capital improvement pass through, including:
 - a. A savings program for the project which the owners contractually began in April, 2010.
 - b. An interviewing and hiring process for contractors, engineers and other necessary vendors.
 - c. Project Permitting (permit #B1400426 – issued 4/17/2014)
 - d. Stucco Removal and measurements
 - e. Engineering- Planning and Design
 - f. Moment Frame Manufacturing
 - g. Significant payments made of over \$23,000 total before August 1st, 2014, and over \$43,000 total by August 14th, 2014.

The Owners humbly request that the Rent Board reinstate the grandfathered status of the capital improvement pass through increase for the seismic retrofit project. The project was conducted in good faith, as quickly as possible, and was planned and undertaken using the capital improvement pass through rules that existed prior to August 1st, 2014.

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		2016 MAY 20 PM 3:39 APPEAL	
Appellant's Name Erik Lyngen		Landlord <input type="checkbox"/> Tenant <input checked="" type="checkbox"/>	
Property Address (Include Unit Number) 580 Jean St., #1 Oakland, CA 94610			
Appellant's Mailing Address (For receipt of notices) 580 Jean St., #1 Oakland, CA 94610		Case Number T15-0626 Date of Decision appealed April 27, 2016	
Name of Representative (if any)		Representative's Mailing Address (For notices)	


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

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
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8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on May 20, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Carlton Tanner / Mark Slatkes
Address	Beacon Properties - 466 40th Street
City, State Zip	Oakland, CA 94609
Name	
Address	
City, State Zip	

	5/20/16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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- The Board will not consider new claims. All claims, except as to jurisdiction, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.

Case T15-0626
Erik Lyngen
580 Jean St., #1
Oakland, CA 94610

Oakland
Rent Board's
copy

I appeal the decision issued in case T05-0626 on the following grounds:

1. Oakland's policy to consider seismic retrofit construction projects to be capital improvements (the cost of which can be passed through to the tenants) is based on an **overly vague, unenforceable definition**, and is egregious.

The wording in the definition of a capital improvement:

"primarily benefit the tenant"

is too vague to be meaningful or enforceable.

What does "primarily" mean? First and foremost? The most number of ways? Overwhelmingly? Slightly more than another? Slightly more than *all* others?

What does "benefit" mean? Financial benefit? Psychological/emotional benefit? Personal safety benefit? Public Safety? Public good? Temporary benefit? Permanent benefit? Tax benefit? Combination of these? If so, how weighted?

Who decides? Who interprets? Under who's authority?

2. Even if we let the poorly worded definition stand, The following example, bolstered by common sense, shows that **I (the tenant) cannot possibly be the primary beneficiary:**

The primary benefit of a seismic retrofit is essentially **permanent**, as it is structurally designed to withstand an earthquake.

But this benefit is not portable.

If I pay for the benefit over 5 years, and then move out, I cannot take the benefit with me. It remains a benefit to the landlord and the city/county, and the public, generally, but is no longer a benefit to me, personally, in any way.

3. If I am not entitled to deeded equity in the building, for the structural improvement that I paid for, it amounts to an **unconstitutional seizure of my property.**

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This construction work performed was unpermitted. Doesn't unpermitted construction result in the landlord NOT being able to pass the cost on to the tenant?

Can the tenant demand a **sworn statement that no tax, insurance, or other benefits were granted** to the landlord (thereby lessening the amount the tenant has to pay)?

This landlord seemed to have gotten a loan for the seismic retrofit. If so, how can a tenant verify that fact? If true, the law says the tenants payments cannot be higher than the monthly repayment the landlord makes to the bank. How can this be verified?

This job seems to have **NOT COMPLIED WITH FEDERAL Americans with Disabilities Act (ADA) requirements.** Who is responsible to bring it into compliance? Certainly not the tenant!

Since there was incomplete paperwork done relating to the initial required soft-story screening, as well as the permit application paperwork, our health was put in jeopardy. Who is responsible, and why are we not compensated.

Lastly, for what it's worth,

7. Information published on the **City of Oakland's website** regarding tenant-landlord disputes is so poorly written and presented, as to be **practically undecipherable.**

The **hearing itself**, too, was confusing and **incomplete**, since essentially the only instructions we were given were to not interrupt someone. Two example (among many possible) is the hearing officer did not ask what the cause of the job finishing **WAY** over bid was. Or when was the problem with the erroneous material discovered, by whom, and what was the cause.

Similarly the **Hearing Decision** in case **T05-0626**, besides being **incomplete**, is so riddled with errors (minor and substantial) as to be nothing short of onerous to read, understand, and respond to. A quick perusal found more than **20 mistakes**. One mistake was a misspelling of the plaintiff's name in the case reference. The other name was completely wrong. When I eventually found the case, it had two different case numbers! Legal research is difficult enough without these sorts of errors.



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

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T15-0615, Foucault v. Beacon
T15-0626, Lyngen v. Beacon
T15-0627, Ballinger v. Beacon
T15-0633, Langston v. Beacon

PROPERTY ADDRESS: 580 Jean Street, No. 1, 5, 7, 9
Oakland, CA 94610

DATE OF HEARING: March 16, 2016

DATE OF DECISION: April 27, 2016

APPEARANCES:	Erik Lyngen	Tenant
	Carole Langston	Tenant
	Peter Foucault	Tenant
	Shannon Foucault	Tenant
	Jana Ballinger	Tenant
	Scott Isacksen	Owner Representative
	Carlton Tanner	Owner Representative

SUMMARY OF DECISION

The tenants' petitions are GRANTED IN PART.

INTRODUCTION

Tenant Erik Lyngen filed a petition on November 13, 2015, which contests a monthly rent increase from \$1,280.00 to \$1,450.88, purportedly effective December 1, 2015, and alleges various decreased housing services.

Tenant Jana Ballinger filed a petition on November 23, 2015, which contests a monthly rent increase from \$1,361.00 to \$1,531.88, purportedly effectively December 1, 2015, and a decreased housing service

Tenant Carole Langston filed a petition on November 24, 2015, which contests a monthly rent increase from \$1,140.00 to \$1,310.88, purportedly effective December 1, 2015.

Tenants Foucalt filed a petition on November 20, 2015, which contests a monthly rent increase from \$1,174.00 to \$1,344.88, purportedly effective December 1, 2015.

The tenants contend that the capital improvements should not be grandfathered because substantial work was not performed for a period of almost a year. The tenants received notice of the seismic retrofit on June 3, 2014. They were notified that they could not park in their parking spaces on June 10, 2014. Construction was delayed and was not completed until July 14, 2015.

All the tenants stated complaints in their petitions about the loss of use of their parking spaces, and the construction area which lasted from June 2014 until July 2015. Tenant Lyndgen complained about the fence. Tenant Ballinger complained about the back stairs.

The owner, Beacon Properties, filed timely responses to each tenant petition, and contends that the rent increases are justified on the basis of capital improvements and the tenants have not suffered any decreased housing services.

The owner representative contends that the capital improvement project consisted of a seismic retrofit to a soft story building, and 100% of the costs should be passed through to the tenants because the project was initiated prior to August 1, 2014, and was unavoidably delayed due to the death of the original engineer for the project.

THE ISSUES

1. Is the owner entitled to a capital improvement pass-through? If so, in what amount?
2. Are the tenants' challenges to the rent increases and decreased housing service claims timely filed?
3. If so, did the tenants suffer decreased housing services?

EVIDENCE

Rent History and RAP Notice

The following Table shows the dates of each tenant's move-in date and when they first received the RAP notice.

Tenant	Move in Date	Date of first RAP Notice	Current Rent
Foucault	1/1/10	On move-in and 11/19/2012 ¹	\$1,174.00
Langston	7/1/07	9/25/07 ²	\$1,140.00
Ballinger	4/8/11	3/22/11	\$1,361.00
Lyngen	12/1/10	11/23/10	\$1,280.00

Capital Improvements

The owner representative testified that the capital improvement project consisted of a seismic retrofit of a soft story building. The subject building consists of nine units. The original building permit was issued in April 2014 and the contract was signed for \$92,275.00. The work began prior to August 2014. However, the original engineer, John Morrison, died, and there were problems with the original design. It took longer and the costs were greater. \$23,953 was paid prior to August 1, 2014. The last payment was made in August 2015. The owner provided a summary, invoices, and proof of payments as follows:³

<u>Date paid</u>	<u>Vendor</u>	<u>Amount</u>
6/2/14	J. Cain	\$2,380.00
7/17/14	John Morrison, Inc.	\$21,573.75
8/19/14	Tuan and Morrison	\$21,573.75
3/11/15	Tuan and Morrison	\$2,100.00
3/11/15	John Morrison, Inc.	\$630.00
9/15/15	John Morrison, Inc.	\$43,147.50
		\$870.00
	TOTAL	\$92,275.00

The owner provided the tenants with enhanced notices about the capital improvement project and filed copies of these notices with the Rent Adjustment Program on September 28, 2015.⁴

Tenant Lyndgen testified that the tenants were not consulted about the soft story seismic retrofit and it is not a capital improvement and does not primarily benefit the tenants. The owner testified that the policy in Oakland is to allow a capital improvement

² Ex. No. 16, Signed RAP notice by tenant

³

⁴ Ex. No. 13, Enhanced Notice

pass-through for seismic retrofit. Tenant Ballinger testified that the work was unpermitted and there were no inspections during a six month period. There was an inspection on August 20, 2014, and the work did not pass inspection.

Decreased Housing Services

Parking Spaces

Tenant Ballinger testified that they could not park in their parking spaces from August 14, 2015 to July 2015, due to construction materials, drywall, and dust. It was very inconvenient to park on the street because the subject building is located at the top of a steep hill. Tenants Ballinger, Foucault and Langston received \$601.67 from the owner to compensate them for the parking situation. Tenant Lyndgen deducted \$400.00 from his rent payments because of the parking situation.

Construction Zone

The tenants testified that they were forced to live in a construction zone for a year during the seismic retrofit. Excavated troughs were left uncovered; there was a lack of caution tape in potentially dangerous areas; and piles of building materials were stacked on the property. Tenants Ballinger and Foucault testified that it was difficult to access storage space because of the construction and there was dust everywhere. Tenant Foucault testified that he has breathing issues and had to step over an open pit.

Fence

Tenant Lyngen testified that the fence was dilapidated and started falling down and he complained about the fence to Aaron, the broker, one and a half years ago. They sent someone out to look at the fence but nothing was done. He provided photos of the fence which indicates that part of the fence is missing, falling, and the wood is dilapidated.⁵ The owner representative testified that he was not aware of any problem with the fence. Tenant Lyndgen testified that the fence was fixed in February 2016.

Backstairs

Tenant Ballinger testified that the back stairs were wobbly but she did not tell anyone about the problem and they were fixed in February 2016.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice

The tenants all received the notice of the existence of the Rent Adjustment Program (RAP) at or close to the time of their dates of move-in, in 2007, 2010, and 2011. Tenant Langston's petition states that she first received the RAP notice in

⁵ Ex. No. 19-24

September 2015. However, the owner provided a RAP notice dated September 25, 2007, signed by the tenant.

