

**HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD  
FULL BOARD SPECIAL MEETING  
January 27, 2022  
5:00 P.M.  
Meeting Will Be Conducted Via Zoom**

**AGENDA**

**PUBLIC PARTICIPATION**

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

**OBSERVE:**

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

- To observe the meeting by video conference, please click on the link below:  
When: Jan 27, 2022 05:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD FULL BOARD MEETING- January 27, 2022

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82013864689>

Or One tap mobile :

US: +16699009128,,82013864689# or +13462487799,,82013864689#

Or Telephone:

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

US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 820 1386 4689

International numbers available: <https://us02web.zoom.us/j/82013864689>

**COMMENT:**

There are two ways to submit public comments.

- To comment by Zoom video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Instructions on how to “Raise Your Hand” are available [here](#).

- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing “\*9” to speak when Public Comment is taken. You will be permitted to speak during your turn, allowed to comment, and after the allotted time, re-muted. Please unmute yourself by pressing “\*6”.

If you have any questions, please email [hearingsunit@oaklandca.gov](mailto:hearingsunit@oaklandca.gov) .

## HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD SPECIAL MEETING

1. CALL TO ORDER
2. ROLL CALL
3. ELECTION OF OFFICERS OR PRO TEM OFFICERS
4. OPEN FORUM
5. RENEWAL: ADOPTION OF AB 361 RESOLUTION (pp. 3-5)
6. CONSENT ITEMS
  - a. Approval of Board Minutes, 12/9/2021 (pp. 6-11)
7. APPEALS\*
  - a. T21-0088, Lerer v. Addleman (pp. 13-76)
  - b. L20-0071, Hertzler Enterprises LLC v. Tenants (pp. 77-188)
  - c. L19-0257, Underwood v. Tenants (pp.189-217)
8. INFORMATION AND ANNOUNCEMENTS
  - a. Board Outreach
9. SCHEDULING AND REPORTS
  - a. HRRRB Training Schedule 2022 (p. 12)
10. ADJOURNMENT

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

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

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

Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en Español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) o llame al (510) 238-3721 o 711 por lo menos cinco días hábiles antes de la reunión.

需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) 或致電 (510) 238-3721 或711 California relay service.

# OAKLAND HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD (HRRRB)

RESOLUTION NO. \_\_\_\_\_

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**ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD (HRRRB) AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(e), A PROVISION OF AB-361.**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. *See* <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

**WHEREAS**, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

**WHEREAS**, City Council Resolution No. 88075 remains in full force and effect to date; and

**WHEREAS**, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

**WHEREAS**, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. *See* <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

**WHEREAS**, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. *See* <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

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**WHEREAS**, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms stay home. *See* <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

**WHEREAS**, persons without symptoms may be able to spread the COVID-19 virus. *See* <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

**WHEREAS**, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. *See* <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

**WHEREAS**, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh / outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

**WHEREAS**, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

**WHEREAS**, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

**WHEREAS**, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households; and

**WHEREAS**, on October 14, 2021 and December 9, 2021 the Housing, Residential Rent and Relocation Board (HRRRB) adopted a resolution determining that conducting in-person meetings would present imminent risks to attendees' health, and electing to continue conducting meetings using teleconferencing in accordance with California Government Code Section 54953(e), a provision of AB-361; now therefore be it:

**RESOLVED:** that the Housing, Residential Rent and Relocation Board (HRRRB) finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this resolution; and be it

**FURTHER RESOLVED:** that, based on these determinations and consistent with federal, state and local health guidance, the Housing, Residential Rent and Relocation Board (HRRRB) renews its determination that conducting in-person meetings would pose imminent risks to the health of attendees; and be it

**FURTHER RESOLVED:** that the Housing, Residential Rent and Relocation Board (HRRRB) firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the

two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and be it

**FURTHER RESOLVED:** that the Housing, Residential Rent and Relocation Board (HRRRB) will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Housing, Residential Rent and Relocation Board (HRRRB) finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.

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

**December 9, 2021**

**5:00 P.M.**

**VIA ZOOM CONFERENCE**

**OAKLAND, CA**

**MINUTES**

**1. CALL TO ORDER**

The Board meeting was administered via Zoom by H. Grewal, Housing and Community Development Department. He explained the procedure for conducting the meeting. The HRRRB meeting was called to order at 5:02 p.m. by Member D. Ingram.

**2. ROLL CALL**

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
R. NICKENS, JR.	Tenant	X		
Vacant	Tenant			
Vacant	Tenant Alt.			
H. FLANERY	Tenant Alt.			X
D. INGRAM	Undesignated	X		
C. OSHINUGA	Undesignated	X		
E. TORRES	Undesignated			X
Vacant	Undesignated Alt.			
Vacant	Undesignated Alt.			
T. WILLIAMS	Landlord	X		
N. HUDSON	Landlord	X		
B. SCOTT	Landlord Alt.			X
K. SIMS	Landlord Alt.			X

**Staff Present**

Kent Qian	Deputy City Attorney
Ubaldo Fernandez	Deputy City Attorney
Harman Grewal	Business Analyst III (HCD)
Briana Lawrence-McGowan	Administrative Analyst I (RAP)
Mike Munson	KTOP

3. WELCOME NEW BOARD MEMBERS

- a. Member C. Oshinuga introduced himself as a new undesignated representative. Member E. Torres, who was not present, was also introduced as a new undesignated representative by City staff.

4. ELECTION OF OFFICERS OR PRO TEM OFFICERS

- a. Member R. Nickens, Jr. moved to nominate Member D. Ingram as the Pro Tem chair for this meeting. N. Hudson seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, T. Williams, R. Nickens, Jr., N. Hudson, C. Oshinuga  
**Nay:** None  
**Abstain:** None

The motion was approved.

5. OPEN FORUM FOR RENEWAL: ADOPTION OF AB 361 RESOLUTION

- a. James Vann asked about the positions held by the Board members present at the meeting and the status of vacancies on the Rent Board. He also welcomed the new Board members.

6. RENEWAL: ADOPTION OF AB 361 RESOLUTION

- a. Member C. Oshinuga moved to renew the adoption of AB 361 resolution. R Nickens, Jr. seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, T. Williams, R. Nickens, Jr., N. Hudson, C. Oshinuga  
**Nay:** None  
**Abstain:** None

The motion was adopted.

7. OPEN FORUM

- a. James Vann asked for City staff who were present at the meeting to be identified.

8. CONSENT ITEMS

- a. Approval of Board Minutes from the October 14, 2021 Full Board Special Meeting for the adoption of AB 361 resolution and the October 14, 2021 Full Board Special Meeting.

T. Williams moved to approve the minutes from both of the October 14, 2021 Special Meetings. N. Hudson seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, T. Williams, R. Nickens, Jr., N. Hudson, C. Oshinuga  
**Nay:** None  
**Abstain:** None

The minutes were approved.

9. APPEALS

- a. T19-0384, Salvador v. Fong

Appearances: Xavier Johnson Tenant Representative  
May Fong Owner  
Michael Lee Owner Representative

This case involved a tenant petition contesting a previously granted certificate of exemption from a prior case. The tenant contended that the certificate was wrongly issued based upon fraud and mistake. The tenant also contested unlawful rent increases and a decrease in housing services.

The tenant representative contended that the exemption was granted based upon fraud and mistake because the owner’s verbal testimony provided during the initial hearing was untrue. The tenant representative argued that the parcel is a duplex because it has more than one dwelling unit, making the property not exempt from rent control, and requested a limited scope hearing to prove that the certificate of exemption was issued based upon fraud and mistake.

The owner contended that the unit is a condominium according to official records, is exempt from rent control according to Costa Hawkins, which was determined by the Superior court, and that the tenant and Oakland Rent Board are barred from relitigating this case. The owner argued that the burden of proof was on the tenant and that the tenant had the opportunity to appeal the Hearing Officer’s decision but did not when the opportunity was available.

The owner representative argued that they're trying to do the right thing by providing rental units to citizens in Oakland and that they take care of their properties and tenants' needs. The owner representative contended that it is unfair that this case continues to be brought up repeatedly and that if a mistake was made, it is due to the fault of the City and/or the developers.

After parties' arguments, questions to the parties, and Board discussion, Chair D. Ingram moved to remand the case back to the Hearing Officer for a limited scope hearing based on the claim of fraud. C. Oshinuga seconded the motion.

The Board voted as follows:

**Aye:** D. Ingram, T. Williams, N. Hudson, R. Nickens, Jr., C. Oshinuga  
**Nay:** None  
**Abstain:** None

The motion was approved.

b. T21-0046, Warmsley v. Hill

Appearances:	LaTasha Monique Warmsley	Tenant
	Kenyattah Hill	Owner
	Maya Clark	Owner Representative

This case involved a tenant petition alleging decreased housing services due to the owner no longer taking the trash bins out to the curb. The petition was denied by the Hearing Officer due to being filed untimely, because the owner pulled the trash bins out to the curb as a courtesy, and because this service was not included in the lease agreement.

The tenant contended that it took time for the petition to be filed because she was waiting for an official notice for the decreased housing services after previously receiving an unofficial notice on December 29<sup>th</sup>. The tenant argued that after waiting for the official notice, which was never received, she proceeded with filing the petition. The tenant contended that the Hearing Officer made a ruling during the hearing while she was still providing oral testimony, which was unfair. The tenant argued that the lease only states that trash should be placed in the bins, that the landlord assumed the responsibility of pulling the bins out to the curb for 8 years, which was beneficial because she is disabled, and then suddenly stopped after moving off site.

The owner representative contended that the owner previously lived on-site and as a courtesy would pull the trash bins out to the curb for pick-up on behalf of the tenants. The owner representative argued that this service was never in writing and was a courtesy, and upon the owner's relocation, this courtesy service ended. The owner representative contended there was never a written or verbal agreement between the parties as it relates to the courtesy service and that the lease agreement places the responsibility of pulling the trash bins out to the curb for pick-up on the tenant.

After parties' arguments, questions to the parties, and Board discussion, C. Oshinuga moved to uphold the Hearing Officer's decision based on an untimely submission of the tenant's petition. T. Williams seconded the motion.

The Board voted as follows:

**Aye:** C. Oshinuga, R. Nickens, Jr., N. Hudson, T. Williams, D. Ingram  
**Nay:** None  
**Abstain:** None

The motion was approved.

10. Information and Announcements

a. Litigation Update Report: Deputy City Attorney Ubaldo Fernandez provided a litigation update report to the Board. Cases discussed included:

- *Owens v. City of Oakland*
- *Farley Levine v. City of Oakland*
- *Dezerega v. City of Oakland*

b. Board Training—Rules of Evidence and Appeals: Deputy City Attorney Kent Qian administered a Board training session. Topics discussed included:

- Appellate Body
- Appeals
- Appeal on the record or de novo
- Evidence
- Burdens of Proof
- Options for Decisions

- Decision
- Types of Cases for Board
- Communications with the Board

11. Adjournment

- a. The meeting was adjourned at 8:15 p.m.



## **Housing, Residential Rent and Relocation Board (HRRRB) Training Schedule: 2022**

The Housing, Residential Rent and Relocation Board is a quasi-judicial body comprised of seven (7) regular members and six (6) alternate members who are appointed and subsequently approved by City Council. Board members are categorized as either Property Owners, Tenants, or Undesignated. Board members each serve 3-year terms and engage in a variety of trainings while serving the City of Oakland as public officials.

New and current board members participate in extensive trainings at the beginning of and throughout their terms—which includes ranging topics such as Robert’s Rule of Order, the Brown Act, and the Role and Function of the Board. In addition to predetermined scheduled trainings, Board members are also encouraged to collectively come up with and select special topics trainings to be administered—which ensures that Board members can gain increased knowledge and understanding on specific board related matters and topics.

The Housing, Residential Rent and Relocation Board will continue to participate in multiple trainings throughout 2022 and during some of the second full board meetings, beginning in February. The special topics training will be administered first, and the topic will be decided on by the Board.