Capital Improvements

A rent increase in excess of the C.P.I. Rent Adjustment may be justified by capital improvement costs.⁶ Capital improvement costs are those improvements which materially add to the value of the property and appreciably prolong its useful life or adapt it to new building codes. Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.⁷

The improvements must primarily benefit the tenant rather than the owner. Capital improvement costs are to be amortized over a period of five years, divided equally among the units which benefited from the improvement. The reimbursement of capital expense must be discontinued at the end of the 60-month amortization period.⁸

An expense must pass three tests to meet the threshold definition of a Capital Improvement cost:

- (1) It must materially add to the value of the property
AND
- (2) It must either
 - A. Appreciably prolong the useful life of the property or
 - B. Adapt it to new building codesAND
- (3) It must primarily benefit the tenant

A rent increase based upon capital improvements will only be given for those improvements which have been completed and paid for within 24 months prior to the date of the proposed rent increase.⁹

The owner complied with the enhanced notice requirements. The rent increase based on capital improvements is valid. This capital improvement adds value to the entire building, prolongs the useful life of the subject building and the tenants primarily benefit from the seismic retrofit.

Limitations on Capital Improvement Increases: The rules governing capital improvement pass-throughs were significantly modified by changes in the Rent Adjustment Ordinance and Regulations, which became effective August 1, 2014.

⁶ O.M.C. Section 8.22.070(C)

⁷ Regulations Appendix, Section 10.2.2(5)

⁸ Regulations Appendix, Section 10.2

⁹ Regulations Appendix, Section 10.2.1

“Enhanced Notice” Requirements: “For any rent increase based on capital improvements commenced prior to the implementation date, if such rent increase is noticed on or after the implementation date of this Ordinance, the new noticing requirements under this Ordinance are required.”¹⁰ A rent increase notice based on capital improvements “must include the following:

- (c) The type of capital improvement(s);
- (d) The total cost of the capital improvement(s);
- (e) The completion date of the capital improvement(s);
- (f) The amount of the rent increase from the capital improvement(s);

ii. Within ten (10) working days of serving a rent increase notice . . . based in whole or in part on capital improvements, an owner must file the notice and all documents accompanying the notice with the Rent Adjustment Program. Failure to file the notice with[in] this period invalidates the rent increase.”

The owner complied with the enhanced notice requirement and provided a documentation of capital improvement costs for the seismic retrofit.

Additionally, as of August 1, 2014, the Rent Ordinance was amended to limit a capital improvement pass-through to a maximum of 70%.¹¹ However, the new Ordinance “does not apply to capital improvements on which permits have been taken out and substantial monies paid or liabilities incurred (other than permit fees) prior to the implementation date of the Ordinance (August 1, 2014), and the Owner reasonably, diligently pursues completion of the work.”

The owner paid 25% of the project costs which constitutes substantial monies paid and the liability was incurred prior to August 1, 2014. However, the seismic retrofit took approximately one year to complete, from June 13, 2014, until July 14, 2015, which does not meet the requirement that the owner reasonably diligently pursues completion of the work. Therefore, the owner is not entitled to a capital improvement pass-through of 100% of the cost of this project.

The owner is entitled to a 70% capital improvement pass-through to the tenants for the seismic retrofit (.70 x \$92,275.00=\$64,592.50). A monthly capital improvement pass-through of \$119.62) is granted. The allowed capital improvement allocation is itemized in the Table attached to this Decision.

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is an increase in rent. However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or

¹⁰ Ordinance No. 13226

¹¹ Resolution 85306 C.M.S.

one that is required to be provided in a contract between the parties.¹² The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

Additionally, a tenant petition for decreased housing services must be filed within 60 days of the date of service of a rent increase notice or the date the tenant first receives written notice of the existence and scope of the RAP, whichever is later.¹³ The tenants' petitions were not filed until November 2015. The Board has held that a petition claiming decreased housing services must be filed within sixty days after the decrease in services occurred, or within sixty days after the next rent increase notice and Notice to Tenants is served, whichever is later.¹⁴

Loss of Parking Spaces/Construction Zone

The tenants' petitions are untimely filed regarding the loss of the parking spaces. The construction ended in July 2015, and the tenants did not file their petitions until November 2015, which is far more than 60 days after the loss of use of the parking spaces. Furthermore, the tenants were given rent decreases for the loss of use of the parking spaces. Compensation for this item is denied.

Back Stairs-Tenant Ballinger

Tenant Ballinger testified that she did not notify anyone about the problem with the stairs, and they have now been repaired. Therefore, compensation for this item is denied.

Fence-Tenant Lyngen

The condition of the fence constitutes a safety issue. However, compensation is limited to 60 days prior to the filing of tenant Lyngen's petition, which is itemized in the following Table:

VALUE OF LOST SERVICES							
Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Fence	9/19/15	2/1/16	\$1,280.00	5%	\$64.00	5	\$320.00
TOTAL LOST SERVICES							320.00

ORDER

1. The owner is entitled to a 70% capital improvement pass-through.

¹² Green v. Superior Court, 10 Cal.3rd 616 (1974)

¹³ O.M.C. Section 8.22.090 (A)(2)

¹⁴ Lindsey v. Graham, T09-0086

2. Tenant Ballinger's claim for decreased housing services is denied.
3. The tenants' claims for decreased housing services for the loss of parking and construction are denied on the basis of timeliness.
4. Tenant Lyngen's claim for decreased housing services regarding the fence is granted in part.
5. The tenants' rents are set below as follows:

a. Tenant Lyngen

New Rent effective 12/1/15	\$ 1,399.62
Plus rent underpayments totaling \$717.72 less rent overpayment for fence of \$320.00; net underpayment is $\$397.72/6=\66.29	\$ 66.29
Rent payment commencing June 1, 2016 and ending November 1, 2016	\$ 1,465.91

The capital improvement pass-through expires December 1, 2020.

b. Tenant Ballinger's rent is stated below as follows:

New Rent effective 12/1/15	\$ 1,480.62
Plus rent underpayments totaling $\$717.72/6=\119.62	\$ 119.62
Rent payment commencing June 1, 2016 and ending November 1, 2016	\$ 1,600.24

The capital improvement pass-through expires December 1, 2020

c. Tenants Foucault rent is stated below as follows:

New Rent effective 12/1/15	\$ 1,273.68
Plus rent underpayments totaling $\$686/9=\76.22	\$ 76.22
Rent payment commencing June 1, 2016 and ending February 1, 2017	\$ 1,349.90

The capital improvement pass-through expires December 1, 2021.

d. Tenant Langston's rent is stated below as follows:

New Rent effective 12/1/15	\$ 1,239.68
Plus rent underpayments totaling \$684.00/9=\$76.00	\$ 76.00
Rent payment commencing June 1, 2016 and ending February 1, 2017	\$ 1,315.68

The capital improvement pass-through expires December 1, 2021

- The owner is entitled to increase rents to which he is otherwise entitled upon proper notice in accordance with the Rent Ordinance and the notice requirements of Section 827 of the California Civil Code.

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

Dated: May 5, 2016



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

City of Oakland Capital Improvements Calculator Worksheet

IMPROVEMENTS BENEFITTING ALL UNITS BUILDING WIDE

Effective Date of Rent Increase
Number of Residential Units

1-Dec-15
9

IMPROVEMENT OR REPAIR	DATE COMPLETED	FULL COST	Amortizable Cost (70%)	# of Units	Allowable Cost per Unit (Pre Amortization)	Date Validation (2 Years ago max)
Seismic Retrofit	1-Jul-15	\$92,275.00	\$64,592.50	9	\$7,176.94	OK

Subtotal		\$64,592.50			\$7,176.94	
Place X in box if property is mixed use.						
Residential square footage						
Other use square footage						
Percent residential use						
Total Cost Per Unit Allocated to Residential Units					\$7,176.94	

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IMPROVEMENTS LIMITED TO SPECIFIC UNITS

Total Allowable Unit-Specific Pass-through (Column D)

\$0.00

IMPROVEMENT OR REPAIR	DATE COMPLETED	FULL COST	Amortizable Cost (70%)	# Units	Allowable Cost per Unit (Pre-Amortization)	APPLIES TO UNITS	Date Validation (2 years ago max)
Totals							
			\$0.00				

AMORTIZATION

Sum of Unit Specific Costs (Column D below):

\$0.00

Unit	Current Rent	Building Wide Pass through	Unit Specific Pass-through	Total Pass through on Unit	Years to Amortize (5 yrs min)	Allowable Increase \$	Increase % (must be 10% or less)
Ballinger	\$1,361.00	\$7,176.94		\$7,176.94	5	\$119.62	8.79%
Foucalt	\$1,174.00	\$7,176.94		\$7,176.94	6	\$99.68	8.49%
Langston	\$1,140.00	\$7,176.94		\$7,176.94	6	\$99.68	8.74%
Lyngen	\$1,280.00	\$7,176.94		\$7,176.94	5	\$119.62	9.34%

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PROOF OF SERVICE

Case Number T15-0615; T15-0626; T15-0627; T15-0633

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

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

Beacon Properties
Mark Slafkes
466 40th Street
Oakland, CA 94609

Peter & Shannon Foucault
580 Jean Street #5
Oakland, CA 94610

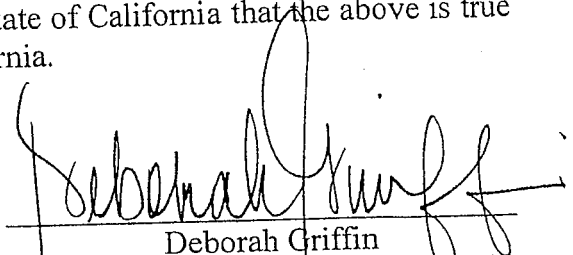
Erik Lyngen
580 Jean Street #1
Oakland, CA 94610

Jana Ballinger
Jim Gilman
580 Jean Street #9
Oakland, CA 94610

Carole Langston
580 Jean Street #7
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **May 5, 2016** in Oakland, California.


Deborah Griffin
Oakland Rent Adjustment Program

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CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
 P.O. Box 70243
 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612
 (510) 238-3721

For filing stamp.
 2015 JAN -4 PM 2:58

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

CASE NUMBER T15-0615

OWNER RESPONSE

Please print legibly.

Your Name Beacon Properties (agent to owner)	Complete Address (with zip code) 466 40th Street Oakland CA 94609	Phone: 510-428-1864 Email: beacprop@pacbell.net
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: 510-601-1917 Email: _____
Tenant(s) name(s) Peter Foucault Shannon Foucault	Complete Address (with zip code) 580 Jean Street #5 Oakland, CA 94610	415-971-1042

Have you paid for your Oakland Business License? Yes No Number 1974718
 (Provide proof of payment.)

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

There are 9 residential units in the subject building. I acquired the building on 9/15/99.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 1/15/2010.

The tenant's initial rent including all services provided was \$ 1,095.00/month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
 Yes No I don't know If yes, on what date was the Notice first given? 11/19/2012, 11/20/2013

Is the tenant current on the rent? Yes No → (But not on the disputed increase.)

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No _____. If yes, on what date was the Enhanced Notice given? 9/25/2015. Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No _____. Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
9/25/2015	12/01/2015	\$ 1174.00	\$ 1344.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/20/2013	1/1/2014	\$ 1149.00	\$ 1174.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/19/2012	1/1/2013	\$ 1095.00	\$ 1149.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

← Grandfathered

Date of Increase	Banking (deferred annual increases)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>12/01/15</u>	<input type="checkbox"/>	<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"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. EXEMPTION

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

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

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

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

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

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** for less than 30 days.

The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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

Alan G. [Signature] (agent to owner)
Owner's Signature

1/04/16
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

T15-0615 KM/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2015 NOV 20 AM 9:57
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Peter and Shannon Foucault	Rental Address (with zip code) 580 Jean Street #5, Oakland, CA 94610	Telephone 415-971-1042
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Beacon Properties Mark Slafker (owner)	Mailing Address (with zip code) 466 40th Street Oakland, CA 94609-2422	Telephone 510-428-1864

Number of units on the property: 9

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

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

<input checked="" type="checkbox"/> (a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/> (b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/> (c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/> (d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/> (e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input type="checkbox"/> (f) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/> (g) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/> (h) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/> (i) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment Program (effective August 1, 2014).
<input type="checkbox"/> (j) My rent has not been reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/> (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).

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

Date you moved into the Unit: 1/15/2010 Initial Rent: \$ 1,095 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 9/25/2015. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
9/25/2015	12/1/2015	\$ 1,174. ⁰⁰	\$ 1,344. ⁸⁸	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: _____

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.


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

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

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

11/18/15

Date

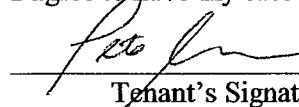
V. MEDIATION AVAILABLE: Mediation is an entirely voluntary process to assist you in reaching an agreement with the owner. If both parties agree, you have the option to mediate your complaints before a hearing is held. If the parties do not reach an agreement in mediation, your case will go to a formal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

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

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

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

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



Tenant's Signature

11/18/15

Date

VI. IMPORTANT INFORMATION:

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

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

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

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): online research

Dear Review Board,

We are petitioning a significant rent increase recently issued by the owner and managers of 580 Jean Street in Oakland, on the grounds that it exceeds the 10% limit of rent increase mandated by the City of Oakland. The building owner, Mark Slafkes, is charging each of the tenants at 580 Jean Street \$10,252.78 over the course of 60 months to cover 100% costs for a Seismic Retrofit. None of the tenants in this building were consulted or notified beforehand that they would be paying for this structural work for which the primary beneficiary is the building owner. While we respect that this activity will enhance the safety of the building, we as renters do not have any stake in its long-term ownership and therefore do not see this as a Capital Improvement that should be paid for by the tenants.

We were first notified via a notice taped to our door, dated August 8, 2014, that the seismic retrofitting construction was to take place for "three to four weeks" starting on August 11, 2014. If this were to be considered a capital improvement that could be passed onto tenants, this would not meet the August 1, 2014, "Grandfather Clause" for the current Rent Adjustment Program Ordinance (as claimed by Beacon Properties). See copy of this notice attached.

By passing 100% of this building improvement onto tenants, in most cases would give those tenants partial ownership or at least partnership in the project. However, not only was there zero communication leading up to the project or even notice that the costs would be passed through to us, but the entire handling of the process with tenants was handled in a crass and disrespectful manner.

Beginning with the first "notification", which while dated August 8th did not in fact appear on our doors until the 10th. When we arrived home from work that night, we had to rush to find alternative parking in an already congested neighborhood. We were also scheduled to travel on the 11th, and had the notice been any later we would have been in a difficult situation with our vehicle.

Communication from the building's owners and managers continued in this manner throughout the year: last-minute notices posted, then weeks and often months with no work and no updates. When we called Beacon Properties to complain and inquire about the status of the "3-4 week" project, they had no information to share. We never knew when we would suddenly be startled awake in the morning by a jack hammer shaking our apartment. Further stress ensued when an earthquake rocked our building during a prolonged period when we were propped on support scaffolding that was not physically attached to the floor or ceiling, but rather shimmed up with wood blocks. Again, there was no communication from the owner/managers afterward to reassure us of our safety in the building following that earthquake, and no consideration that the residents might have even been concerned about our safety at the time.

As "3-4 weeks" carried out to nearly a year-long endeavor, we were regularly confronted with unsafe access to our storage space (located behind our parking spot and accessed by us on a daily

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basis), and also resulted in generating ill-will with neighbors who became agitated at the poor parking situation caused by the additional 9 vehicles displaced from our parking area for more than 11 months. Personal safety was also a concern as we were often forced to park several blocks away amidst reports of rising crime in our area.

While we understand that these latter points may be inconsequential in forming a judgment on whether we as tenants should be covering 100% of this seismic retrofitting project, it does add insult to injury when such little consideration is taken for our well-being or perceived ownership of the activity over the last year, when we were told retrospectively that we are expected to pay for it all. It has been a nerve-racking and humiliating experience – akin to bullying in many respects. We enjoy living at 580 Jean Street and have been good and responsible tenants for almost six years, and we in no way deserved to be treated with such disrespect as over the last year.

Thank you,

Peter & Shannon Foucault

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CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. 2015 JUN -6 PM 3:57
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T15-0626

OWNER RESPONSE

Please print legibly.

Your Name Beacon Properties (agent to Owner)	Complete Address (with zip code) 466 40th Street Oakland, CA 94609	Phone: 510-428-1864 Email: beacprop@pacbell.net
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: 510-601-1917 Email: _____
Tenant(s) name(s) Erik Lyngen Sarah Guy	Complete Address (with zip code) 580 Jean St #1 Oakland, CA 94610	510-658-2197

Have you paid for your Oakland Business License? Yes No Number 1974718
(Provide proof of payment.)

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

There are 9 residential units in the subject building. I acquired the building on 9/15/99.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 12/01/2010.

The tenant's initial rent including all services provided was \$ 1195.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice") to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 11/22/10

Is the tenant current on the rent? Yes No except disputed amount

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 9/25/15 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
9/25/15	12/01/15	\$ 1280.00	\$ 1450.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/30/13	1/01/14	\$ 1250.00	\$ 1280.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/19/12	1/01/13	\$ 1195.00	\$ 1250.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases.)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>12/01/15</u>	<input type="checkbox"/>	<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"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. EXEMPTION

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

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

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

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

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

On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** for less than 30 days.

The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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

Amay (agent)
Owner's Signature

1/5/16
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

T15-0626 KM/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2015 NOV 19 AM 11:52
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Erik Lyngen</i>	Rental Address (with zip code) <i>580 Jean St. #1 Oakland, CA 94610</i>	Telephone <i>510-658-2197</i>
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <i>Rent Paid to Property Management Company: Beacon Properties</i>	Mailing Address (with zip code) <i>466 40th Street Oakland, CA 94609-2522</i>	Telephone <i>(510) 428-1864</i>

Carlton Tanner
Number of units on the property: 9

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

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

<input checked="" type="checkbox"/> (a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/> (b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/> (c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/> (d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/> (e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input checked="" type="checkbox"/> (f) The housing services I am being provided have decreased. (Complete Section III on following page)
<input checked="" type="checkbox"/> (g) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input checked="" type="checkbox"/> (h) The contested increase is the second rent increase in a 12-month period. <i>Since decrease in ^{housing} services is ^{rent increase}.</i>
<input type="checkbox"/> (i) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment Program (effective August 1, 2014).
<input type="checkbox"/> (j) My rent has not been reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/> (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).

+ 24 pages of 000037 attachments

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

Date you moved into the Unit: 12/1/10 Initial Rent: \$ 1,195.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 11/23/10. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
9/27/15	12/1/15	\$ 1,280.00	\$ 1,450.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8/8/14	8/11/14	\$ TBD	\$ TBD	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/8/14*	8/11/14	\$ TBD	\$ TBD	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8/8/14	2/1/14	\$ TBD	\$ TBD	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

None

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: n/a

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

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

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

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

* Loss of Parking / Construction Zone / Fence

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

11/19/15

Date


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

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

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

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

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



Tenant's Signature

11/19/15

Date

VI. IMPORTANT INFORMATION:

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

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of **documents attached** to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

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

- Printed form provided by the owner
- Pamphlet distributed by the Rent Adjustment Program
- Legal services or community organization
- Sign on bus or bus shelter
- Other (describe): Internet Search

Attachment to Petition to Oakland Rent Board
Submitted in person with entire petition on 11/19/15

Erik Lyngen
580 Jean St., Apt. #1
Oakland, CA 94610

510-658-2197 / Lyngen@berkeley.edu

SUMMARY OF RENT INCREASE & RELATED DECREASE IN HOUSING SERVICES

On September 27, 2015 I got a rent increase notice alleging I was liable to pay for **\$10,252.78** worth of construction work that was recently completed at our apartment building. The work--a **voluntary** seismic retrofit--**lasted about a year**, during which time we **lost access to our parking spaces** and had to **live in a construction zone**, and with a **dilapidated fence**.

NOTE: the above dollar amount represents over **400 hours of my wages** at UC Berkeley.

I CONTEST THE RENT INCREASE ON THE FOLLOWING GROUNDS:

1. It is *not my property*. I was *not consulted*. I *did not ask for, nor agree to* the construction.
2. A voluntary seismic reinforcement on a soft-story apartment building *does not qualify* to be "passed through" to the tenant because it does not satisfy the definition of a "capital improvement" (O.M.C. 8.22.020) since it does not primarily benefit the tenant.
 - a. The benefit extends to many parties, including:
 - i. Property Owner
 - ii. City of Oakland
 - iii. County of Alameda
 - iv. Tenant (*temporary* beneficiary)
 - b. Since tenancy is temporary, but a seismic reinforcement of a soft-story building is **permanent**, the owner is the one who primarily benefits from this sort of construction.

Put another way: Who will be the primary beneficiary when the tenant moves out?
3. If the tenants are forced to pay in full (or in part) for a voluntary seismic reinforcement, the following conditions should be met:

(3-page Petition +)

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lot 24

- a. Tenants should be entitled to **equity in the property**. All equity holders shall be paid their share upon sale of the property.

Re-phrased: Why shouldn't the party that pays for a seismic retrofit get equity in the property?

- b. The payments should be **spread out over the useful life of the improvement**. In the case of seismic reinforcement, this should be *at least 30 years*.
- c. Tenants should have **full access to financial and construction records** related to the project *to ensure fiduciary duty* to the tenants was met.