### **Full Board Meeting: February 24, 2022**

Special Topics Training (\*as decided by the Board\*)

### **Full Board Meeting: March 24, 2022**

Quasi-Judicial Body, Regulatory Body, and the Role of Board Members as Public Officials

### **Full Board Meeting: April 28, 2022**

Role of the Board: Quasi-Judicial, Policy, and Rule Making Responsibilities

### **Full Board Meeting: May 26, 2022**

Brown Act

### **Full Board Meeting: June 23, 2022**

Robert’s Rules of Order

### **Full Board Meeting: October 27, 2022**

Rules of Evidence and Appeals

## CHRONOLOGICAL CASE REPORT

Case No.: T21-0088

Case Name: Lerer v. Addleman

Property Address: 268 Euclid Avenue, Unit 6, Oakland, CA 94610

Parties: Barbara Addleman (Owner)  
Drew Lerer (Tenant)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	June 01, 2021
Owner Response filed	June 28, 2021
Administrative Decision Mailed	August 16, 2021
Owner Appeal filed	August 24, 2021

000013



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

TR1-0088 EL

**TENANT PETITION**

**RECEIVED**

JUL - 1 2021

RENT ADJUSTMENT PROGRAM  
 OAKLAND

8/3

**Property Address:** 268 EUCLID AV  
**Case:** Petition: 13773  
**Date Filed:** 06-01-2021

**Parties**

Party	Name	Address	Mailing Address	
Owner	Barbara Addleman	225 Carmel Avenue Piedmont, CA 94611	225 Carmel Avenue Piedmont, 94611	(510) 414-0673 addleman@pacbell.net
Tenant	Drew Lerer	270 Euclid Avenue Oakland 6 Oakland, CA 94610		(510) 292-9004 drewlerer@gmail.com

**Number of units on the property** 7

**Type of unit you rent** Apartment, Room or Live-work

**Are you current on your rent?** Yes

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

**Grounds for Petition**

**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:**

I received a rent increase above the allowable amount.

I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice ("Notice to Tenants of the Residential Rent Adjustment Program").

The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. (Check this box for petitions based on bad conditions/failure to repair.)

**Rental History**

<b>Date you moved into the Unit</b>	11/1/2021
<b>Initial Rent</b>	\$ 1,500.00 /month
<b>Current Rent</b>	\$ 1,650.00 /month
<b>Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?</b>	No
<b>List the case numbers of any relevant prior Rent Adjustment case(s):</b>	

**List all rent increases that you want to challenge.**

<b>Date you received the notice</b>	<b>Date increase goes into effect</b>	<b>Monthly rent increase From</b>	<b>Monthly rent increase To</b>	<b>Are you Contesting this Increase in this Petition? *</b>	<b>Did You Receive a Rent Program Notice With the Notice Of Increase?</b>
05-01-2021	06-01-2021	\$ 1,636.00	\$ 1,701.00	No	No

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

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

**Description of Decreased or Inadequate Housing Services**

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

**Loss of Service**

**Date Loss Began** 06-01-2021

**Date Owner Was Notified of Loss**

**Estimated Loss**

**Reduced Service Description** Raising parking fee from \$50 to \$115 (see unlawful rent increase). Was informed by tenant attorney that this is unlawful due to the fact that I pay for all services of the unit with one payment.

**Mediation**

Mediation is an optional process offered by the Rent Adjustment Program to assist parties in settling the issues related to their Rent Adjustment case as an alternative to the formal hearing process. The purpose of mediation is to find a mutual agreement that satisfies both parties. A trained third party will discuss the issues with both sides, look at relative strengths and weaknesses of each position, and consider both parties' needs in the situation. If a settlement is reached, the parties will sign a binding agreement and there will not be a formal hearing process. If no settlement is reached, the case will go to a formal hearing with a Rent Adjustment Hearing Officer, who will then issue a hearing decision.

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

**I/We agree to have my/our case mediated by a Rent Adjustment Program staff mediator.** No

**Consent to Electronic Service**

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

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

**Interpretation Services**

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

**I request an interpreter fluent in the following language at my Rent Adjustment proceeding:** No

# Proof of Service Confirmation

## TENANT PETITION

I declare under penalty of perjury under the laws of the State of California that on 06-02-2021 I, **Drew Lerer**, served a copy of the below document(s), and all attached pages, to each opposing party, whose names and addresses are listed below, by United States mail..

Names of Served Document(s)

Tenant Petition

Addressee(s) Information

**Addressee:** Barbara Addleman  
225 Carmel Avenue  
Piedmont CA 94611

Drew Lerer

06-02-2021



06-02-2021

SIGNATURE OF PETITIONER OR  
DESIGNATED REPRESENTATIVE

DATE:

City of Oakland

000018

**RECEIVED**

**JUN 28 2021**

**RENT ADJUSTMENT PROGRAM  
OAKLAND**

Enclosed is my completed response to Tenant Petition #13773  
Filed 06/01/2021 by Drew Lerer  
Case # T21-008

**Please disregard a partial online response was automatically submitted  
in error.**

The following is my completed Property Owner Response to Tenant Petition

**000019**

RECEIVED

JUN 28 2021

RENT ADJUSTMENT PROGRAM  
OAKLAND

Oakland Rent Adjustment Program  
June 24, 2021

I am truly surprised to receive this Petition from my Tenant Drew Lerer, as we have always had a very cordial relationship and I would have expected him to speak to me about the Parking Fee increase before filing a formal complaint.

My apartment building has 7 units and 4 parking spaces. For this reason, the parking spaces have never been tied to the leases of the apartments. These parking spaces have always been made available to tenants on a first-come-first-serve basis when one of the spaces becomes available. Because of the tandem configuration of the parking spaces, they are shared with other tenants. Mr. Lerer moved into my building in 2015 and his lease does **not** include a parking space. Attached as #1 is a copy of his rental agreement and accompanying RAP notice. His name was on a waiting list for a parking space.

After living in the building for 4 years, Mr. Lerer's name was finally at the top of the list to be offered a parking space **for an additional fee** of \$50.00/month. Attached as #2 is an email thread from June of 2019 where I offered Mr. Lerer a parking space for the first time for the additional monthly fee, and he accepted. Following his acceptance, Mr. Lerer regularly paid the additional \$50 parking space fee and began using the parking space.

On May 1, 2021, I exercised my rights as the property owner to increase the parking fee of Mr Lerer's parking space. I gave him a 30 day notice of the parking fee increase which began June 1, 2021. Attached as #3 is a copy of this parking fee rent increase. This parking fee increase did not change or affect his rent for his rental unit in any way.

I have always considered the residential rent separate from the parking fee. Attached as #4 and #5 are copies of the rent increases and accompanying RAP notices that I have given Mr. Lerer for the residential unit. You will see that these rent increases do not include any parking fees. The current rent for the residential unit is \$1,586.00 per month, which is being increased to \$1,616.13, effective August 1, 2021 (See Attachments #4 and #5). The current **and separate** parking fee is \$115.00 per month (See Attachment #3).

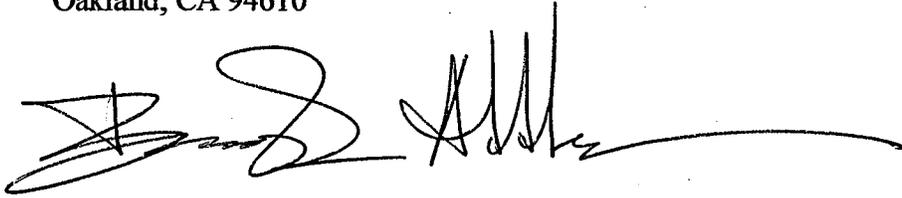
As the parking space was not included with the initial residential rental agreement, it was not a housing service. Instead, the use of the parking space was created through a separate subsequent agreement between us 4 years **after** Mr. Lerer first moved in. My increase in the parking fee is not part of the residential rent, so this increase in the parking fee is not an unlawful rent increase. The Rent Adjustment Program has long held that separate parking agreements and fees are **not** subject to the Rent Adjustment Ordinance. Attached as #6 is a copy of a prior Rent Adjustment Program decision directly on point and supporting my right to increase Mr. Lerer's parking fee without restrictions of the Rent Adjustment Ordinance.

Please note that Mr. Lerer submitted his Petition to the RAP website on June 1, 2021, and has not paid the parking fee increase as of this date.

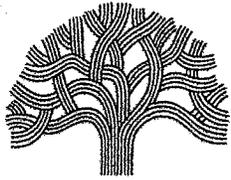
000020

Finally, I have a current Oakland business license and am current with my RAP fee (See Attachments #7 and #8 as proof of this).

Barbara Addleman  
Property Owner  
268 Euclid Ave  
Oakland, CA 94610

A handwritten signature in black ink, appearing to read 'Barbara Addleman', with a long horizontal flourish extending to the right.

000021



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**RECEIVED**

JUN 28 2021

RENT ADJUSTMENT PROGRAM  
CASE NUMBER OAKLAND

**PROPERTY OWNER RESPONSE  
TO TENANT PETITION**

T21-0088

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

**Rental Unit Information**

268 Street Number      Euclid Avenue Street Name      6 Unit Number      Oakland, CA 94610 Zip Code

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

Type of unit(s) (check one):  Single family home  Condominium  Apartment, room, or live-work  
Number of units on property: \_\_\_\_\_  
Date acquired property: \_\_\_\_\_

Case number(s) of any relevant prior Rent Adjustment case(s): 0

**Tenant Information**

Name of Tenant Petitioner(s): Drew Lever

Date tenant(s) moved into rental unit: 11-1-15      Initial rent amount: \$ 1500      Is/are tenant(s) current on rent?  Yes  No

**Property Owner Information**

BARBARA First Name      ADDLEMAN Last Name

Company/LLC/ILP (if applicable): \_\_\_\_\_

Mailing address: 225 CARMEL AVE PIEDMONT, CA 94611

Primary Telephone: 510-414-0673      Other Telephone: \_\_\_\_\_      Email: addleman@pachell.net

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

\_\_\_\_\_  
First Name      Last Name      Firm/Organization (if any)

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_      Email: \_\_\_\_\_

## GENERAL FILING REQUIREMENTS

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

Requirement	Documentation
<input checked="" type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license.
<input checked="" type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee")	Attach proof of payment of the current year's RAP Fee for the subject property.
<input checked="" type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	Attach a signed and dated copy of the <u>first</u> RAP Notice provided to the petitioning tenant(s) or check the appropriate box below. <input checked="" type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date): <u>11-1-2015</u> . <input type="checkbox"/> I have never provided a RAP Notice. <span style="float: right;">- with all rent increases</span> <input type="checkbox"/> I do not know if a RAP Notice was ever provided. <span style="float: right;">- also posted in hall</span>

## PROPERTY OWNER CLAIM OF EXEMPTION

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

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

# RESPONSE TO TENANT PETITION

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

**A.**

## Unlawful Rent Increase(s)

Complete this section if any of the grounds for the Tenant Petition fall under Category A on the Tenant Petition.

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

Date tenant given notice of rent increase:	Date rent increase went into effect:	Amount of increase:		Did you provide a RAP Notice with the notice of rent increase?		Reason for increase (CPI, banking, or other):
		FROM	TO	YES	NO	
(mm/dd/yy) 06-04-2021	(mm/dd/yy) 08-01-2021	\$ 1586	\$ 1416.13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RAP approved CPI
09-01-2018	11-01-2018	\$ 1534	\$ 1586	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RAP approved CPI
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	
* 05-02-2021		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	Parking Fee Increase
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>	

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

Tenant Petition Grounds	Owner Response
(A2) Tenant did not receive proper notice, was not properly served, and/or was not provided with the required RAP form with rent increase(s).	MR. LERER RECEIVED A 30-DAY NOTICE OF INCREASE TO HIS PARKING FEE. IT IS NOT A RENT INCREASE
(A3) A government agency has cited the unit for serious health, safety, fire, or building code violations.	

**B.**

## Decreased Housing Services

Complete this section if any of the grounds for the Tenant Petition fall under Category B on the Tenant Petition.

Tenant Petition Grounds	Owner Response
(B1) The owner is providing tenant(s) with fewer housing services and/or charging for services originally paid for by the owner.	PARKING SPACE IS NOT PART OF MR LERER'S LEASE AGREEMENT - PAYING PARKING FEE WITH RENT DOES NOT MAKE IT A SERVICE
(B2) Tenant(s) is/are being unlawfully charged for utilities.	

**C.**

## Other

Complete this section if any of the grounds for the Tenant Petition fall under Category C on the Tenant Petition.