Restated: If the tenants are paying—in this case *paying in full*, totaling over **\$92,000**—we have a right to know how every dollar of our money was spent.

Case in Point

We the tenants (collectively) are being charged **\$22,275** over the “valuation of the proposed work” as stated in the permit application.

Why is there a discrepancy of almost 25%?

How can we audit the financial dealings if we don't have full access?

RELATED POINT RELATED TO FINANCIAL DISCLOURE

How can I be assured that the landlord has not received “incentives” such as city, state, or county money, or insurance rebates, etc. that are not allowed to be passed on to the tenants?

If we have to pay any amount, I request that the amount be audited.

4. The landlord is *claiming to be grandparented in* under a previous law, but **does not qualify**, because:
 - a. **substantial work was not performed before August 1, 2014**. (see attached grandparant clause)
 - b. **The work did not start until August 11, 2014**. (see attached landlord letter of August 8, 2014)

Furthermore, in the same letter, the landlord stated that the **work would take 3 to 4 weeks to be completed**, when, in fact, **it took about a year**. The

due diligence requirement of the grandparent clause was clearly not met (see attached schedule of inspections).

LIVING IN A CONSTRUCTION ZONE

Every time we entered or exited our apartment (see attached diagram) our family had to walk through the **construction zone** with the dust and debris, piles of materials, cords, open pits (sometimes with standing water), wires, and so on. Besides being **dangerous** and a **nuisance** and a **blight**, the construction **took 10 times longer** than we were originally told it would. (see landlord letter)

For months on end, our soft-story, 9-unit apartment building was held up with temporary supports of metal, **shimmed with 4-inch loose (un-nailed) pieces of wood** (see pictures). Considering this situation was LESS SAFE than it was before construction started, I am surprised that the Certificate of Occupancy (COO) was not revoked, and that we were not relocated.

In the City paperwork, I think I saw something mentioning the COO was on HOLD, but I didn't fully understand what this meant. Could someone look into this, please?

The construction was done on an **expired building permit** after **6 months passed with no inspections and limited activity**. (See attached inspection schedule) Furthermore, the original permit was filled out so incompletely, that it makes one wonder if it was just sloppiness, or if there were ulterior motives. Particularly alarming to me was the fact that the Hazardous Materials Declaration was not checked.

How do I now what was in that dust that was plastered against my apartment door?

Furthermore, the Construction Lending Agency Declaration was not filled out properly according to (Section 8172, Civil Code). Maybe this relates to why the project started and stopped like it did (and took a year to complete).

(see attached pages from original permit application)

PARKING TAKEN AWAY

Furthermore the compensated we received for losing access to our parking spaces was inappropriately low (in my case, \$0.27 per person, per day). We live on the top of a steep hill in a neighborhood with extremely difficult parking (even before all 9 tenant vehicles were displaced to the street). I have two children (now 10 and 3 years old), and my wife has ongoing health issues. **I value the loss of full access to my parking space at \$11.60 per day.**

(see attachment for details)

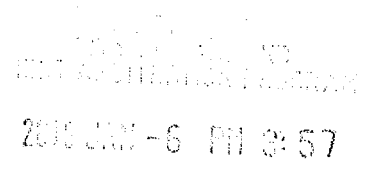
FALLING DOWN FENCE

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3 of 24

To make matters worse, directly out from my back door is a **dilapidated fence (see attached pictures)**, which is the boundary to a **8-foot drop down to big rocks**. This is a **blight** and a **nuisance**, takes away from the expected enjoyment of my dwelling, and is a **serious safety hazard**. We have asked for this to be fixed a year and a half ago, but the only thing that was done was a crew came out to examine the situation so they could put a bid in on the job.

The **broken down fence puts my children in danger**. Furthermore, I have to look at it, my visitors see it, and I am irritated that it has not been fixed. Every time we walk to the laundry room we have to move a broken gate. I value the fence situation at \$5 per day.

A handwritten signature in black ink, appearing to be 'W. S. Jones' or similar, written in a cursive style.

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. 
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T15 - 0627

OWNER RESPONSE

Please print legibly.

Your Name Beacon Properties (agent to owner)	Complete Address (with zip code) 466 40th St. Oakland, CA 94609	Phone: 510-428-1864 Email: beacprop@pacbell.net
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: 510-601-1917 Email: _____
Tenant(s) name(s) Jana Ballinger Jim Gilman	Complete Address (with zip code) 580 Jean St #9 Oakland CA 94610	510-610-1770

Have you paid for your Oakland Business License? Yes No Number 1974718
 (Provide proof of payment.)

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

There are 9 residential units in the subject building. I acquired the building on 9/15/99.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 4/08/11.

The tenant's initial rent including all services provided was \$ 1295.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
 Yes No I don't know If yes, on what date was the Notice first given? 3/22/2011

Is the tenant current on the rent? Yes No except for disputed increase

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 9/25/15 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
9/25/15	12/01/15	\$ 1361.00	\$ 1531.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/20/13	1/01/14	\$ 1330.00	\$ 1361.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/19/12	1/01/13	\$ 1295.00	\$ 1330.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

Date of Increase	Banking (deferred annual increases.)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>12/01/15</u>	<input type="checkbox"/>	<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"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. EXEMPTION

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

- The unit is a single family residence or condominium exempted by the **Costa Hawkins Rental Housing Act** (California Civil Code 1954.50, et seq.). **If claiming exemption under Costa-Hawkins, please answer the following questions on a separate sheet:**
 1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
 2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
 3. Was the prior tenant evicted for cause?
 4. Are there any outstanding violations of building housing, fire or safety codes in the unit or building?
 5. Is the unit a single family dwelling or condominium that can be sold separately?
 6. Did the petitioning tenant have roommates when he/she moved in?
 7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?
- The rent for the unit is **controlled, regulated or subsidized** by a governmental unit, agency or authority other than the City of Oakland Rent Adjustment Ordinance.
- The unit was **newly constructed** and a certificate of occupancy was issued for it on or after January 1, 1983.
- On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** for less than 30 days.
- The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.
- The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.
- The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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

Alana G. (Agent)
Owner's Signature

1/5/16
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

T15-0627 KM/BKB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. RECEIVED NOV 28 2015 OAKLAND RENT ADJUSTMENT
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Jana Ballinger + Jim Gilman	Rental Address (with zip code) 580 Jean St. #9 Oakland, 94610	Telephone 510/610.1770
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Mark Slafkes	Mailing Address (with zip code) P.O. Box 11053 Oakland	Telephone 510/428-1864 (Brown Properties)

Number of units on the property: 9

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

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

<input checked="" type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input checked="" type="checkbox"/>	(f) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/>	(g) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(h) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(i) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment Program (effective August 1, 2014).
<input type="checkbox"/>	(j) My rent has not been reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/>	(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).

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

Date you moved into the Unit: 4/8/11 Initial Rent: \$ 1295.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 3/11/22. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
9/25/15	12/1/15	\$ 1361	\$ 1531.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: NA

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

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

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

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

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.

Jana Ballinger
Tenant's Signature

11/19/15
Date

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

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

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

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

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

Jana Ballinger
Tenant's Signature

11/19/15
Date

VI. IMPORTANT INFORMATION:

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

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

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

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

Attachment for petition to contest rent increase at 580 Jean St. #9, 94610:

The voluntary soft story seismic retrofit of the 9-unit apartment building located at 580 Jean St. (permit #B1400426) does NOT qualify for the grandfather clause found in Oakland City Council Resolution 84936 for the following reasons:

- Substantial work was not performed prior to August 1, 2014
- The owners did not reasonably diligently pursue completion of the work.

This project was ongoing for a year and during that time there was basically no communication to the tenants about what was going on with the work as it stopped and started several times. Further, when we contacted the property managers to get information they had little in the way of answers as far as when it would be completed. Also, when it was finally completed, there was no notice given to the tenants that we could resume using our parking spaces.

Furthermore, we experienced a decrease in housing services for a full year while our parking spaces were unusable and we were forced to live in a construction zone, which included:

- Excavated troughs that were left uncovered.
- Lack of caution tape in potentially dangerous areas.
- Piles of building materials.

In addition, I believe there was negligence in the owners failure to make sure the workers adequately contained dust in the parking area, where our storage units are. This is of particular concern to me because my husband has been diagnosed with Chronic obstructive pulmonary disease (COPD) and is very sensitive to dust. Several times we had to get things out of our storage units by entering the "construction zone," which was a dangerous proposition for him.

Further there was a failure to affirm (as required on the building permit application) that the intended occupancy will or will not use, handle or store any hazardous materials.

I also question whether the retrofit permit included an inspection to be done on the back stairs, which are not in very good shape and could possibly pose a hazard.

The owners compensated us \$50 per month for our loss of parking, but failed to take into account the decreased housing services that went along with this: Living in a construction zone, having to park sometimes way down the hill (the apartment building is at the top of a **very** steep hill) and then having to carry groceries, etc. There were also many times when I returned home late at night and had to park several blocks away and walk alone to my apartment. In addition, leaving the cars on the street made us vulnerable to break-ins as well as parking tickets when there was street sweeping (luckily we did not have any break-ins but we did receive several tickets, including one while we were away for two months and could not move the cars). Since the parking space is included in the monthly rent, I used the square footage to determine the value of the space which is \$160. I would add another \$40 for the hardship of living in a construction zone.

Thank you for your time and attention.

--Jana Ballinger

000051



000052.

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. 2016 JAN -7 PM 2:43
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T15 - 0633

OWNER RESPONSE

Please print legibly.

Your Name Beacon Properties (Agent to Owner)	Complete Address (with zip code) 466 40th St. Oakland, CA 94609	Phone: 510-428-1864 Email: beacprop@pacbel.net
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: 510-601-1917 Email: _____
Tenant(s) name(s) Carole Langston	Complete Address (with zip code) 580 Jean St #7 Oakland, CA 94610	415-810-4343

Have you paid for your Oakland Business License? Yes No Number 1974718
(Provide proof of payment.)

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

There are 9 residential units in the subject building. I acquired the building on 9/15/99.

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 7/01/07.

The tenant's initial rent including all services provided was \$ 995.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 9/25/07

Is the tenant current on the rent? Yes No

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

If a contested increase was based on **Capital Improvements**, did you provide an **Enhanced Notice to Tenants for Capital Improvements** to the petitioning tenant(s)? Yes No . If yes, on what date was the Enhanced Notice given? 9/25/15 . Did you submit a copy of the Enhanced Notice to the RAP office within 10 days of serving the tenant? Yes No . Not applicable: there was no capital improvements increase. _____

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase?
		From	To	
9/25/15	12/01/15	\$ 1,140.00	\$ 1310.88	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/20/13	1/01/14	\$ 1114.00	\$ 1140.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11/19/12	1/01/13	\$ 1035.02	\$ 1114.00	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
9/29/09	11/01/09	\$ 1027.83	\$ 1035.02	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5/29/08	7/01/08	\$ 995.00	\$ 1027.83	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

<u>Date of Increase</u>	Banking (deferred annual increases.)	Increased Housing Service Costs	Capital Improvements	Uninsured Repair Costs	Fair Return	Debt Service (if purchased before 4/1/14)
<u>12/01/15</u>	<input type="checkbox"/>	<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"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

III. DECREASED HOUSING SERVICES

If the petition filed by your tenant claims **Decreased Housing Services**, state your position regarding the tenant's claim(s) of decreased housing services on a separate sheet. Submit any documents, photographs or other tangible evidence that supports your position.

IV. EXEMPTION

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

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

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

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

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

_____ On the day the petition was filed, the tenant petitioner was a resident of a **motel, hotel, or boarding house** for less than 30 days.

_____ The subject unit is in a building that was **rehabilitated** at a cost of 50% or more of the average basic cost of new construction.

_____ The unit is an accommodation in a **hospital, convent, monastery, extended care facility, convalescent home, non-profit home for aged, or dormitory** owned and operated by an educational institution.

_____ The unit is located in a building with three or fewer units. The owner occupies one of the units continuously as his or her principal residence and has done so for at least one year.

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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

Alan G. (agent)
Owner's Signature

1/5/15
Date

VII. MEDIATION AVAILABLE

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

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

Mediation will be scheduled only if both parties request it – after both the Tenant Petition and the Owner Response have been filed with the Rent Adjustment Program. **The Rent Adjustment Program will not schedule a mediation session if the owner does not file a response to the petition.** (Rent Board Regulation 8.22.100.A.)

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

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

Owner's Signature

Date

T15 - 0033 KM/BRB

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2015 NOV 24 AM 10:33
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name CAROLE LANGSTON	Rental Address (with zip code) 580 JEAN ST # 7 OAKLAND, CA 94610	Telephone 415-810-4343
Your Representative's Name Beacon Property Mgmt	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) CAROL TANNER	Mailing Address (with zip code) 466 York St OAKLAND, CA 94609	Telephone

Number of units on the property: 9

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

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

<input checked="" type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input type="checkbox"/>	(f) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/>	(g) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(h) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(i) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the notice was not filed with the Rent Adjustment Program (effective August 1, 2014).
<input type="checkbox"/>	(j) My rent has not been reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/>	(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).

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

Date you moved into the Unit: 7/1/2007 Initial Rent: \$ \$995⁰⁰ /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: 9/25/2015 If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>9/25/2015</u>	<u>12/1/2015</u>	\$ <u>1,140⁰⁰</u>	\$ <u>1,310⁰⁰</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: _____

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

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

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

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

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.

[Signature]
Tenant's Signature

11-20-2015
Date

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

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

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

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

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

[Signature]
Tenant's Signature

11-20-2015
Date

VI. IMPORTANT INFORMATION:

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

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

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

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

November 20, 2015

2015 NOV 24 AM 10:33

To Whom It May Concern

Re: Petition to contest rent increase at 580 Jean Street, #7, Oakland, 94610

The voluntary soft story seismic retrofit of the 9-unit apartment building located at 580 Jean Street (permit# B1400246) does not qualify for the grandfather clause found in the Oakland City Council resolution 84936 for the following reasons:

- i) Substantial work was not performed prior to August 1st, 2014 and the owners did not reasonably and diligently pursue completion of the work, which should have taken less than one month according to the construction company. See attached timeline and notices.
- ii) The project was ongoing for over a year and during that time there was very little communication to the tenants about the progress of the on-going work as it stopped and started several times. When we contacted the Property Management Company, Beacon Properties, they had very little information about the date of completion. No notice was given to us as to when we could safely resume using our parking spaces, and if the construction was actually finally completed in the fall of 2015.
- iii) We experienced a decrease in housing services during this time (from August 2014 to August 2015). Parking spaces were unusable, we were all forced to park on the street, and we lived in a construction zone for a year in hazardous conditions including:
 - (a) Excavated troughs left uncovered with pieces of rebar protruding (see attached photos)
 - (b) Lack of caution tape in potential dangerous areas
 - (c) Piles of building materials left uncovered out in the open
- iv) Further there was a failure to affirm (as required on the building application) that the intended occupancy will or will not use, handle or store any hazardous materials.
- v) The owners compensated us \$50 a month for our loss of parking, which failed to take into account the market value of parking in our area, and the decrease in services which included, living in a construction zone, parking down a hill (the building is on a steep hill), having to carry groceries up the hill, and parking at night blocks away from the building, and having to walk at night in a neighborhood with a history of crime.

Respectfully,

Carole Langston
580 Jean Street #7
Oakland, CA 94610

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Timeline:

June 3, 2014 – We received 1st notice that seismic work was going to begin on June 6th and done approximately July 3rd

Very little work was done, workers began to tear down structures, and abruptly stopped

June 10, 2014 – We received another notice that we could return to our parking spots as there was a delay in the project due to materials not arriving on time, and we could park again temporarily.

After this, absolutely no work was performed – myself and other tenants called to let property management know we were concerned that the workers were not showing up.

August 8th 2014, - We received another notice informing us that this was an extremely big job and construction would last approximately until 9/11/14, and during which time we would have no parking. The notice stated that parking spaces would be out of commission approximately 3 to 4 weeks.

Preparations were started, and permanent building supports removed and replaced with wooden/metal temporary building supports that were put in place (see attached photos).

Work stopped sometime in August, and the building was left on temporary supports for approximately one year, during which time, heavy rains filled the excavated troughs and water poured out of new leaks which sprung up were materials were torn out. An Earthquake (Napa) occurred, and building shook, causing grave concern. We were not informed if the building was safe. Many tenants called to complain, and management did not respond to our concerns. Wooden and metal building materials were left uncovered out in the rain and we continued to fear for our safety. A few hours of work sporadically occurred during this period, however nothing substantial occurred until after the 1st of 2015. Many tenants did not have access to storage spaces during this time.

April 9th, 2015 – We received notice that the building had been inspected by the City of Oakland, that they would begin pouring concrete the next week, the completion date would be later in April or early may (3 weeks from the receipt of this notice)

Very little work was conducted – they began pouring concrete, but very little work was completed and all the uncovered building materials were still left in a heaps lying all about the construction zone.

July 14 2015 – Notice was sent stating that the stucco work would be done between July 17th and July 31st. Warning us not to use parking spaces until the July 31st.

Workers began stucco work and completed by the end of July.

CHRONOLOGICAL CASE REPORT

Case No.: T16-0086
Case Name: Fredrick v. Raj Properties
Property Address: 3080 Richmond Blvd., #208, Oakland, CA
Parties: Hiroko Frederick (Tenant)
Raj Properties (Landlord)

LANDLORD APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	February 11, 2016
No Response filed	
Hearing Decision issued	June 22, 2016
Landlord Appeal filed	July 6, 2016

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		2016 JUL -6 AM 11:10 APPEAL	
Appellant's Name Ras Properties		Landlord <input checked="" type="checkbox"/> Tenant <input type="checkbox"/>	
Property Address (Include Unit Number) 3050 Richmond Blvd #208 Oakland, CA 94612			
Appellant's Mailing Address (For receipt of notices) 520 Van Buren Ave Oakland CA 94610		Case Number T16-0084 Date of Decision appealed June 22, 2016	
Name of Representative (if any) Veronica Velazquez		Representative's Mailing Address (For notices) 520 Van Buren Ave Oakland CA 94610	


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

1. **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board.** You must identify the Ordinance section, regulation or prior Board decision(s) and specify the inconsistency.
2. **The decision is inconsistent with decisions issued by other hearing officers.** You must identify the prior inconsistent decision and explain how the decision is inconsistent.
3. **The decision raises a new policy issue that has not been decided by the Board.** You must provide a detailed statement of the issue and why the issue should be decided in your favor.
4. **The decision is not supported by substantial evidence.** You must explain why the decision is not supported by substantial evidence found in the case record. The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.
5. **I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim.** You must explain how you were denied a sufficient opportunity and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue a decision without a hearing if sufficient facts to make the decision are not in dispute.
6. **The decision denies me a fair return on my investment.** You must specifically state why you have been denied a fair return and attach the calculations supporting your claim.

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached . Please number attached pages consecutively.

8. You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed. I declare under penalty of perjury under the laws of the State of California that on July 6, 2016, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

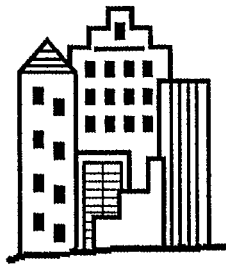
Name	Claudius Frederick
Address	3080 Richmond Blvd # 208
City, State Zip	Oakland CA 94611
Name	Hiroko Frederick
Address	3080 Richmond Blvd # 208
City, State Zip	Oakland CA 94611

	7-6-16
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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



Raj Properties
520 Van Buren Ave
Oakland, CA 94610
Phone (510) 763-2338
Fax (510) 763-2197

APPEAL LETTER

CASE NUMBER: T16-0086, Frederick's v. Raj Properties
PROPERTY ADDRESS: 3080 Richmond Blvd., #208, Oakland, CA
DATE OF DECISION: June 22, 2016
TENANT'S NAME: MR. CLAUDIUS LEROY FREDERICK II &
MRS. HIROKO FREDERICK

This letter is in response to the decision pertaining to the case listed above. Listed below summarizes our appeal:

- 1.) RAP NOTICE – this notice was received and signed by Mr. Claudius Leroy Frederick II on March 3, 2016.
- 2.) 2nd RAP NOTICE – another RAP notice was issued on August 21, 2006 which was signed by Mr. Claudius Leroy Frederick.
- 3.) ANNUAL RENT INCREASE – this yearly rent increase includes RAP notices which we sent to the tenants.
- 4.) OWNERSHIP OF THE PROPERTY – the tenant moved in on April 1, 2006. RAJ PROPERTIES took over the property on February 1, 2010. At that time, the rent was \$1,150.00 per month. Currently, the tenant's rent amount is \$1,274.62 per month.
- 5.) The 1st tenant's complaint as said on the letter was September of 2015 to our On-site Manager. At that time, we have responded to the tenant's issue and sent a letter to the tenants in Apartment #308 on September 15, 2015. (see attached letter pg. 1 of 1)
- 6.) The 2nd time Raj Properties received a complaint about the noise issue was on February 5, 2016. This is the 1st complaint in writing pertaining to this issue. (see attached letter pg. 1 of 2)
- 7.) On February 11, 2016, RAJ Properties sent a response letter to the Fredericks' after investigating the noise issue. (see attached letter pg. 1 of 3)
- 8.) As of February 19, 2015, when Tenant's in Apt. 308 1st moved in, we have not received any type of noise or misbehavior issues or complaints, neither from the residents or the On-site Manager.
- 9.) On March 29, 2016, Apt.#308 called a police on Apt.#208 due to banging on the door violently on their door. (see attached letter pg. 1 of 2)
- 10.) The branch staff at the leasing office has never received a complaint from anyone. Also the On-site Manager walks the property every night and did not notice or hear any noise which could disrupt the peace and comfort to all the tenants.
- 11.) On July 3, 2016, we received a report from the On-site Manager in 3080 Richmond Blvd pertaining to Apt.# 208, the incident that happened on July 3, 2016.