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

### OWNER VERIFICATION

(Required)

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

  
Property Owner 1 Signature

06-23-2021  
Date

Property Owner 2 Signature

Date

### CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

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

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

### MEDIATION PROGRAM

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

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

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

Property Owner Signature

Date

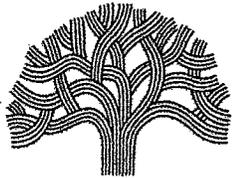
### INTERPRETATION SERVICES

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

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

- Spanish (Español)  
 Cantonese (廣東話)  
 Mandarin (普通话)  
 Other: \_\_\_\_\_

**-END OF RESPONSE-**



CITY OF OAKLAND

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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

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

On the following date: 06/25/2021 I served a copy of (check all that apply):

- PROPERTY OWNER RESPONSE TO TENANT PETITION** plus 18 attached pages  
(number of pages attached to Response not counting the Response form or PROOF OF SERVICE)
- Other: \_\_\_\_\_

by the following means (check one):

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

**PERSON(S) SERVED:** *Personal Delivery*

Name	<i>DREW LERER</i>
Address	<i>268 EUCLID AVE #6</i>
City, State, Zip	<i>OAKLAND, CA 94610</i>

*U.S. Postal Service*

Name	<i>CITY OF OAKLAND - RENT ADJUSTMENT PROGRAM</i>
Address	<i>250 FRANK H. OGAWA PLAZA, STE. 5313</i>
City, State, Zip	<i>OAKLAND, CA 94612-0243</i>

Response by mail, a postmark date does not count as the date it was received. Remember to file a PROOF OF SERVICE form together with your Response.

**Via email:** [hearingsunit@oaklandca.gov](mailto:hearingsunit@oaklandca.gov)

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

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

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

#### **AGREEMENT TO ELECTRONIC SERVICE**

If you have agreed to electronic service from the RAP by signing the Consent to Electronic Service on page 4 of the response, you have agreed to receive electronic service from the Rent Adjustment Program only, and not from the other parties to the case.

#### **AFTER RESPONSE IS FILED**

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

#### **FILE/DOCUMENT REVIEW**

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

#### **FOR MORE INFORMATION**

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

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

BARBARA ADDLEMAN

PRINTED NAME



SIGNATURE

6-23-2021

DATE SIGNED

# Lease Agreement - Oakland

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

## Terms of Tenancy

**Owner** Barbara Addleman

**Agent for Rent & Notices** \_\_\_\_\_ (Name)  
225 Carmel Avenue Piedmont, CA 94611 (Address)  
510.414.0673 addleman@pacbell.net (Phone & Email)

**Tenants** Drew G. Lerer (Name) 06/03/1973 (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)

**Premises** 270 Euclid Avenue Oakland, CA 94610 #6 (Address)

**Rent** \$ 1,500.00 per month payable in advance on the First day of each month.

**Parking** Parking space assigned NA. Monthly charge \$ \_\_\_\_\_, payable with monthly rent.

**Storage** Storage space assigned \_\_\_\_\_. Monthly charge \$ \_\_\_\_\_, payable with monthly rent.

**Rent Payments**  Electronic Funds Transfer (EFT)  Personal check  Cashier's check or money order  Cash

**Security Deposit** \$ 1,500.00

**Late Charge** \$ 35.00 if Owner does not receive rent in full within 5 days after the due date.

**Returned Payment** \$ 35.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

**Term of Tenancy** The term of this Agreement is for 1 YEAR beginning on 11/1/15 and ending on 11/1/16.  
 (Term) (Date) (Date)

At which time this Lease shall terminate without further notice. Any holding over thereafter shall result in Resident being liable to Owner/Agent for daily rental damages equal to the current market value of the unit, divided by 30. A "month-to-month" tenancy subject to the terms and conditions of this agreement shall be created only if Owner/Agent accepts rent from Resident thereafter, and if so accepted, tenancy may be terminated by Resident after service upon the Owner/Agent of a written 30-day Notice of Termination. Except as prohibited by law, that month-to-month tenancy may be terminated by the Owner/Agent by service upon the Resident of a written 60-day notice of termination of tenancy. However, Civil Code Section 1946.1 provides that "if any tenant or resident has resided in the dwelling for less than one year", the Owner/Agent may terminate the tenancy by service upon the Resident of a written 30-day notice.

**Pets** Approved pets NO PETS

**Owner's Utilities** Owner pays for WATER & GARBAGE

**Tenant's Utilities** Tenant pays for PG&E

**Appliances & Fixtures** Owner provides Refridgerator, Stove

## General Terms and Conditions of Tenancy

**Use and Occupancy** The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page \_\_\_\_\_ (Tenant initials)

**Lease Agreement - Oakland**

- Possession** If Owner is unable to deliver possession of the Premises at the beginning of the Term, Tenant will have the right to terminate this Agreement upon proper notice as required by law. Owner will not be liable for any resulting damage. If Tenant fails to take possession of the Premises, Tenant will still be responsible for paying rent and complying with all other terms of this Agreement.
- Rent** Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.
- Late Payments** Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.
- Returned Payments** Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.
- Individual Liability** Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.
- Failure to Pay** As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.
- Security Deposit** Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within twenty-one (21) days after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check or direct bank deposit (if permitted by landlord and tenant) for any deposit balance. As of 2013, California law permits the landlord (or manager) and the tenant to mutually agree to have the security deposit returned to the former tenant by electronic funds transfer and to have the statement that itemizes the deductions along with the copies of the documents verifying the deductions to be sent to the tenant by electronic means. Agreement must be made after either party has served a notice of termination.
- Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.
- Subletting** Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.
- In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner. No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.
- Parking** The assigned parking space is for the exclusive use of the Tenants and may be used for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.
- Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

I have reviewed this page \_\_\_\_\_ (Tenant initials)

DL

**Lease Agreement - Oakland**

- Storage** Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.
- Condition of Premises** Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.
- Appliances and Fixtures** Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.
- Pets** Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.
- Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manner. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleaing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.
- Trash** Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.
- Owner's Access** California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).
- Extended Absences** Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.
- Quiet Enjoyment** Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.
- Repairs and Alterations** Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.
- Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.
- Financial Responsibility** Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.
- Water-filled Furniture** No waterbed or other item of water-filled furniture will be kept on the Premises.
- Smoke Detectors** The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

I have reviewed this page \_\_\_\_\_ (Tenant initials)

### Lease Agreement - Oakland

**Attorney Fees** In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to local rent control ordinances and regulations that may apply.

**Megan's Law** Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

**Notices** Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

**Validity of Each Part** If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

**Captions and Headings** The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.

**Application** Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

**Attachments** The following attachments are incorporated as part of this Agreement:  
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards  
 Move-In-Move-Out Checklist

**Entire Agreement** This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By:

  
 Owner or Agent 8/27/2015  
 Date 8/27/15

_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date

<u>Receipt</u>	
By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:	
Security Deposit:	\$ <u>1,500.00</u>
Rent:	\$ _____ for the period _____ to _____
Other:	\$ <u>25.00</u> for <u>Credit &amp; Criminal Check</u>
Total received:	\$ _____ payment method _____

I have reviewed this page \_\_\_\_\_ (Tenant initials)



## CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CA 94612-2043  
 Department of Housing and Community Development  
 Rent Adjustment Program

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase ("CPI increase"). An owner can increase rent more than the CPI rate, but with limits, for: capital improvements, operating expense increases, and deferred annual rent increases ("banking"). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Fl., Oakland, CA 94612 or: <http://www.oaklandnet.com/government/hcd/rentboard/tenant.html>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has **not** been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.

#### TENANTS' SMOKING POLICY DISCLOSURE

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

I received a copy of this notice on \_\_\_\_\_

8/27/15  
(Date)

[Signature]  
(Tenant's signature)

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

BaÙn Thoàng BaÙo quyeàn löi cuûa ngöðöi theä trong Oakland naøy cuõng coù baèng tieáng Vieät. Ñeä coù möät baÙn sao, xin goïi (510) 238-3721.

Hi Barbara,

Thank you so much for contacting me. I am doing well thanks for asking. I am happy for our 268ers but also sad to see them go. You have done an amazing job of finding lovely people to live here. It is such a nice community.

Thanks for offering me the garage space. That sounds great. I do own a little smart car and though my car fits in more parking spaces than most, it would be great to have to be able to park close as well as have additional storage space. Let me know how I should coordinate. I know that Kathryn and Nate were interested in sharing a their space with me if that is possible.

Hope you are enjoined this lovely weather.

Best,

Drew

On Thu, Jun 20, 2019 at 5:29 PM Barbara Addleman <[addleman@pacbell.net](mailto:addleman@pacbell.net)> wrote:

Hiya Drew,  
Hope you are doing well?

As you may have heard, David and Ling have bought a new home and so have Maria & Angelica!  
Both are moving out next week.

This means you, then Karen are up for garage space if you are interested?  
I don't think you own a car, but wanted to give you first refusal beofre moving on down the list!  
The charge is an additional \$50.00/month

Let me know your thoughts,  
Barbara  
510.414.0673

**P** Please consider the environment before printing this email

--  
Gmail mobile

--  
Drew Lerer

Re: garage space?

---

From: Barbara Addleman (addleman@pacbell.net)

To: drewlerer@gmail.com

Date: Sunday, June 23, 2019, 12:58 PM GMT-8

---

Hiya Drew,

Congratulations on your wedding! Wow!

I hope that the immigration process goes smoothly for you...I know it can be long and tedious.

It would be lovely if you two stay in the building!

The 2 bedroom will be \$2700.00/month

Starting July 1 you will have the shared parking garage with Kathryn and Nathan for \$50.00/month

Let me know you interest in #1 as I will need to post the ads in the next few days.

All the best,

Barbara

**P** Please consider the environment before printing this email

On Friday, June 21, 2019, 07:59:57 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

Lovely, thank you so much, Barbara! I will spread the word about the available spaces in our lovely building. I just married my overseas sweetheart from Colombia. We met at my friends wedding a few years ago and now are in the process of going through immigration so that she can come to the United States (she lives in Colombia). How much would the two bedroom apartment be to rent?

Thanks again. Have a great week and hope you are enjoying this lovely weather. The new paint in the apartment looks great BTW.

On Thu, Jun 20, 2019 at 11:46 PM Barbara Addleman <addleman@pacbell.net> wrote:

Hey Drew,

thanks for responding so quickly!

Yes, you will be sharing the space with Nathan and Kathryn! (Karen will be with Slawek!)

I will get you a set of keys by July 1.

More to come!

Barbara

PS If you know anyone looking for 1 or 2 bedroom apt, let me know!

**P** Please consider the environment before printing this email

On Thursday, June 20, 2019, 5:55:32 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

**30 Day Notice  
Change in Monthly Parking Fees  
268 Euclid Ave., Oakland, CA 94610**

**TO: Drew Lerer  
Unit #7**

Notice is hereby given that thirty (30) days after service upon you of this Notice, or **June 1, 2021**, whichever is later, your monthly payable fee for parking space is payable in advance on or before the First day of each month, **will be the sum of \$115.**

This increase is in compliance with the City of Oakland and the East Bay Rental Housing Association: "Parking fees or other terms may be changed by Owner/Agent upon thirty (30) days notice unless a shorter period is required for reasons of health and safety."

**Date: May 2, 2021**

Barbara Addleman  
Owner

## 60 Day Notice of Change of Monthly Rent

**TO: Drew Lerer**  
(Residents)

for the premises located at 268 Euclid Avenue, Oakland, CA 94610

**UNIT: #6**

Notice is hereby given, in accordance with Civil Code Section 827, that thirty (30) days after service upon you of this Notice, or **November 1, 2018**, whichever is later, your monthly payable rent is payable in advance on or before the First day of each month, **will be the sum of \$1586.00**, instead of \$1534.00, the current monthly rent.

*Except as herein provided, all other terms of your tenancy shall remain in full force and effect.*

*A negative credit report reflecting on your credit history may be submitted to a credit reporting agency if you breach the terms of your obligations.*

**DATE:** September 1, 2018



Barbara Addleman  
Owner

CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CA 94612-2043
Department of Housing and Community Development
Rent Adjustment Program

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

NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983.
Starting on February 1, 2017, an owner must petition the RAP for any rent increase that is more than the annual general rent increase ("CPI increase") or allowed "banked" rent increases.
Contesting a Rent Increase: You can file a petition with the RAP to contest unlawful rent increases or decreased housing services.
If you contest a rent increase, you must pay your rent with the contested increase until you file a petition.
Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units.
Oakland charges owners a Rent Program Service Fee per unit per year.
Oakland has a Tenant Protection Ordinance ("TPO") to deter harassing behaviors by landlords and to give tenants legal recourse in instances where they are subjected to harassing behavior by landlords (O.M.C. 8.22.600).
The owner [X] is [ ] is not permitted to set the initial rent on this unit without limitations (such as pursuant to the Costa-Hawkins Act).