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12.) Since the 1st time we received the complaint from the On-site Manager according to Mr. and Mrs. Fredericks' on September of 2006, we take the proper measures to every tenant's complaints and obey on all Oakland laws.

We feel that the decrease on the rent is not a fair judgement and please reconsider what we have submitted, and also taking consideration, we can only take actions based on the available facts during investigation. We are always willing to work with every single tenant's needs.

Respectfully,

Veronica Velazquez.

Veronica Velazquez
Corporate Manager

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DAVIS - Paul mgmt group 415-7-1560 P.10

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

NOTICE TO TENANTS REGARDING OAKLAND'S RENT ADJUSTMENT PROGRAM

Oakland has a Residential Rent Adjustment Program (Oakland Municipal Code Chapter 8.22) that regulates certain residential rents. Oakland's Residential Rent Adjustment Program Office ("Rent Program"), is located at 250 Frank H. Ogawa Plaza, 5th Floor, Suite 5313, Oakland CA 94612 - (510) 238-3721. The Rent Program assists property owners and tenants by administering a hearing process and offering mediation for rent increases. These services are available at the Rent Program Office. Although the Rent Program offers means for resolving disputes, tenants and owners are encouraged to talk and resolve their disputes between themselves. The Rent Ordinance and Rent Program Regulations, which provide more details on the Rent Program, are available at the Rent Office and on line at www.oaklandnet.com/government/hcd/. This notice provides limited information. For more information contact the Rent Program.

RENT INCREASES

An owner may increase a continuing tenant's rent each year at a rate according to a formula (the "CPI Rent Adjustment"). The Rent Program announces the annual rent adjustment each year in March. An owner may increase rent not more than once a year on or after a tenant's anniversary date (date of the last increase or, if none, tenancy commencement date). An owner may notice a rent increase above the CPI Rent Adjustment. An owner may justify such a rent increase on one or more of the following grounds: 1) Banked Rent Increases; 2) Capital Improvements; 3) Uninsured Repairs; 4) Increased Housing Service Costs; 5) Debt Service Costs, or 6) the amount necessary to meet constitutional fair return standards. A tenant may request in writing a summary of the owner's justifications for the rent increase within 30 days of being served with a rent increase notice. The owner must respond in writing within 15 days of the tenant's servicing the request for a summary.

FILING A PETITION

1) A tenant must file a petition within 60 days after being served with a rent increase notice or within 60 days of receiving this "Notice to Tenants" for the first time. 2) If a tenant does not file a petition within the required time, the Tenant gives up his/her right to contest the increase. 3) To petition, a tenant's rent must be current or be lawfully withheld. 4) Petitions are heard by a Hearing Officer based on evidence from the owner and tenant. 5) Either party may appeal a Hearing Officer's decision to the Rent Adjustment Board.

HOW MUCH RENT TO PAY WHILE A PETITION IS PENDING

A tenant must pay all rent increases when due until the tenant files a petition. After a tenant files a petition, the tenant is only required to pay the amount of the increase equal to the CPI Rent Adjustment if the owner separately states that amount on the rent increase notice. If the owner does not separately state the amount of the rent increase that equals the CPI Rent Adjustment, the tenant need not pay any of the rent increase while the petition is pending. Once the petition is decided, the tenant must pay the full amount of any increase ordered by the Hearing Officer retroactive to the date when the rent increase would have been effective under the owner's rent increase notice. Because the rent increase is retroactive, Tenants are encouraged to save the increase amount.

MEDIATION

Owners and tenants are encouraged to talk and resolve their differences. The Rent Program offers mediation of rent increase disputes and some evictions. Mediation is voluntary and both sides must agree to participate.

TERMINATION OF TENANCY

An owner terminating a tenancy by a 30 day notice must: 1) include on the termination notice the rent currently paid by the tenant receiving the notice, 2) file the termination notice with the Rent Program Office within 10 days of serving it, and 3) give a new tenant a notice informing them of the prior tenant's termination of tenancy, the last rent paid by the prior tenant, and the restrictions on rent increases for the new tenant. An owner terminating a tenancy to rehabilitate a rental unit must first obtain a building permit when one is required.

PROGRAM FEE

The City charges owners a \$24 annual fee to support the Rent Program. Owners may require tenants pay half the fee.

RECEIPT OF NOTICE

(Or attach proof of service to owner file copy.)

Address of Rental Unit: 208 3080 Richmond Boulevard #210 Oakland, CA, 94611

Tenant: [Signature] Owner: Bevin Harper

Date: 3-31-06 Date: 3-31-06

notice_to_tenants(Notice adopted ___-___-02)



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

Community and Economic Development Agency
Rent Adjustment Program

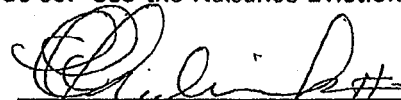
(510) 238-3721
FAX (510) 238-3691
TDD (510) 238-3254

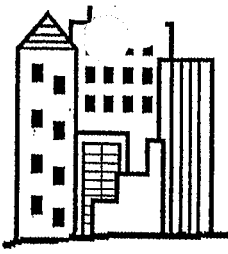
NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM

- The City of Oakland has a Residential Rent Adjustment Program (Chapter 8.22 of the Oakland Municipal Code) that covers most residential rental units built before 1983. It does not apply to units rented under section 8, most single family dwellings and condominiums and some other types of units. For more information on which units are covered, call the Rent Adjustment Program office. This Program limits rent increases and changes in tenancy terms for covered residential rental property in Oakland.
- You have a right to file a petition with the Rent Adjustment Program to contest rent increases which are greater than the annual general rent increase (the CPI increase). A landlord can increase rents more than the CPI increase for certain costs increases including: capital improvements, operating expense increases, debt service, and deferred annual rent increases. You can also complain about other violations of the Rent Adjustment Ordinance. The current annual increase is online at <http://www.oaklandnet.com/government/hcd/rentboard/ordinance.html> or call the office.
- If there is a decrease in the housing services provided to you, this may be considered an increase in your rent. A decrease in housing service includes substantial problems with the condition of a unit.
- To contest a rent increase, you must file your petition within sixty (60) days after first receiving written notice of the Residential Rent Adjustment Program using the Rent Program's form, or within sixty (60) days of receiving a notice of rent increase or change in tenancy, whichever is later.
- You can obtain information and the petition forms from the Rent Adjustment Program office or online at <http://www.oaklandnet.com/government/hcd/rentboard/tenant.html>
- If you contest a rent increase, you must pay your rent, including the contested increase, until you file your petition. After you file your petition, you may pay only the portion of the increase due to the CPI Rent Adjustment percentage, but only if the CPI increase amount has been set out separately on the notice of rent increase. If it has **not** been separately stated, you must only pay the rent you were paying before the rent increase notice.
- If the increase is approved and you did not pay the increase as noticed, you will owe the amount of the increase retroactive to the date it would have been effective under the notice.
- In most Rent Units, Oakland does not permit evictions except where the landlord has certain just causes to evict. The just causes that allow a landlord to evict a tenant include: non-payment of rent, breach of the rental agreement, using the Rent Unit for illegal activities, damage to the Rental Unit, move-in by the landlord or the landlord's relative, and major code related repairs.
- Oakland charges landlords a \$24 per unit Rent Program Service Fee. The landlord is entitled to get half of the fee (\$12) per unit from you. The \$12 you pay for the annual fee is not part of the rent.

The Oakland Municipal Code requires that a tenant who commits or permits certain illegal acts in the Rental Unit or on the land on which the unit is located or in the common areas of the rental complex **must** be evicted. If the owner does not evict, the City Attorney may do so. See the Nuisance Eviction Ordinance (O.M.C. Chapter 8.23) for more information.

I received a copy of this notice on 21 Aug 2006
DATE


TENANT SIGNATURE



Raj Properties
520 Van Buren Avenue
Oakland, CA 94610
Phone (510) 763-2338
Fax (510) 763-2197

DELIVERED BY HAND AND U.S. POSTAL SERVICE

DATE: 9-15-15

TENANT NAME: Bryan Pyle, Sara Maseli

ADDRESS: 3080 Richmond Blvd APT# 308
Oakland, CA 94610

Re: **NOISE/DISTURBANCE**

Dear Tenant:

It has been brought to our attention in the office the volume level of noise coming from your apartment after office hours is extremely loud, and could be considered disturbing the peace. Raj Properties is asking that you please be considerate of your neighbors.

We have instructed your neighbors should there be any further occurrences, they should contact the resident manager. Should the resident manager be required to address this issue to you personally it will be noted in your resident file. The office will have no choice but to pursue legal action as a result of breaching your covenant referring to noise and quiet enjoyment.

We would hope none of the above actions are necessary and ask once again that you please be considerate of your neighbors. Thank you in advance for your cooperation and consideration.

Thank you for choosing Raj Properties as your home.

Sincerely,

Kimberly Jones
Raj Properties Management

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February 5th, 2016

Hiroko Frederick
3080 Richmond Blvd.
Apt. 208
Oakland, Ca. 94611
(510) 893-3465

Raj Properties
520 Van Buren Ave.
Oakland, Ca. 94610

To Whom It May Concern:

I am writing a letter to follow up with Raj Properties about a formal complaint regarding nosy neighbor's in Apt.# 308 above my apartment at the address indicated above.

I have spoke to Raj Properties and Apartment Manager in person about nosy neighbor's for several months. The Apartment Manager who lives in building has spoke to nosy neighbor's with no success. The Oakland Police has come out 2 times and spoke with nosy neighbor's and still they continue to be disrespectful and comply with Oakland laws.

I am unable to sleep or live a peaceful life with the noisy neibhbor's in Apt.# 308.

I have been a excellent tenant and resident since 2006.

Further more, it states that Oakland City Code Chapter 8.18- Nuisances / 8.18.010-Excessive and annoying noises prohibtd.

A. It is unlawful for any person to create or annoying noise as defined herein. Any violation of the regulations specified herein shall be punishable as an infraction.

I would like to add that California state law states that you are required to reply to this complaint within 5 days. If a reply is not received within 5 days I will take further action.

I hope that we can resolve this concern soon and look forward to to hearing from you.

Sincerely

Hiroko Frederick



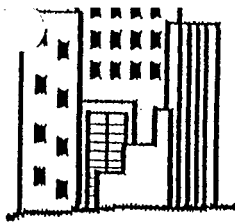
Crystal

call me

about this

Veronica

10f
000070



Raj Properties

3080 Richmond Blvd.

Oakland, CA 94611

Phone (510) 763-2338

Fax (510) 763-2197

February 11, 2016

Hiroko Fredrick
Claudis Fredrick
3080 Richmond Blvd #208
Oakland, CA 94611

Dear Hiroko & Claudis Fredrick,

This letter is to follow up with you on a noise disturbance complaint letter that we recently received in our office on 02/10/2016. Involving tenants from 3080 Richmond Blvd #308 Oakland, CA 94611

We have taken the proper steps in resolving this issue. We have followed up with the tenants and sent them a Noise/ Disturbance letter on 02/11/2016. I will be following back up with you in regards to this matter to see if the Noise problems and disturbance are still continuing.