TENANTS' SMOKING POLICY DISCLOSURE

- Smoking (circle one) IS or IS NOT permitted in Unit #3 or property, the unit you intend to rent.
Smoking (circle one) IS or IS NOT permitted in other units of your building.
There (circle one) IS or IS NOT a designated outdoor smoking area. It is located at

I received a copy of this notice on (Date)

16 December 2019 (Tenant's signature)

此份屋崙(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

CITY OF OAKLAND



**NOTICE TO OAKLAND RESIDENTIAL TENANTS  
OF NEW TENANT PROTECTION ORDINANCE**

On November 5, 2014, the Oakland City Council adopted the Tenant Protection Ordinance (TPO), which prohibits various harassing behaviors by owners against tenants – thereby bolstering existing laws and leases that protect tenants. The TPO creates remedies that could be enforced by private civil rights of action.

The TPO prohibits actions by owners or their agents done in bad faith, such as:

- Influence or attempt to influence a tenant to vacate a rental unit through fraud, intimidation or coercion
- Threaten by word or gesture with physical harm
- Fail to perform repairs and maintenance required by written contract or by State, County, or municipal housing, health or safety laws, or threatens to do so.

**FILING A CLAIM OF HARASSMENT**

Violations of the TPO may be enforced by civil remedies. **Claims of harassment cannot be filed with the Rent Adjustment Program.**

For information on how to file a claim of harassment in court, contact the following organization for legal advice and consultation:

Centro Legal de la Raza Clinics  
250 Frank H. Ogawa Plaza, 6<sup>th</sup> Floor (Housing Assistance Center)  
Oakland, CA 94612  
(510) 437-1554

Legal clinics are held in the Housing Assistance Center, Mondays, Tuesdays and Wednesdays from 9:30 a.m. to 12:00 noon, on a first-come, first-served basis.

- The entire TPO can be found on Rent Adjustment Program Website at [www2.oaklandnet.com](http://www2.oaklandnet.com).
- Copies of the Ordinance can be obtained at the Housing Assistance Center.

For more information and referrals, call (510) 238-3721.

# 30 Day Notice of Change of Monthly Rent

**To: Drew Lerer  
Unit #6**

(Resident)

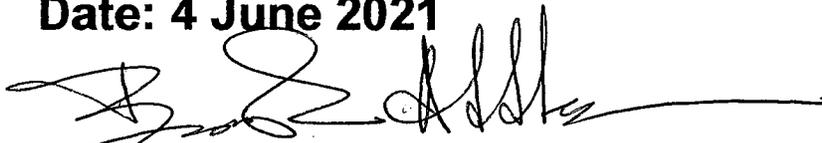
For the premises located at:  
268 Euclid Avenue, Oakland, CA 94610

Notice is hereby given, in accordance with Civil Code Section 287, that thirty (30) days after service upon you of this Notice, or on **August 1, 2021**, whichever is later, your monthly rent payable in advance, on or before the First day of each month, **will be the sum of \$1,616.13**, instead of the current rent of \$1586.00

The Oakland Rent Adjustment Ordinance provides for an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). A new CPI rate takes effect each July 1 and remains in effect for rent increases through June 30 of the following calendar year.

**The annual CPI rate for rent increases effective July 1, 2021, through June 30, 2022, is 1.9%.** The rate cannot be applied to rent increases that take effect earlier than July 1, 2021. (See attached for further RAP information)

**Date: 4 June 2021**



**Barbara Addleman  
Owner**

CITY OF OAKLAND



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

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

**NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM**

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

**TENANTS’ SMOKING POLICY DISCLOSURE**

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

I received a copy of this notice on \_\_\_\_\_ (Date) \_\_\_\_\_ (Tenant’s signature)

此份屋崙 (奧克蘭) 市租客權利通知書附有中文版本。請致電 (510) 238-3721 索取副本。  
La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

CITY OF OAKLAND



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

Community and Economic Development Agency  
Rent Adjustment Program

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

Housing, Residential Rent  
and Relocation Board (HRRRB)

APPEAL DECISION

**CASE NUMBER:** T09-0168, Yaranon v. Lantz

**PROPERTY ADDRESS:** 443 Lee St, #204, Oakland, California

**DATE OF APPEAL HEARING:** February 25, 2010

**APPEARANCES:** Tenant-appellant Anna Yaranon appeared and argued her own case. Landlord-appellee Edgar A. Lantz appeared and argued his own case.

Procedural Background

The tenant filed a petition that contests a rent increase which the tenant claims exceeds the Consumer Price Index (C.P.I.) adjustment, and is unjustified. A significant portion of the alleged rent increase is an increase in the fee for a parking space in the subject building.

The landlord filed a response, in which he alleges that the parking space in question is solely voluntary and is not a part of the tenant's monthly rent. The landlord contends that the only rent increase is in the amount of the current CPI Rent Adjustment.

Hearing Decision

When the tenant moved into her unit, there were no available parking spaces in the subject building. The tenant put her name on a waiting list, and a parking space became available nearly one year later. At that time, the parties agreed that the tenant would pay an additional amount for this parking space. The Hearing Decision denied the tenant petition, finding that use of the parking space

000042

was not included in the original rental agreement. Therefore, parking was not a housing service, but was a separate contract between the parties. Since the charge for the space is not part of the rent, an increase in the parking fee is not a rent increase.

Grounds for Appeal

The tenant filed an appeal which contends that the Hearing Decision was incorrect because she was told at the start of her tenancy that she would pay an additional \$20 per month for a parking space when a space became available. Therefore, parking was always a part of her housing services and an increase in the parking charge is a rent increase. The landlord denies that there was such an agreement. Rather, tenants are told that parking is available on a "first come, first served" basis, and that the rate is set when tenant reaches the top of the waiting list, is offered a parking space, and accepts the space.

Appeal Decision

The Board heard and considered the issue of whether the parking space was a housing service, as defined by the Rent Adjustment Ordinance, and affirms the Hearing Decision.

Action taken by the following vote:

Ayes: M. Bowje, A. Flatt, S. Sanger, B. Scott  
Nay: J. Edouard, G. Mayer  
Abstain: None

**NOTICE TO PARTIES**

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

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

  
BARBARA KONG-BROWN  
HOUSING, RESIDENTIAL RENT AND  
RELOCATION BOARD DESIGNEE

  
Date.

**PROOF OF SERVICE**

**Case Number T09-0168**

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, 5<sup>th</sup> Floor, Oakland, California 94612.

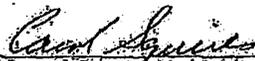
Today, I served the attached Appeal Decision by placing a true copy of it in a sealed envelope in City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5<sup>th</sup> Floor, Oakland, California, addressed to:

Edgar A. Lantz  
5339 Broadway #400  
Oakland, CA 94618

Ajina Yaranon  
443 Lee St. #204  
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 Friday, March 26, 2010, in Oakland, California.

  
\_\_\_\_\_  
Carol Squires  
Oakland Rent Adjustment Program

Attachment #7

CITY OF OAKLAND  
BUSINESS TAX CERTIFICATE

ACCOUNT  
NUMBER  
00105633

DBA

ADDLEMAN BARBARA A TR

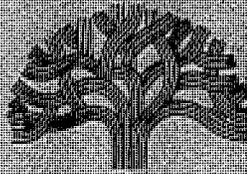
BUSINESS LOCATION

270 EUCLID AVE  
OAKLAND, CA 94610-3125

BUSINESS TYPE

M Rental - Apartment

BARBARA ADDLEMAN  
225 CARMEL AVE  
PIEDMONT, CA 94611-4009



EXPIRATION DATE

12/31/2021

Starting January 1, 2021 Assembly Bill 1017 requires the provision of gender-based discrimination of housing accommodations. All portions of available in English or other languages going to <http://www.dca.ca.gov/publicaffairs>

A BUSINESS TAX CERTIFICATE IS REQUIRED FOR EACH BUSINESS LOCATION AND IS NOT VALID FOR ANY OTHER ADDRESS.

ALL OAKLAND BUSINESSES MUST OBTAIN A VALID ZONING CLEARANCE TO OPERATE YOUR BUSINESS LEGALLY. RENTAL OF REAL PROPERTY IS EXCLUDED FROM ZONING.

PUBLIC INFORMATION ABOVE THIS LINE TO BE CONSPICUOUSLY POSTED!

000045



## CITY OF OAKLAND

Revenue Division - Business Tax Section  
 250 Frank H. Ogawa Plaza, #1320  
 Oakland, CA 94612  
 (510) 238-3704 TDD (510) 238-3254  
[www.oaklandnet.com](http://www.oaklandnet.com)

### Acknowledgement of Payment Received

Date: January 29, 2021

The City of Oakland acknowledges receipt of the following payment on the date printed above.

This payment will be tendered against the following account(s)

Account #: 00105631  
 Account Name: ADDLEMAN BARBARA A TR  
 Account Address: 225 CARMEL AVE PIEDMONT, CA 94611-4009  
 Account Paid: M - RESIDENTIAL RENTAL PROPERTY  
 Business Address: 270 EUCLID AVE OAKLAND, CA 94610-3126

Please keep this acknowledgement for your records. Thank you.

Payment received by: MD

<b>2021</b>	
Business Tax	
<i>Credit Card</i>	\$1,953.00
BT Recordation and Tech	
<i>Credit Card</i>	\$3.00
BT SB1186 (AB1379)	
<i>Credit Card</i>	\$4.00
RAP Rent Adjustment Program (M)	
<i>Credit Card</i>	\$707.00
<b>Total</b>	<b>\$2,667.00</b>





**ADMINISTRATIVE DECISION**

**CASE NUMBER** T21-0088

**CASE NAME:** Lerer v. Addleman

**PROPERTY ADDRESS:** 270 Euclid Avenue, Unit 6  
Oakland, CA

**PARTIES:** Drew Lerer, Tenant  
Barbara Addleman, Owner

**SUMMARY OF DECISION**

The Tenant’s petition is granted.

**INTRODUCTION**

**Reason for Administrative decision:** An Administrative Decision is a decision issued without a hearing. The purpose of a hearing is to allow the parties to present testimony and other evidence to allow resolution of disputes of material fact. However, in this case, sufficient uncontested facts have been presented to issue a decision without a hearing, and there are no material facts in dispute. Therefore, an administrative decision, without a hearing, is being issued.

**BACKGROUND**

On June 1, 2021, the Tenant filed the petition herein alleging that the rent increase exceeds the allowable amount and is unlawful because there was no proper notice, the notice was not properly served, and/or that the RAP Notice (Notice to Tenants

of the Residential Rent Adjustment Program) was not provided with the rent increase.

The Owner filed a timely response. The response acknowledged that the Tenant was provided the RAP Notice at the inception of his tenancy in 2015 and with every rent increase.

The Owner acknowledged that the Tenant did not receive parking at the inception of his tenancy and was initially offered parking in 2019 at the rate of \$50.00 per month.

The Owner's response indicated that she had provided notice on May 1, 2021, to increase the Tenant's parking from \$50.00 to \$115.00, per month effective June 1, 2021. The Owner also indicated that the Tenant had been issued a Notice of Increase, increasing the rent from \$1,568.00 to \$1,616.13, effective August 1, 2021.

### **RATIONALE FOR ADMINISTRATIVE DECISION**

The Rent Ordinance<sup>1</sup> defines "rent" as "the total consideration charged or received by an Owner in exchange for the use or occupancy of a Covered Unit **including all Housing Services provided to the tenant.**" (emphasis added).

It is undisputed that the total consideration charged or received by an Owner in exchange for the use of the subject unit in May 2021 was \$1,618.00 and included parking. Accordingly, the Tenant's rent in May 2021 was \$1,618.00.

The Owner admitted that she served a Notice of Rent Increase, with an effective date of June 1, 2021, indicating the total consideration charged the Owner was going to be increased from \$1,618.00 to \$1,683.00, or \$65.00. It is uncontested that a rent increase of \$65.00 exceeds the applicable CPI Rent Adjustment of 2.7%, or \$43.69. Further, the rent increase has an effective date of June 1, 2021, which falls during the Local Emergency.<sup>2</sup> Therefore, the rent increase is void and unenforceable as a matter of law.

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<sup>1</sup> O.M.C. Section 8.22.020.

<sup>2</sup> Ordinance No. 13589 CMS, effective March 27, 2020.

The Rent Ordinance<sup>3</sup> also states that for notices for rent increases based on the CPI rent adjustment or banking that “an Owner must include: (a) The amount of the CPI Rent Adjustment; and (b) The amount of any Banking increase.”<sup>4</sup>

Effective July 1, 2021, the CPI rent adjustment is 1.9%. Thus, effective Jul 1, 2021, the Owner is entitled to raise the Tenant’s rent in the maximum amount of \$30.74.

Neither notices of rent increase provided by the Owner specify the dollar amount of the increase and its corresponding percentage amount. Therefore, both notices are also invalid on this basis. Additionally, the notice incorrectly states the Tenant’s current rent as \$1,568.00 instead of \$1,618.00, including parking. The Tenant’s rent remains \$1,618.00.

### **ORDER**

1. Petition T21-0088 is granted.
2. The Hearing scheduled for August 23, 2021, is canceled.

**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 fifteen (15) 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: August 9, 2021

---

Élan Consuella Lambert  
Hearing Officer

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<sup>3</sup> O.M.C. Section 8.22.070

<sup>4</sup> In T18-0226, Baragano v. Discovery Investments, it was held this requires stating the dollar amount of the increase, as well as the percentage.

# Rent Adjustment Program

## PROOF OF SERVICE BY ELECTRONIC MAIL

Case T21-0088

I, the undersigned, state that I am a citizen of the United States and am employed in the City of Oakland and County of Alameda; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, California 94612. My electronic service address is: [blothlen@oaklandca.gov](mailto:blothlen@oaklandca.gov).

Today, I electronically served the following:

### **Administrative Decision**

I electronically served the document(s) listed above to:

Barbara Addleman: [addleman@pacbell.net](mailto:addleman@pacbell.net)

Drew Lerer: [drewlerer@gmail.com](mailto:drewlerer@gmail.com)

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

Date: August 16, 2021

*Brittini Lothlen*

Brittini Lothlen

Administrative Assistant

Oakland Rent Adjustment Program

 <b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp.
	<b><u>APPEAL</u></b>

<b>Appellant's Name</b> Barbara Addleman		<input checked="" type="checkbox"/> <b>Owner</b> <input type="checkbox"/> <b>Tenant</b>	
<b>Property Address (Include Unit Number)</b> 270 Euclid Avenue, Unit 6, Oakland, CA 94610			
<b>Appellant's Mailing Address (For receipt of notices)</b> 225 Carmel Avenue, Piedmont, CA 94610		<b>Case Number</b> T21-0088	
		<b>Date of Decision appealed</b> August 9, 2021	
<b>Name of Representative (if any)</b> Fried & Williams LLP Steven C. Williams		<b>Representative's Mailing Address (For notices)</b> 1901 Harrison Street, 13th Floor Oakland, CA 94612	

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

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

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

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

**Submissions to the Board must not exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal.** Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 21.

**• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •**

I declare under penalty of perjury under the laws of the State of California that on August 24, 2021, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

<b><u>Name</u></b>	Drew Lerer
<b><u>Address</u></b>	270 Euclid Avenue, #6
<b><u>City, State Zip</u></b>	Oakland, CA 94610
<b><u>Name</u></b>	
<b><u>Address</u></b>	
<b><u>City, State Zip</u></b>	

 <p>DocuSigned by: 36C63772E1AA4C5...</p>	8/24/2021
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**SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE**

**DATE**

For more information phone (510) 238-3721.

**IMPORTANT INFORMATION:**

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

- Appeals filed late without good cause will be dismissed.
- You must provide all the information required, or your appeal cannot be processed and may be dismissed.
- Any response to the appeal by the other party must be received by the Rent Adjustment Program with a proof of service on opposing party within 35 days of filing the appeal.
- The Board will not consider new claims. All claims, except jurisdiction issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The entire case record is available to the Board, but sections of audio recordings must be pre-designated to Rent Adjustment Staff.

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

Appeal to Case Number T21-0088  
Property: 270 Euclid Avenue, Unit 6  
Owner/Appellant: Barbara Addleman  
Tenant: Drew Lerer

Owner submits the following in support of her appeal:

- (1) **PRIOR RAP DECISIONS AND RENT ORDINANCE INTERPRETATIONS MAKE IT VERY CLEAR THAT HOUSING SERVICES ADDED AFTER THE TENANCY COMMENCES ARE NOT SUBJECT TO RENT CONTROL**

“A decrease in housing service **must be a service provided at the inception of the tendency** [sic] either by contract or implied by law.” Emphasis added. (See RAP Decision for Petitions T08-0146, T08-0151, T08-0158, T08-0159, T08-0160, T08-0161, T08-0162, T08-0167, T08-0168, T08-0170, T08-0171, T08-0172, T08-0173, T08-0174, T08-0175, T08-0181, and T08-0190, a copy of which is attached hereto as Exhibit “A”).

This interpretation was subsequently and conclusively confirmed in the RAP Decision for Petition T09-0168. (See copy of this decision attached hereto as Exhibit “B”). In fact, RAP Decision T09-0168 had facts **identical** to this case. In Petition T09-0168, the tenant challenged a notice increasing the rent for a parking space. The Hearing Officer in that case found:

“If a garage parking space had been included in the original rental agreement, the total amount paid would clearly be the “base rent,” even if a parking charge were separately itemized. However, that is not the case here. **The original agreement did not include parking. A parking space became available nearly a year after the tenant moved in and, at that time, the parties agreed that the tenant would pay an additional charge of \$20 for use of the parking space.** If the tenant ever decides that she no longer wishes to use the parking space, she would not pay the additional charge. **I find that the parking space was the subject of a separate contract between the parties, and the charge for this space is not part of the rent.**

\* \* \*

**The charge for use of a parking space is not part of the rent, and the Rent Adjustment Program has no jurisdiction to decide any question regarding the use of, or charge for, this space.”**

Emphasis added. (See Exhibit “B”).

The facts here mirror the facts in T09-0168. Tenant Lerer challenges a June 1, 2021 notice increasing the rent for a parking space by \$65. It is undisputed that the original agreement executed in 2015 did **not** include parking. (See the rental agreement attached as Exhibit “C”). It is undisputed that a parking space became available nearly 4 years after Tenant Lerer moved in,

and at that time, Owner and Tenant Lerer agreed that Tenant Lerer would pay an additional charge of \$50 for the use of the parking space. (See the written communications confirming the parking agreement attached as Exhibit “D”). It is undisputed that effective June 1, 2020, Owner increased only Tenant’s parking charge to \$115. (See parking increase notice attached as Exhibit “E”).<sup>1</sup> Tenant Lerer rented the parking space under a separate agreement, which was not part of Tenant Lerer’s base residential rent. The Rent Adjustment therefore has no jurisdiction over this increase. (See Exhibit “B”). Notwithstanding identical facts, the Hearing Officer’s decision in this case directly contradicts prior RAP decisions and should be overturned and the increased parking charge affirmed.

To justify her decision, the Hearing Officer cites to the Rent Adjustment Ordinance definition of “rent.” However, the definition of “rent” is identical to what it was when all of the prior RAP decisions cited herein were rendered. The Appeal Board may take judicial notice of the current and prior versions of the Rent Adjustment Ordinance. **The law has not changed** and does not warrant or support any new or contradictory interpretation or decision.

Consistent decisions and interpretations of the Rent Adjustment Ordinance and Rules and Regulations is detrimental to promote evenhanded, predictable, and consistent interpretations of the ordinance and rules, and to foster reliance on RAP decisions and contribute to the actual and perceived integrity of the RAP process. In fact, the first two grounds in the RAPs own Appeal form (Sections 2(a) and 2(b)) authorize appeals based on prior inconsistent RAP decisions. The RAP must uphold these principles and recognize and embrace prior interpretations and decisions. Inconsistent and directly contradictory decisions, as is the case here, are dangerous and detrimental to tenants and landlords alike and should not be encouraged, condoned, or upheld. Therefore, the decision in this petition should be overturned and the parking increase affirmed.

(2) THE HEARING OFFICER EXCEEDED HER AUTHORITY BY RULING ON A RENT INCREASE THAT WAS GIVEN AFTER TENANT’S PETITION WAS FILED AND WAS NOT EVEN AT ISSUE OR CHALLENGED BY TENANT AND DID SO WITHOUT ANY HEARING.

The tenant RAP petition form requires tenants to list **all** the rent increases they are contesting. Here, Tenant’s petition was filed on June 1, 2021, and challenged exactly one rent increase: the \$65 parking fee increase that was given on May 1, 2021 with a June 1, 2021 effective date. Accordingly, the Tenant’s own petition defined and limited the scope of the challenge and petition.

On June 4, 2021, **after** Tenant’s petition was filed, Owner gave a base rent increase notice with an August 1, 2021, effective date. (See rent increase notice attached hereto as Exhibit “F”). A copy of this base rent increase notice was filed with the Owner’s response to the petition to show that the parking fee is separate and distinct from the base rent. It was not filed to invite the Hearing Officer to opine or rule on its validity. Nor was it even challenged by Tenant’s petition.

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<sup>1</sup> Exhibits “B” through “E” attached hereto were timely submitted to the Rent Adjustment Program as evidence in opposition to Tenant Lerer’s petition. This evidence clearly dictates a different outcome. The decision is contrary to the substantial evidence submitted by Owner.

Yet the Hearing Officer invalidated this uncontested notice, without a hearing, and denied Owner her due process right to respond, explain, or contest any objection to it. The Hearing Officer exceeded her authority by ruling on issues beyond the scope of Tenant's petition. Accordingly, the decision should be overturned in its entirety.

DocuSigned by:  
  
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8/24/2021

CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CALIFORNIA 94612-0243

Community and Economic Development Agency  
Rent Adjustment Program

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

## HEARING DECISION

**CASE NUMBER:** T08-0146, Garbe v. Kumana  
T08-0151, Lloyd, et al. v. Kumana  
T08-0158, Hebald v. Kumana  
T08-0159, Vigil v. Kumana  
T08-0160, Rodgers v. Kumana  
T08-0161, Bressemer v. Kumana  
T08-0162, Baker v. Raymond Apartments  
T08-0167, Churchill v. Kumana  
T08-0168, Chaisson v. Kumana  
T08-0170, Pearlman v. Kumana  
T08-0171, Cundiff v. Kumana  
T08-0172, Gunderson v. Kumana  
T08-0173, Ye v. Kumana  
T08-0174, Jarosz v. Kumana  
T08-0175, White v. Kumana  
T08-0181, Kelly v. Kumana  
T08-0190, Woodruff v. Kumana

Property Address: 1461 Alice St., Oakland, CA 94612  
Date of Decision: July 22, 2008

Decision Summary: The landlord acted reasonably under the circumstances.  
The tenant petitions are denied.

### PROCEDURAL HISTORY

The cases were consolidated and came on regularly for hearing on July 16, 2008. Gerald Pearlman represented tenant Adam Pearlman. Tenant Amanda Garbe represented herself. The remaining tenants listed above were represented by tenant Selian Hebald, who also represented himself. Christina Dabis, Esq., represented the landlord, Sarosh Kumana.

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## ALLEGATIONS

The petitions in this case all allege claims for decreased housing services arising from intermittent hot water service. Three of the petitioners contested the annual CPI increase. Mr. Hebald also claimed a decrease in housing services for the lack of a video security camera.

## DECISION

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### CPI Increase

The tenants may not contest the annual CPI increase unless the landlord is not eligible for any increase. The increases complained of are 3.3%, the current annual CPI rate, rounded to the nearest dollar.

The tenants acknowledge that the landlord gave the appropriate notices. The tenants raise no other reason why the CPI increase should be disallowed. Therefore, the tenants' claims contesting the annual CPI increase were denied on the record of the hearing.

#### Video Surveillance

Tenant Hebald claimed a decrease in housing services for a nonfunctional video surveillance camera. The camera was not functional at the time Mr. Hebald moved in. Although the tenant stated that the video camera was a consideration in his decision of into the apartment, he never directly discussed the video camera with the owner or any of his agents prior to reaching the agreement to rent the apartment. He assumed that the camera functioned. **A decrease in housing service must be a service provided at the inception of the tendency either by contract or implied by law.** Provision of video security is not required by law and it was not in the contemplation of both parties at the time the contract was created. Therefore, the video surveillance is not part of the services the landlord agreed to provide. Lack of video surveillance is not a **decrease** in housing services. This claim is denied.

#### Intermittent Hot Water

Tenants Hebald and Garbe testified on the hot water issue, as did the owner, Sarosh Kumana, and his resident manager, Matthew Slagle. The testimony was not in contradiction on any of the major points. Discrepancies in the testimony were caused by innocent mis-recollection of details rather than deliberate falsehood. Therefore, the testimony of all of the witnesses is credited in the main. A fair summary of the testimony provides the following history.

The building is an 82 unit residential building built in approximately 1920. The hot water boiler that supplies the entire building, including the units of all of the petitioning tenants, failed on May 14, 2007. There was a conflict in the testimony

regarding how long the boiler was out of service. Nonetheless, the landlord testified credibly and without contradiction that immediately upon being notified of the problem, he began the process to replace it. The boiler was replaced within the week. Regardless of how long the boiler was out of service, it is clear the landlord acted promptly and reasonably to repair the condition.