Please feel free to contact me directly in regards to any matters, questions or concerns (510) 763-2338

Sincerely,

Crystal Lopez

Raj Properties
Management

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Use a separate form for each request type.

REQUESTOR: PLEASE COMPLETE PARTS 1 & 2

PART 1 - REQUESTOR INFORMATION

Name of Requestor (Please Print Legibly)		Request Received By Enter Serial No. 4816	Date of Receipt, If different 8 APR 16
Agency/Company	Email Address	Date of Request 4/8/16	Case Number
Address 5080 Richmond Blvd #308		City Oakland	Zip Code 94611

PART 2 - DOCUMENT / INFORMATION REQUESTED (Requestor to check all boxes that apply and enter all known information)

INFORMATION TYPE

Offense Report Arrest Report Statistic Internal Affairs Division Complaint Training Record

Department Publication Call for Service (Computer Assisted Dispatch [CAD] Purge) Other: _____

Non-Collision Traffic Information or Statistics Only -- (For vehicle collision reports or related photos, contact the Traffic Section directly)

Video Audio In-Car Video CAD Purge

NEW INFORMATION

Report / Citation Number (if known) INC #324	Date of Report/Incident 3/29/16	Time of Incident <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Location of Incident 3080 Richmond Blvd #308	Name of Involved Party	Date of Birth
Vehicle Information	License No.	VIN Number
	Make	Model

Describe request (Be as specific as possible)
Copy of incident report

PART 3 - FOR RECORDS DIVISION USE ONLY

Requester's Method <input type="checkbox"/> Drop-off <input type="checkbox"/> Mail <input type="checkbox"/> Other: _____	Enter Organizational Unit	Date Assigned	PRR Log Number 14927	Response Due Date Enter # Days From Date of Request/Receipt 4/15/16
--	---------------------------	---------------	--------------------------------	--

PART 4 - CUSTODIAN OF RECORD USE ONLY

Release Approved by <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Enter Serial No.	PRR Requestor <input type="checkbox"/> PRRC <input type="checkbox"/> Requestor	Date	Anticipated Completion Date Enter a Reasonable Timeline	Actual Date Completed
Extension Needed Reason	Extension Approved by	New Anticipated Completion Date	Actual Date Completed		
<input type="checkbox"/> Outside Facility <input type="checkbox"/> Volume of Search	<input type="checkbox"/> Consultation Needed <input type="checkbox"/> Programming Required	Enter Serial No. 4542	Enter a Reasonable Timeline 30 days	6/9/16	

PART 5 - FEE CALCULATION AND COLLECTION - Complete if fees are to be collected by the Records Division

Copy Fee	Number of Copies	\$ / page	= \$
Authorized Staff Rate			= \$
TOTAL			\$

Date Requestor Notified: _____ Enter Date Notified Picked up Mailed Other (Describe): _____ Destruction Date: _____

Signature of Person Picking up Records for Requestor Name of Requestor (Individual or Other): _____	Signature of Custodian of Record	Date: 4/8/16
--	----------------------------------	---------------------

Original to Records Division Copy to _____ Copy to Requestor

2 page

OAKLAND PD
Date: 06/09/16 Time: 19:50

PAGE: 000001
Requested By: BROWN, GAIL

INCIDENT RECALL

Incident	Time	Type	Pri	Dispo	Address Location	Bldg Apt	Callers Name Callers Address Callers Phone	P-unit	Close Date/ Time	Operator
					BEAT	TEAM/Dist	AREA			
60329000324	10:34	415N	2	COV	3080 RICHMOND BLVD APT 308	308	SARAH MASELLI	OP/1L09	16/03/29 11:34	OPC20
					08X	02	F1	8082507482		

Time	Operator
6/03/29 10:38 Incident Initiated By: OP/C20	C20
6/03/29 10:38 Original Location : APT 308	C20
6/03/29 10:38 962X----DOWNSTAIRS NEIGH FROM APT 208 FA 60 AND NEIGH FROM APT 202 FA 50	C20
6/03/29 10:38 BOTH CAME BANGING ON HER DOOR ---RP BELIEVES IT'S BECUZ HER DAU DROPPED	C20
6/03/29 10:38 A DOLL ON THE FLOOR --BUZE #1525 FOR ENTRY	C20
6/03/29 10:38 Primary Event: MAIN Opened: 16/03/29 10:38	C20
6/03/29 10:44 Stat OP/1L08 ER Loc: APT 308	C13
6/03/29 10:44 Primary unit To: OP/1L08	C13
6/03/29 10:44 Stat OP/1L09 ER Loc: APT 308	C13
6/03/29 10:53 Stat OP/1L08 OS Loc: APT 308	GIACOMINI, CHRISTOPHE
6/03/29 10:55 Stat OP/1L08 OS Loc: APT 308	C13
6/03/29 10:56 Stat OP/1L09 OS Loc: APT 308	C13
6/03/29 11:16 Stat OP/1L08 AV	GIACOMINI, CHRISTOPHE
6/03/29 11:16 Primary unit Fr: OP/1L08 To: OP/1L09	GIACOMINI, CHRISTOPHE
6/03/29 11:16 Stat OP/1L08 ER Loc: APT 308	C35
6/03/29 11:21 Arrived on scene and spoke to R/P (SARAH MASELLI) who advised that	00 GIACOMINI, CHRISTOPHE
6/03/29 11:21 tenants in #202/208 banged on her door all becuase MASELLI'S daughter	00 GIACOMINI, CHRISTOPHE
6/03/29 11:21 accidentally dropped one of her dolls on the floor. MASELLI requested	00 GIACOMINI, CHRISTOPHE
6/03/29 11:21 that we speak to the tenants in	00 GIACOMINI, CHRISTOPHE
6/03/29 11:23 both apartments. R/O's knocked repeatedly and announced our presence on	00 GIACOMINI, CHRISTOPHE
6/03/29 11:23 both doors with negative results. MASELLI was advised and given an OPD	00 GIACOMINI, CHRISTOPHE
6/03/29 11:23 Resource Card with the incident and information on a restraining order.	00 GIACOMINI, CHRISTOPHE
6/03/29 11:23 PDRD off.	00 GIACOMINI, CHRISTOPHE
6/03/29 11:32 Stat OP/1L08 AV	GIACOMINI, CHRISTOPHE
6/03/29 11:32 Disposition CHANGED To: RTCA MAIN	GIACOMINI, CHRISTOPHE
6/03/29 11:34 Stat OP/1L09 AV	C35
6/03/29 11:34 Route Closed: MAIN COV	UNKNOWN
6/03/29 11:34 Disposition CHANGED Fr: RTCA To: COV MAIN	C35
6/03/29 11:34 Incident Closed: 16/03/29 11:34	UNKNOWN

== Vehicle / Subject Information ==

 VEHICLE OR SUBJECT RECORDS FOR EVENT LOP160329000324.

SELECTION CRITERIA: LOP160329000324

***** End of Report *****

Nathaniel Brown

6/27/2016 to 7/03/2013080 Richmond Blvd Oakland CA 94610

6/27/2016 ~ 8:00am Unlocked Laundry Room, performed rounds. No incidents to report. 10pm Locked Laundry Room, performed evening rounds, no incidents to report. 12:45pm performed 2nd evening round, put recycling containers out from. No incidents to report.

6/28/2016 ~ 8:00am Unlocked Laundry Room, performed rounds, no incidents to report. 9:00pm recycling containers were brought back inside. 10:00pm Locked Laundry Room, performed rounds, no incidents to report. 1:30am performed 2nd round, no incidents to report.

6/29/2016 ~ 8:00am Unlocked Laundry Room, performed rounds, no incidents to report. 10:00pm Locked Laundry Room, performed rounds, no incidents to report. 12:30am performed 2nd rounds, no incidents to report.

6/30/2016 ~ 8:00am Unlocked Laundry Room, performed round, no incidents to report. 10:00pm Locked Laundry room, performed rounds, no other incidents to report. 11:45pm performed 2nd round no incidents to report.

7/01/2016 ~ 8:00am Unlocked Laundry room, performed rounds, no incidents to report. 10:00pm Locked Laundry room, performed rounds, no incidents to report. 11:30pm Performed 2nd round, no incidents to report.

7/02/2016 ~ 8:00am Unlocked Laundry Room, performed rounds, no incidents to report. 10:00pm Locked Laundry room, performed rounds no other incidents to report. 12:30am Performed 2nd round, no incidents to report.

7/03/2016 ~ 8:00am unlocked Laundry room, performed rounds, no incidents to report. 10:00pm Locked Laundry Room, performed rounds, no incidents to report. 11:45pm performed 2nd round, no incidents to report.

On June 30th Apt 308 texted me that the man from Apt 208 came up to her Apt around 12:30pm and knocked hard on her door. She was working out quietly in her unit at the time. She open the

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door and was accosted by here neighbor from 208 that was sitting in his wheelchair. He was very aggressive and threatening, telling her "you don't matter here, because you just moved in and I have been here for over 10 years." Tenant was left quite shaken and fearful for her and her families safety when he left. Tenant goes out her way to be quiet at all times and wishes to not live in fear of her neighbors below harassing them. She shared to me that in her communicationg this information is an Official Complaint againts Apt 208. (nb)



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0086, Frederick v. Raj Properties
PROPERTY ADDRESS: 3080 Richmond Blvd., #208, Oakland, CA
DATE OF HEARING: June 8, 2016
DATE OF DECISION: June 22, 2016
APPEARANCES: Hiroko Frederick (Tenant)
(No Appearance by Owner)

SUMMARY OF DECISION

The tenant's petition is granted.

CONTENTIONS OF THE PARTIES

The tenant filed a petition which alleges that her housing services have been decreased due to excessive noise by her upstairs neighbors. The owner did not file a response to the petition, nor did any owner representative appear at the Hearing.

THE ISSUES

- (1) When, if ever, did the tenant receive the City of Oakland form notice of the existence and scope of the Rent Adjustment Program (RAP Notice)?
- (2) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

RAP Notice: At the Hearing, the tenant testified that she has never received the RAP Notice.

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Rent History: The tenant testified that she moved into the unit in April 2006, at a rent of \$1,100 per month. Her rent in the period February 2015 through January 2016 was \$1,253 per month; her rent since February 2016 has been \$1,274 per month.

Decreased Housing Services: The tenant testified that, beginning in February 2015, there have been loud noises from the unit above hers almost every day. These noises include moving furniture or other objects, hammering, vibrating sounds, stomping on the floor, running and jumping, doors slamming, loud music, and objects being dropped on the floor. These noises sometimes last until 1:00 or 2:00 in the morning, and often wake the tenant up.

The tenant first reported this problem to the resident manager in the 36-unit building in which she lives in September 2015. The resident manager said that something would be done, but the noise continued. The tenant again called the resident manager concerning this problem in October and November 2015, but there has been no improvement.

On February 5, 2016, the tenant wrote a letter to the owner, which she handed to an owner representative.¹ This letter states, in part: “I am writing a letter to follow up with Raj Properties about a formal complaint regarding noisy neighbors in Apt. #308 above my apartment. I have spoken to Raj Properties and Apartment Manager in person about noisy neighbors for several months. The Apartment Manager who lives in the building has spoken to noisy neighbors with no success. The Oakland Police has come out 2 times and spoke with noisy neighbors and still they continue to be disrespectful and [refuse to] comply with Oakland laws. I am unable to sleep or live a peaceful life with the noisy neighbors in Apt. #308. . . If a reply is not received within 5 days I will take further action.”

The level of noise continued, and on February 11, 2016, the tenant filed her petition with the Rent Adjustment Program. The tenant again wrote to the owner on February 12, 2016.² This letter states, in part: “I am writing this letter to follow up with Raj Properties regarding my last letter written about noisy neighbors in Apt. #308 above me on February 5th, 2016. I also received a call from the landlord that same day . . . telling me that he would write a letter to neighbors in Apt. #308 about the noise. The noisy neighbors are still continuing to make all kinds of annoying sounds at all hours of the day and late in the night. The loud sounds of power hand tools, dropping heavy things on the floor, jumping and running on the floors . . .”

At the Hearing, the tenant played a recording of loud noises, which she testified was recorded in her unit at night in May 2016. She further testified that she continues to call the resident manager – some of which go to voicemail – but the situation has not improved. As the Hearing progressed, the tenant became increasingly emotional, especially when describing noises that awaken her from sleep.

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¹ Exhibit No. 1. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence.

² Exhibit No. 2.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice: The uncontradicted testimony of the tenant is credited. It is found that the tenant has never received the RAP Notice.

Decreased Housing Services: 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. A tenant petition must be filed within 60 days after the date of service of a rent increase notice or change in the terms of a tenancy or the date the tenant first receives the RAP Notice, whichever is later.⁵ Where the RAP notice has never been given, as is the case here, a tenant can be granted restitution for rent overpayments due to decreased housing services for a maximum of 3 years.⁶

The tenant testified in a straightforward manner, and her testimony is found to be credible. There is little doubt that the tenants above her unit frequently make unreasonably loud noises, both day and night. It is unknown what, if anything, the owner has done with regard to the tenant's complaints. However, any actions by the owner to date have certainly not been effective.

Oakland Municipal Code (O.M.C.) Section 8.18.010 states, in part: "It is unlawful for any person to create or to allow to be created any excessive or annoying noise as defined herein. . . 'Excessive noise' means any unnecessary noise which persists for ten minutes or more." Similarly, OMC Section 8.18.020 – "Persistent Noises a Nuisance" – states that "the persistent maintenance or emission of any noise or sound produced by human, animal or mechanical means, between the hours of nine p.m. and seven a.m. . . shall constitute a nuisance." It is clear that the tenants in the unit above the tenant have repeatedly violated this law.

O.M.C. Section 8.22.360, a portion of the Just Cause for Eviction Ordinance, states that an owner may lawfully issue a notice terminating the possession of a tenant who "has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants at the property."⁷

The noises described by the tenant have had a significant impact upon the tenant's life, and have reduced the package of housing services by 10% since November 2015, when the owner reasonably should have acted to either greatly minimize the noises coming from the upstairs unit or taken steps to evict these tenants.

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)(2)

⁶ Appeal Decision in Case No. T06-0051, Barajas/Avalos v. Chu

⁷ O.M.C. Section 8.22.360(A)(5)

Because of the current decrease in housing services, the rent is reduced by 10%, being \$127.40 month, to \$1,146.60 per month. This rent decrease will remain in effect until the owner sends an appropriate written notice to the tenants in Unit 308 informing them that unless they immediately cease making loud noises between the hours of 9:00 P.M. and 7:00 A.M. their tenancy will be terminated, and sends a copy of this notice to the tenant, as specified in the Order below.

Further, because of this decrease in housing services the tenant has overpaid rent since November 1, 2015. As set forth on the following Table, the tenant overpaid rent during that time in the amount of \$1,012.90. The overpayment is ordered repaid over a period of 12 months.⁸ The current rent of \$1,146.60 per month is temporarily reduced by \$84.41 per month, to \$1,062.19 per month, beginning with the rent payment in July 2016 and ending with the rent payment in June 2017.

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Noise From Unit Above	1-Nov-15	31-Jan-16	\$1,253	10%	\$ 125.30	3	\$ 375.90
Noise From Unit Above	1-Feb-16	30-Jun-16	\$1,274	10%	\$ 127.40	5	\$ 637.00
TOTAL LOST SERVICES							\$ 1,012.90

RESTITUTION

MONTHLY RENT	\$1,274
TOTAL TO BE REPAYED TO TENANT	\$ 1,012.90
TOTAL AS PERCENT OF MONTHLY RENT	80%
AMORTIZED OVER 12 MO. BY REG. IS	\$ 84.41

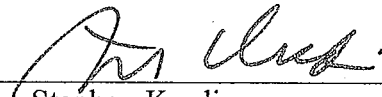
ORDER

1. Petition T16-0086 is granted.
2. The Base Rent is \$1,274 per month.
3. Because of an ongoing decrease in housing services, the current rent, before reduction due to rent overpayments, is \$1,146.60 per month.
4. Because of past decreased housing services, the tenant has overpaid rent in the amount of \$1,012.90. This overpayment is adjusted by a rent reduction for 12 months.
5. The current rent of \$1,146.60 per month is temporarily reduced by \$84.41 per month, to \$1,062.19 per month, beginning with the rent payment in July 2016 and ending with the rent payment in June 2017.

⁸ Regulations, Section 8.22.110(F)

6. In June 2017, the rent will increase to \$1,146.60 per month.
7. When the owner sends an appropriate written notice to the tenants in Unit 308 informing them that unless they immediately cease making loud noises between the hours of 9:00 P.M. and 7:00 A.M. their tenancy will be terminated, and sends a copy of this notice to the tenant, the owner may increase the rent by \$127.40 per month, after giving proper notice in accordance with the Rent Adjustment Ordinance and Civil Code Section 827.
8. **Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: June 22, 2016



Stephen Kasdin
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0086

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

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

Tenant

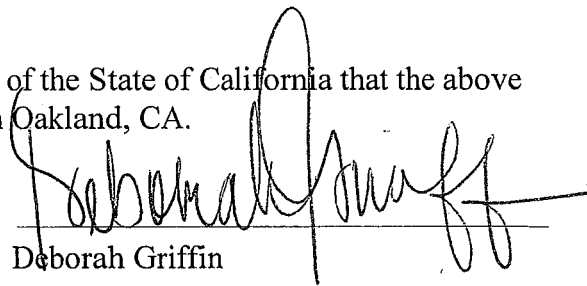
Hiroko Frederick
3080 Richmond Blvd. #208
Oakland, CA 94611

Owner

RAJ Properties
520 Van Buren Ave
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 22, 2016 in Oakland, CA.


Deborah Griffin

000081

Tile 0086 MS/SK

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. 2016 FEB 11 AM 11:23
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name HIROKO FREDERICK	Rental Address (with zip code) 3088 RICHMOND BLVD #208 OAKLAND, CA 94611	Telephone 510 893-3465
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) RAJ PROPERTIES	Mailing Address (with zip code) 520 VAN BUREN AVE OAKLAND, CA 94610	Telephone 510 763-2338

Number of units on the property: 36

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

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

<input type="checkbox"/>	(a) The increase(s) exceed(s) the CPI Adjustment and is (are) unjustified or is (are) greater than 10%.
<input type="checkbox"/>	(b) The owner did not give me a summary of the justification(s) for the increase despite my written request.
<input type="checkbox"/>	(c) The rent was raised <u>illegally</u> after the unit was vacated (Costa-Hawkins violation).
<input type="checkbox"/>	(d) No written notice of Rent Program was given to me together with the notice of increase(s) I am contesting. (Only for increases noticed after July 26, 2000.)
<input type="checkbox"/>	(e) A City of Oakland form notice of the existence of the Rent Program was not given to me at least six months before the effective date of the rent increase(s) I am contesting.
<input checked="" type="checkbox"/>	(f1) The housing services I am being provided have decreased. (Complete Section III on following page)
<input type="checkbox"/>	(f2) At present, there exists a health, safety, fire, or building code violation in the unit. <u>If the owner has been cited in an inspection report, please attach a copy of the citation or report.</u>
<input type="checkbox"/>	(g) The contested increase is the second rent increase in a 12-month period.
<input type="checkbox"/>	(h) The notice of rent increase based upon capital improvement costs does not contain the "enhanced notice" requirements of the Rent Adjustment Ordinance or the enhanced notice was not filed with the RAP.
<input type="checkbox"/>	(i) My rent was not reduced after the expiration period of the rent increase based on capital improvements.
<input type="checkbox"/>	(j) The proposed rent increase would exceed an overall increase of 30% in 5 years. (The 5-year period begins with rent increases noticed on or after August 1, 2014).
<input type="checkbox"/>	(k) I wish to contest an exemption from the Rent Adjustment Ordinance (OMC 8.22, Article I)

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

Date you moved into the Unit: April 2006 Initial Rent: \$ 1,100.00 /month

When did the owner first provide you with a written NOTICE TO TENANTS of the existence of the Rent Adjustment Program (RAP NOTICE)? Date: I don't recall. If never provided, enter "Never."

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

List all rent increases that you want to challenge. Begin with the most recent and work backwards. If you need additional space, please attach another sheet. You must check "Yes" next to each increase that you are challenging.

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* You have 60 days from the date of notice of increase or from the first date you received written notice of the existence of the Rent Adjustment program (whichever is later) to contest a rent increase. (O.M.C. 8.22.090 A 2) If you never got the RAP Notice you can contest all past increases.

List case number(s) of all Petition(s) you have ever filed for this rental unit: _____

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

Decreased or inadequate housing services are considered an increase in rent. If you claim an unlawful rent increase for service problems, you must complete this section.

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

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

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

IV. VERIFICATION: The tenant must sign:

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

[Handwritten Signature]
Tenant's Signature

2-11-16
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

The owner is required to file a Response to this petition within 35 days of notification by the Rent Adjustment Program. You will be mailed a copy of the Landlord's Response form. Copies of documents attached to the Response form will not be sent to you. However, you may review these in the Rent Program office by appointment. For an appointment to review a file call (510) 238-3721; please allow six weeks from the date of filing before scheduling a file review.

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

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