The crux of the dispute between the parties arises from the subsequent events. For the nine months after the boiler was replaced, hot water service went out intermittently. Each time there was a complaint of no hot water, management sent a maintenance person or licensed contractor, as appropriate to address the problem. Each time, Mr. Kumana believed that the problem had been resolved. However, the pilot light kept going out and the problem continued until the new boiler was again replaced under warranty. During that period, Mr. Kumana testified that a number of solutions were tried unsuccessfully. Among other things, the control circuit board for the boiler was replaced. The installation of the new boiler was complete on April 29, 2008. There have been no complaints about the hot water since that time.

Mr. Kumana testified credibly that his records do not list every complaint received regarding the hot water. Matthew Slagle, the resident manager, testified that he does not keep a record of every call received. The testimony of the tenants and the resident manager and the records of the owner with regard to the number of times complaints regarding lack of hot water were made or received vary. Ms. Garbe testified that the hot water was out about once a week for nine months, my calculation approximately 36 times. Mr. Hebald testified that on average there was no hot water three times per month over the nine-month period for a total of 27 occasions. Mr. Slagle, the building's resident manager, estimated that the hot water without about 25 times over the nine-month period.

The landlord raised as an issue the tenants' lack of appropriate notice regarding problems in the building. However, it was clear from the testimony of everyone concerned that the landlord was aware of the extent of the problems with the hot water from the installation of the first new boiler to its replacement in April 2008. At no time during the approximately 9-month period were the tenants dispossessed of their unit and were able to occupy their units for residential purposes during the entire period.

In *Golden Gateway Center v. Residential Rent Stabilization*, (1999) 73 Cal.App.4th 1204, 87 Cal.Rptr.2d 332, the Court held that:

"a landlord who undertakes to perform reasonably necessary repair and maintenance work on rental property, which has the effect of temporarily interfering with or preventing the tenant's full use of housing services, but does not substantially interfere with the right to occupancy of the premises as a residence, does not effectuate a

decrease in housing services within the meaning of the San Francisco rent control ordinance.”

Id. at p. 1206.

The Oakland Rent Adjustment Ordinance provisions regarding decreases in housing services are sufficiently similar to the San Francisco ordinance for the holding in the Golden Gateway case to be applicable to the current case.

Applying this rule, the initial replacement of the boiler was a necessary repair which had the effect of preventing the tenants from having full use of housing services, but did not substantially interfere with the rights of occupancy to the premises as a residence. This means that the week without hot water is not a compensable decrease in housing services within the meaning of Oakland's Rent Adjustment Ordinance.

At what point, if any, did the landlord's actions in continuing to try to repair the hot water system over a nine-month period become so unreasonable that the Golden Gateway doctrine no longer applies? There is very little evidence in the record on the reasonableness of the landlord's actions in continuing to try to make repairs. Mr. Kumana testified that his management team responded to all tenant complaints of lack of hot water submitted by computer. Mr. Kumana sent different licensed contractors to the site to repair the boiler. He also testified that each time, he thought that the attempted repairs were successful. Mr. Kumana's manager testified that he responded to all tenant complaints submitted to him and that he learned how to relight the boiler's pilot flame and did so as required. This testimony regarding the attempted repairs was uncontroverted and moreover, was supported by the testimony of the tenants. Ms. Garbe testified that when she got up in the morning and found no hot water, by the time she came home the hot water service had been restored. Mr. Hebald testified that every time he made a telephone call to the management company complaining about the hot water, they responded and made the repair. Clearly, the landlord was not ignoring the problem although he was unable to resolve it for nine months. Apparently his brand new boiler turned out to be a lemon.

The tenants have the initial burden of proving a decrease in housing services. The burden then shifts to the landlord to prove his attempted repairs were reasonable. On the present record, the landlord's uncontradicted testimony, supports the conclusion that the landlord acted reasonably in continuing to try to make repairs to the new boiler for 9 months rather than immediately replace the boiler a second time.

Finally, I note that the effect on the tenants was an inconvenience, but the actual interference with their tenancies was minimal. The Rent Adjustment Program has no jurisdiction to award damages for the inconvenience the tenants suffered,

only restitution for the loss of service.<sup>1</sup> Even if the landlord were totally unjustified, the effect on rents would be very small. As a measure of restitution for decreases in housing services, the Board reduces the rent by the percentage reduction in the total package of services received. If the hot water were unavailable for 10 full days, plus 4 hours per day for another 25 days, the total estimated decrease in housing services would be approximately .263%. This represents a maximum average recovery \$2.63 per month per \$1000 of rent.

We need not reach the remaining issues raised by the landlord as the tenant petitions are denied

**This decision is the final decision of the Rent Adjustment Program Staff.**

  
\_\_\_\_\_  
RICK NEMCIK-CRUZ  
Program Manager

**Dated: July 22, 2008**

Revised 11/12/08

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<sup>1</sup> McHugh v. Santa Monica Rent Control Bd., (1989)49 Cal.3d 348,777 P.2d 91, 261 Cal.Rptr. 318.

CITY OF OAKLAND



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

Community and Economic Development Agency  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBER:** T09-0168, Yaranon v. Lantz  
**PROPERTY ADDRESS:** 443 Lee St., #204, Oakland, CA  
**APPEARANCES:** Anna Yaranon (Tenant)  
Edgar A. Lantz (Owner)  
**DATE OF HEARING:** November 24, 2009  
**DATE OF DECISION:** December 14, 2009

**SUMMARY OF DECISION**

The tenant petition is denied.

**CONTENTIONS OF THE PARTIES**

The tenant filed a petition that contests a rent increase which the tenant claims exceeds the Consumer Price Index (C.P.I.) adjustment, and is unjustified. The significant portion of the alleged rent increase is an increase in the fee for a parking space in the subject building.

The owner filed a response to the tenant petition, in which he alleges that the parking space in question is solely voluntary and is not included in her monthly rent. The owner contends that the only rent increase is in the amount of the current C.P.I. Rent Adjustment.

**THE ISSUE**

Is the parking space in the garage of the subject building a part of the tenant's housing services?

000063

## EVIDENCE

The tenant petition challenges a rent increase from \$643.01 to \$662.37 per month, effective October 1, 2009.<sup>1</sup> These amounts include a CPI increase of \$4.36 per month and an increase in the parking charge from \$20 to \$35 per month.

At the Hearing, the parties agreed to the following facts:

- (1) The tenant moved into her unit on or about August 1, 1997.
- (2) At that time, the tenant inquired about parking in the parking lot in the building and the owner told her that no spaces were currently available. However, the tenant was told that she could place her name on a waiting list, which she did.
- (3) A parking space in the building lot became available in the Spring of 1998 and the tenant began parking in the lot – and paying \$20 per month over and above her rent – in April 1998.
- (4) On or about August 27, 2009, the owner delivered to the tenant two documents:
  - (a) A document entitled “Total Monthly Charges,” which includes a parking space fee of \$35 per month<sup>2</sup> and;
  - (b) A notice which states that the rent would increase from \$623.01 to \$627.37 per month, effective October 1, 2009.<sup>3</sup>
- (5) The tenant has continued to pay \$643.01 each month, which includes \$20 for the parking space.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Oakland Rent Adjustment Ordinance<sup>4</sup> defines “rent” as “the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.”

If a garage parking space had been included in the original rental agreement, the total amount paid would clearly be the “base rent,” even if a parking charge were separately itemized. However, that is not the case here. The original agreement did not include parking. A parking space became available nearly a year after the tenant moved in and, at that time, the parties agreed that the tenant would pay an additional charge of \$20 for

<sup>1</sup> These amounts exclude a monthly charge of \$1.25 for one-twelfth of the Rent Program Service fee, which is not considered to be “rent.”

<sup>2</sup> Exhibit 1A. This Exhibit, and all others to which reference is made in this Decision, were admitted into evidence without objection.

<sup>3</sup> Exhibit 1B.

<sup>4</sup> O.M.C. Section 8.22.020

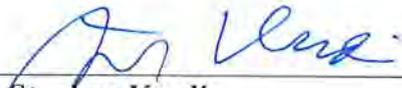
use of the parking space. If the tenant ever decides that she no longer wishes to use the space, she would not pay the additional charge. I find that the parking space was the subject of a separate contract between the parties, and the charge for this space is not part of the rent.

The remainder of the challenged rent increase is \$4.36 per month. This is .07% of \$623.01, the amount of the rent excluding the parking charge. Since this rent increase is the current CPI Adjustment, the challenge to this amount is denied.<sup>5</sup>

**ORDER**

1. Petition T09-0168 is denied.
2. The rent for the unit, not including a parking space in the garage of the subject building, is \$627.37 per month.
3. The charge for use of a parking space is not part of the rent, and the Rent Adjustment Program has no jurisdiction to decide any question regarding the use of, or charge for, this space.
4. Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of the decision. The date of service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: December 14, 2009

  
\_\_\_\_\_  
**Stephen Kasdin**  
Hearing Officer  
Rent Adjustment Program

<sup>5</sup> O.M.C. Section 8.22.070(B)

# Lease Agreement - Oakland

Owner rents to Tenants and Tenants rent from Owner the Premises subject to the following terms and conditions.

## Terms of Tenancy

**Owner** Barbara Addleman (Name)

**Agent for Rent & Notices** 225 Carmel Avenue Piedmont, CA 94611 (Address)  
510.414.0673 addleman@pacbell.net (Phone & Email)

**Tenants** Drew G. Lerer (Name) 06/03/1973 (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)  
 \_\_\_\_\_ (Name) \_\_\_\_\_ (DOB)

**Premises** 270 Euclid Avenue Oakland, CA 94610 #6 (Address)

**Rent** \$ 1,500.00 per month payable in advance on the First day of each month.

**Parking** Parking space assigned NA Monthly charge \$ \_\_\_\_\_ payable with monthly rent.

**Storage** Storage space assigned \_\_\_\_\_ Monthly charge \$ \_\_\_\_\_ payable with monthly rent.

**Rent Payments**  Electronic Funds Transfer (EFT)  Personal check  Cashier's check or money order  Cash

**Security Deposit** \$ 1,500.00

**Late Charge** \$ 35.00 if Owner does not receive rent in full within 5 days after the due date.

**Returned Payment** \$ 35.00 in the event any check or other form of payment by Tenant is returned for lack of sufficient funds, a "stop payment" or any other reason.

**Term of Tenancy** The term of this Agreement is for 1 YEAR beginning on 11/1/15 and ending on 11/1/16.  
 (Term) (Date) (Date)

At which time this Lease shall terminate without further notice. Any holding over thereafter shall result in Resident being liable to Owner/Agent for daily rental damages equal to the current market value of the unit, divided by 30. A "month-to-month" tenancy subject to the terms and conditions of this agreement shall be created only if Owner/Agent accepts rent from Resident thereafter, and if so accepted, tenancy may be terminated by Resident after service upon the Owner/Agent of a written 30-day Notice of Termination. Except as prohibited by law, that month-to-month tenancy may be terminated by the Owner/Agent by service upon the Resident of a written 90-day notice of termination of tenancy. However, Civil Code Section 1946.1 provides that "if any tenant or resident has resided in the dwelling for less than one year", the Owner/Agent may terminate the tenancy by service upon the Resident of a written 30-day notice.

**Pets** Approved pets NO PETS

**Owner's Utilities** Owner pays for WATER & GARBAGE

**Tenant's Utilities** Tenant pays for PG&E

**Appliances & Fixtures** Owner provides Refridgerator, Stove

## General Terms and Conditions of Tenancy

**Use and Occupancy** The Premises are to be occupied and used only as a private residence by Tenants, without Owner's prior written consent, subject to applicable state and local laws. Occupancy by additional persons for more than two weeks in any six-month period is prohibited without Owner's written consent. Violation of the provisions of this Section is a substantial violation of a material term of the tenancy and is a just cause for eviction.

I have reviewed this page \_\_\_\_\_ (Tenant Initials)

## Lease Agreement - Oakland

- Possession** If Owner is unable to deliver possession of the Premises at the beginning of the Term, Tenant will have the right to terminate this Agreement upon proper notice as required by law. Owner will not be liable for any resulting damage. If Tenant fails to take possession of the Premises, Tenant will still be responsible for paying rent and complying with all other terms of this Agreement.
- Rent** Rent will be paid in full to Owner or Owner's agent without offsets, deductions or credits. Tenant bears the risk of loss or delay of any mailed payment. Owner reserves the right to refuse any partial payment. Payment will be applied to any outstanding obligation of Tenant to Owner, notwithstanding any other designation by Tenant.
- Late Payments** Tenant will pay Owner a late charge if rent is not received on time. By accepting a late charge, Owner does not waive the right to insist on payment of the rent in full on the due date. Tenant and Owner agree that the late charge represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. Tenant and Owner agree that paying rent more than five days late on three separate occasions in any 12-month period is a substantial violation of a material term of the tenancy and is a just cause for eviction.
- Returned Payments** Tenant will pay Owner a returned payment fee in the event any check or other form of payment offered by Tenant to Owner in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment" or any other reason. Tenant and Owner agree that this amount represents a fair and reasonable estimate of costs incurred by Owner in this circumstance. A returned check may constitute late payment of rent. In the event of a returned check, Owner reserves the right to demand payment by money order or certified funds for the current and all future payments.
- Individual Liability** Each person who signs this Agreement, whether or not they remain in possession of the Premises, will be jointly and severally liable for the full performance of this Agreement, including the payment of all rent due and the payment of costs to remedy damages to the Premises caused by Tenant, guests or invitees.
- Failure to Pay** As required by law, Tenant is notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations, such as your obligations under the terms of this Agreement.
- Security Deposit** Tenant may not apply the security deposit to the last month's rent or to any other sum due under this Agreement. Within twenty-one (21) days after Tenant has vacated the Premises, Owner will furnish Tenant with an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by the Owner, along with a check or direct bank deposit (if permitted by landlord and tenant) for any deposit balance. As of 2013, California law permits the landlord (or manager) and the tenant to mutually agree to have the security deposit returned to the former tenant by electronic funds transfer and to have the statement that itemizes the deductions along with the copies of the documents verifying the deductions to be sent to the tenant by electronic means. Agreement must be made after either party has served a notice of termination.
- Under Section 1950.5 of the California Civil Code, Owner may withhold only that portion of Tenant's security deposit necessary to: (1) remedy any default by Tenant in the payment of rent; (2) repair damages to the Premises exclusive of ordinary wear and tear; and (3) clean the Premises if necessary. Under state and local law, no interest payments are required on security deposits.
- Subletting** Tenant will not sublet any part of the Premises or assign this agreement without the prior written consent of Owner. The named Tenants are the only "Original" Tenants. No person other than the named Tenants will be permitted to regularly or continuously use or occupy the Premises unless all of the following conditions are met: 1) Tenant notifies Owner in writing, signed by every Tenant, stating a request to have a new person occupy the Premises; 2) said prospective occupant completes and gives to Owner Owner's rental application; 3) Owner approves of the prospective occupant's creditworthiness and references from prior landlords; and 4) the new occupant signs Owner's Change of Tenant Agreement for such occupancy before occupying the Premises, which agreement will include a provision that the new occupant will abide by and perform all the obligations of this Agreement. The rent for the Premises may be raised to market rates when the last Original Tenant(s) moves from the Premises.
- In the event that Owner consents to any sub-tenancy, it is hereby agreed that the Original Tenant may not charge more to the sub-tenant(s) than that proportional share of the rent which is being charged by and paid to Owner. No action or inaction or acceptance of rent or knowledge on the part of Owner will be deemed to be a waiver of the provision of this Section on the part of Owner and will not be deemed an approval of any person as a "sub-tenant" for any purpose.
- Parking** The assigned parking space is for the exclusive use of the Tenants and may be used for the parking of motor vehicles only. No vehicle longer than 20 feet may be parked in the Space. Any motor vehicle maintenance or repair performed in the Space, or any other use of the property without the prior consent of Owner, is prohibited.
- Owner will not be liable for any damage done by bursting, leaking or running of any gas or water or any plumbing fixture in, above, upon or about the parking lot; for damage by water, snow or ice being upon or coming off the lot; damage arising from acts or neglect of other occupants of the lot or other motor vehicles; or theft or vandalism by others. It is encouraged that Tenants purchase insurance to cover the above-mentioned instances.

I have reviewed this page \_\_\_\_\_ (Tenant initials) BL

## Lease Agreement - Oakland

- Storage** Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.
- Condition of Premises** Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.
- Appliances and Fixtures** Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.
- Pets** Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.
- Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manner. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.
- Trash** Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.
- Owner's Access** California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).
- Extended Absences** Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.
- Quiet Enjoyment** Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.
- Repairs and Alterations** Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.
- Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.
- Financial Responsibility** Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.
- Water-filled Furniture** No waterbed or other item of water-filled furniture will be kept on the Premises.
- Smoke Detectors** The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

I have reviewed this page \_\_\_\_\_ (Tenant Initials) DL

## Lease Agreement - Oakland

<b>Storage</b>	Tenants release Owner from any liability for loss or damage to Tenants' property while stored on the Premises. Any property stored in designated storage areas shall be removed on or before the date of termination of tenancy. In the event such property is not so removed, Owner may dispose of same without any liability to Tenants. Tenants waive any rights as defined in Civil Code Section 1980 et. seq. Owner reserves the right to inspect all such storage areas and require necessary removal or clean up as deemed necessary for the health and safety of the Premises, the building and/or its occupants. No storage of any kind will be permitted on fire escapes or in other common areas.
<b>Condition of Premises</b>	Tenant agrees to: (1) keep the Premises clean and sanitary and in good repair and, upon termination of the tenancy, to return the Premises to Owner in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Owner of any defects or dangerous conditions in and about the Premises of which they become aware; and (3) reimburse Owner, on demand by Owner, for the cost of any repairs to the Premises damaged by Tenant or Tenant's guests or invitees through misuse or neglect.
<b>Appliances and Fixtures</b>	Tenant acknowledges that all appliances, window and floor coverings, attached light fixtures, and other attached or semi-attached items are the property of Owner.
<b>Pets</b>	<p>Only Approved Pets are allowed on or about the Premises. Owner may require a photo of all Approved Pets. No other animals are allowed even temporarily or with a guest, without Owner's prior written consent, excepting guide, service or signal dogs pursuant to California Civil Code Sections 54.1 and 54.2. Stray animals shall not be kept or fed in or around the Building. Strays can be dangerous and Owner must be notified immediately of any strays in or around the Building.</p> <p>Approved Pets are not permitted outside Tenant's unit unless on a leash. Tenant agrees to immediately clean up any defecation in a sanitary manner. If Tenant fails to prevent any infestations of fleas, ticks, or other creatures, Tenant may be charged for cleaning, de-fleaing, deodorizing or shampooing any portion of the building or Premises. Tenant shall not permit the pets to cause any discomfort, annoyance, nuisance, or in any other way inconvenience any other Tenant. Any "mess" created by the Pet(s) shall immediately be cleaned up by Tenant. Tenant shall be liable to Owner, and shall defend Owner, hold Owner harmless, and indemnify Owner for all injuries, damages, expenses, losses or obligations of any kind incurred by or in connection with the pet.</p>
<b>Trash</b>	Tenant agrees to dispose of their ordinary household trash by placing it in the Waste Management containers for periodic collection. Tenant agrees to dispose of extraordinary trash, such as damaged furniture, broken appliances and the like, by immediately hauling it to the dump themselves or by paying someone else to remove it. In the event that Tenant's trash is left outside the Premises, Owner will arrange to have it removed at Tenant's expense.
<b>Owner's Access</b>	California law allows Owner to enter the Premises for certain purposes during normal business hours. Owner will provide written notice to Tenant prior to entering the Premises whenever required by state law (Civil Code Section 1954).
<b>Extended Absences</b>	Tenant agrees to notify Owner in the event that Tenant will be away from the Premises for 14 consecutive days or more. During each absence, Owner may enter the Premises at times reasonably necessary to maintain the property and inspect for damage and needed repairs.
<b>Quiet Enjoyment</b>	Tenant will be entitled to quiet enjoyment of the Premises. Tenant and Tenant's guests or invitees will not use the Premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession or sale of illegal drugs; (2) commit waste or nuisance; or (3) annoy, disturb, inconvenience or interfere with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.
<b>Repairs and Alterations</b>	<p>Tenant will not, without Owner's prior written consent, alter, re-key or install any locks to the Premises or install or alter any burglar alarm system. Tenant will provide Owner with a key or keys capable of unlocking all such re-keyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.</p> <p>Except as provided by law or as authorized by the prior written consent of Owner, Tenant will not make or allow to be made any installation or modification of cable or telephone wiring, decorations (such as painting and wallpapering), alterations, or repairs (inclusively, "Changes") to the Premises. Tenant agrees to pay all costs of correcting any unauthorized Changes.</p>
<b>Financial Responsibility</b>	Tenant agrees to accept financial responsibility for any loss or damage to personal property belonging to Tenant and Tenant's guests and invitees caused by theft, fire or any other cause. Owner assumes no liability for any such loss. Owner recommends that Tenant obtain a renter's insurance policy from a recognized insurance firm to cover Tenant's liability, personal property damage and damage to the Premises.
<b>Water-filled Furniture</b>	No waterbed or other item of water-filled furniture will be kept on the Premises.
<b>Smoke Detectors</b>	The Premises are equipped with functioning smoke detection devices. Tenant will be responsible for testing the devices weekly and immediately reporting any problems, maintenance or need for repairs to Owner. Tenant will not remove their batteries or otherwise disable them.

I have reviewed this page \_\_\_\_\_ (Tenant Initials) DL

### Lease Agreement - Oakland

**Attorney Fees** In any action or legal proceeding to enforce any part of this Agreement, each party will be responsible for their own attorneys' fees and court costs, subject to local rent control ordinances and regulations that may apply.

**Megan's Law** Pursuant to Section 290.46 of the California Penal Code, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and the ZIP code in which he or she resides.

**Notices** Any required notices may be delivered to Tenant at the Premises and to Owner or Agent for Rent and Notices.

**Validity of Each Part** If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

**Captions and Headings** The captions and headings in this Agreement are included to improve readability and are not part of the terms or provisions of this Agreement.

**Application** Any rental application or related document submitted by Tenant is incorporated herein as though set forth in full. Any misrepresentations contained therein will be considered a substantial violation of a material term of the tenancy and is a just cause for eviction.

**Attachments** The following attachments are incorporated as part of this Agreement:  
 Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards  
 Move-In-Move-Out Checklist

**Entire Agreement** This document and Attachments identified above constitute the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Owner or Tenant. Any modifications to this Agreement must be in writing signed by Owner and Tenant except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827.

By:

  
 Owner or Agent 8/27/2015  
 Date 8/27/15

_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date
_____ Tenant	_____ Date	_____ Tenant	_____ Date

#### Receipt

By signing above, Owner acknowledges having received, and Tenant acknowledges payment of, the following:

Security Deposit: \$ 1,500.00

Rent: \$ \_\_\_\_\_ for the period \_\_\_\_\_ to \_\_\_\_\_

Other: \$ 25.00 for Credit & Criminal Check

Total received: \$ \_\_\_\_\_ payment method \_\_\_\_\_

I have reviewed this page \_\_\_\_\_ (Tenant initials) BL

CITY OF OAKLAND



P.O. BOX 70243, OAKLAND, CA 94612-2043  
 Department of Housing and Community Development  
 Rent Adjustment Program

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

- Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and covers most residential rental units built before 1983. It does not apply to subsidized units, most single family dwellings, condominiums and some other types of units. For more information on which units are covered, contact the RAP office.
- You have a right to file a petition with the RAP to contest a rent increase that is greater than the annual general rent increase ("CPI increase"). An owner can increase rent more than the CPI rate, but with limits, for capital improvements, operating expense increases, and deferred annual rent increases ("banking"). No annual rent increase may exceed 10%. The owner must provide you with a written summary of the reasons for any increase greater than the CPI rate if you request one in writing. If the owner decreases your housing services, this may be an increase in your rent. Decreased housing services include substantial problems with the condition of a unit.
- To contest a rent increase, you must file a petition with the RAP within sixty (60) days of whichever is later: (1) the date the owner served the rent increase notice; or (2) the date you first received this Notice To Tenants. Information and the petition forms are available from the RAP office: 250 Frank H. Ogawa Plaza, 6<sup>th</sup> Fl., Oakland, CA 94612 or: <http://www.oaklandnet.com/government/hcd/rentboard/tenant.html>
- If you contest a rent increase, you must pay your rent with the contested increase until you file a petition. After your petition is filed, if the rent increase notice separately states the amount of the CPI rate, you have to pay your rent plus the CPI increase. If the CPI rate has not been stated separately, you may pay the rent you were paying before the rent increase notice. If the increase is approved and you did not pay it you will owe the amount of the increase retroactive to the effective date of increase.
- Oakland has eviction controls (the Just Cause for Eviction Ordinance and Regulations, O.M.C. 8.22) which limit the grounds for evictions in covered units. For more information contact the RAP office.
- Oakland charges owners a Rent Program Service Fee per unit per year. If the fee is paid on time, the owner is entitled to get half of the fee from you. Your payment for the annual fee is not part of the rent. Tenants in subsidized units are not required to pay the tenant portion of the fee.

#### TENANTS' SMOKING POLICY DISCLOSURE

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

I received a copy of this notice on \_\_\_\_\_

(Date)

(Tenant's signature)

此份屋書(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721 索取副本。

La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

Bản Thông Báo quyền lợi của người thuê ở trong Oakland này cũng có bằng tiếng Việt. Nếu có mặt bản sao, xin gọi (510) 238-3721.

Hi Barbara,

Thank you so much for contacting me. I am doing well thanks for asking. I am happy for our 268ers but also sad to see them go. You have done an amazing job of finding lovely people to live here. It is such a nice community.

Thanks for offering me the garage space. That sounds great. I do own a little smart car and though my car fits in more parking spaces than most, it would be great to have to be able to park close as well as have additional storage space. Let me know how I should coordinate. I know that Kathryn and Nate were interested in sharing a their space with me if that is possible.

Hope you are enjoined this lovely weather.

Best,

Drew

On Thu, Jun 20, 2019 at 5:29 PM Barbara Addleman <[addleman@pacbell.net](mailto:addleman@pacbell.net)> wrote:

Hiya Drew,  
Hope you are doing well?

As you may have heard, David and Ling have bought a new home and so have Maria & Angelical  
Both are moving out next week.

This means you, then Karen are up for garage space if you are interested?  
I don't think you own a car, but wanted to give you first refusal beofre moving on down the list!  
The charge is an additional \$50.00/month

Let me know your thoughts,  
Barbara  
510.414.0673

**P** Please consider the environment before printing this email

—  
Gmail mobile

—  
Drew Lerer

Re: garage space?

From: Barbara Addleman (addleman@pacbell.net)  
To: drewlerer@gmail.com  
Date: Sunday, June 23, 2019, 12:58 PM GMT-8

Hiya Drew,  
Congratulations on your wedding! Wow!  
I hope that the immigration process goes smoothly for you...I know it can be long and tedious.  
It would be lovely if you two stay in the building!  
The 2 bedroom will be \$2700.00/month

Starting July 1 you will have the shared parking garage with Kathryn and Nathan for \$50.00/month

Let me know you interest in #1 as I will need to post the ads in the next few days.  
All the best,  
Barbara

**P** Please consider the environment before printing this email

On Friday, June 21, 2019, 07:59:57 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

Lovely, thank you so much, Barbara!. I will spread the word about the available spaces in our lovely building. I just married my overseas sweetheart from Colombia. We met at my friends wedding a few years ago and now are in the process of going through immigration so that she can come to the United States (she lives in Colombia). How much would the two bedroom apartment be to rent?

Thanks again. Have a great week and hope you are enjoying this lovely weather. The new paint in the apartment looks great BTW.

On Thu, Jun 20, 2019 at 11:46 PM Barbara Addleman <addleman@pacbell.net> wrote:

Hey Drew,  
thanks for responding so quickly!  
Yes, you will be sharing the space with Nathan and Kathryn! (Karen will be with Slawek!)  
I will get you a set of keys by July 1.  
More to come!  
Barbara  
PS If you know anyone looking for 1 or 2 bedroom apt, let me know!

**P** Please consider the environment before printing this email

On Thursday, June 20, 2019, 5:55:32 PM PDT, Drew Lerer <drewlerer@gmail.com> wrote:

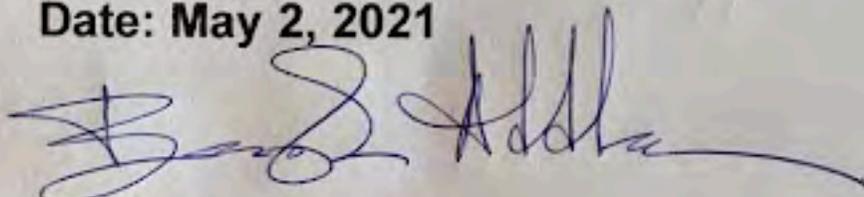
**30 Day Notice**  
**Change in Monthly **Parking Fees****  
268 Euclid Ave., Oakland, CA 94610

**TO: Drew Lerer**  
**Unit #7**

Notice is hereby given that thirty (30) days after service upon you of this Notice, or **June 1, 2021**, whichever is later, your monthly payable fee for parking space is payable in advance on or before the First day of each month, **will be the sum of \$115.**

This increase is in compliance with the City of Oakland and the East Bay Rental Housing Association: "Parking fees or other terms may be changed by Owner/Agent upon thirty (30) days notice unless a shorter period is required for reasons of health and safety."

**Date: May 2, 2021**



Barbara Addleman  
Owner

# 30 Day Notice of Change of Monthly Rent

**To: Drew Lerer  
Unit #6**

(Resident)

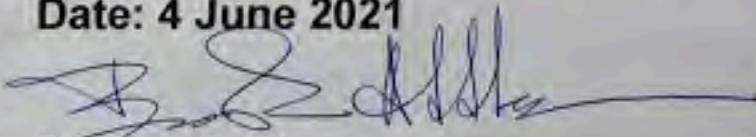
For the premises located at:  
268 Euclid Avenue, Oakland, CA 94610

Notice is hereby given, in accordance with Civil Code Section 287, that thirty (30) days after service upon you of this Notice, or **on August 1, 2021**, whichever is later, your monthly rent payable in advance, on or before the First day of each month, **will be the sum of \$1,616.13**, instead of the current rent of \$1586.00

The Oakland Rent Adjustment Ordinance provides for an Allowable Annual Rent Increase based on the regional Consumer Price Index ("CPI"). A new CPI rate takes effect each July 1 and remains in effect for rent increases through June 30 of the following calendar year.

**The annual CPI rate for rent increases effective July 1, 2021, through June 30, 2022, is 1.9%.** The rate cannot be applied to rent increases that take effect earlier than July 1, 2021. (See attached for further RAP information)

**Date: 4 June 2021**



Barbara Addleman  
Owner

## CITY OF OAKLAND



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

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

### NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM

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

#### TENANTS' SMOKING POLICY DISCLOSURE

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

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

此份屋翁(奧克蘭)市租客權利通知書附有中文版本。請致電(510) 238-3721索取副本。  
 La Notificación del Derecho del Inquilino está disponible en español. Si desea una copia, llame al (510) 238-3721.

EXHIBIT F - 2

## CHRONOLOGICAL CASE REPORT

Case No.: L20-0071

Case Name: Hertzell Enterprises LLC v. Tenants

Property Address: 232 29<sup>th</sup> Street, Oakland, CA 94611

Parties:

- Hertzell Enterprises LLC (Owner)
- Bay Property Group (Manager)
- Kimberly Roehn (Owner Representative)
- Andrea Breon (Tenant)
- Ann Canann (Tenant)
- Arielle Peet (Tenant)
- Christopher Goldman (Tenant)
- Christopher Juan (Tenant)
- Eman Haggag (Tenant)
- Eugene Kang (Tenant)
- Fitsum Chiffa (Tenant)
- Graham Brown (Tenant)
- Gregory Kouri (Tenant)
- Jeremy Sweeney (Tenant)
- Khary Moye (Tenant)
- Marilyn Fontenrose (Tenant)
- Martin Brown (Tenant)
- Mitchell Colbert (Tenant)
- Neda Tafreshi (Tenant)
- Paolo Maloles (Tenant)
- Rajini Subramanian (Tenant)
- Sangodogbon Akinsoga (Tenant)
- Sarah Mallas (Tenant)
- Shauna Kimball (Tenant)
- Thomas Stewart (Tenant)
- William Jones (Tenant)

000077

**TENANT APPEAL:**

<u>Activity</u>	<u>Date</u>
Property Owner Petition filed	June 24, 2020
Owner's Supporting Documentation	March 3, 2021
Owner Submission Additional Evidence	June 1, 2021
Tenant Response filed (Sweeney)	March 9, 2021
Tenant Response filed (Breon)	March 21, 2021
Tenant Response filed (Breon)	March 22, 2021
Tenant Response filed (Goldman)	March 25, 2021
Tenant Response filed (Peet)	March 31, 2021
Hearing Date	June 8, 2021
Hearing Decision mailed	August 5, 2021
Tenant Appeal filed	August 13, 2021
Owner Response to Appeal	September 30, 2021

Law. 0071 SM/EL 6/8

**RECEIVED**

JUN 24 2020

RENT ADJUSTMENT PROGRAM  
OAKLAND

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

**Property Owner Petition**  
Property Address: 232 29TH ST  
Case: Petition: 11454  
Date Filed: 6/24/2020

Party	Name	Address	Mailing Address	
Owner	HERTZEL ENTERPRISES LLC	232 29th St. Oakland, CA	482 W MacArthur Blvd Oakland, CA 94609	(510) 698-9560
Manager	Bay Property Group	482 W MacArthur Blvd Oakland, 94609	482 W MacArthur Blvd Oakland, 94609	(510) 836-0110
Representative	Kimberly Roehn Law Offices of Kimberly Roehn	1954 Mountan Blvd., #13125 Oakland, 94661	1954 Mountan Blvd., #13125 Oakland, 94661	(510) 698-9560 kim@roehnlaw.com
Tenant	Sangodogbon Akinsoga	232 29TH ST 15 Oakland, CA 94611		
Tenant	Andrea Breon	232 29TH ST 16 Oakland, CA 94611		
Tenant	Graham Brown	232 29TH ST 10 Oakland, CA 94611		
Tenant	Martin Brown	232 29TH ST 20 Oakland, CA 94611		
Tenant	Ann Canann	232 29TH ST 08 Oakland, CA 94611		
Tenant	Fitsum Chiffa	232 29TH ST 24 Oakland, CA 94611		
Tenant	Mitchell Colbert	232 29TH ST 23 Oakland, CA 94611		
Tenant	Marilyn Fontenrose	232 29TH ST 25 Oakland, CA 94611		

City of Oakland

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

**Property Owner Petition**  
 Property Address: 232 29TH ST  
 Case: Petition: 11454  
 Date Filed: 6/24/2020

Party	Name	Address	Mailing Address	
Tenant	Christopher Goldman	232 29TH ST 11 Oakland, CA 94611		
Tenant	Eman Haggag	232 29TH ST 22 Oakland, CA 94611		
Tenant	William Jones	232 29TH ST 01 Oakland, CA 94611		
Tenant	Christopher Juan	232 29TH ST 05 Oakland, CA 94611		
Tenant	Eugene Kang	232 29TH ST 02 Oakland, CA 94611		
Tenant	Shauna Kimball	232 29TH ST 12 Oakland, CA 94611		
Tenant	Gregory Kouri	232 29TH ST 03 Oakland, CA 94611		
Tenant	Sarah Mallas	232 29TH ST 18 Oakland, CA 94611		
Tenant	Paolo Maloles	232 29TH ST 17 Oakland, CA 94611		
Tenant	Khary Moye	232 29TH ST 04 Oakland, CA 94611		
Tenant	Arielle Peet	232 29TH ST 26 Oakland, CA 94611		

City of Oakland

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

**Property Owner Petition**  
 Property Address: 232 29TH ST  
 Case: Petition: 11454  
 Date Filed: 6/24/2020

Party	Name	Address	Mailing Address
Tenant	RESIDENT RESIDENT	232 29TH ST 19 Oakland, CA 94611	
Tenant	RESIDENT RESIDENT	232 29TH ST 06 Oakland, CA 94611	
Tenant	Thomas Stewart	232 29TH ST 21 Oakland, CA 94611	
Tenant	Rajini Subramanian	232 29TH ST 07 Oakland, CA 94611	
Tenant	Jeremy Sweeney	232 29TH ST 09 Oakland, CA 94611	
Tenant	Neda Tafreshi	232 29TH ST 14 Oakland, CA 94611	

Total number of units on property **26**

Date on which you acquired the building **4/20/2014**

Type of units **Apartment, Room or Live-work**

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 the tenants in each unit affected by the petition? **No**

On what date was the RAP Notice first given?

Have you paid your business license? Have you paid your Oakland Business License? The property owner must have a current Oakland Business License. If it is not current, an Owner Petition may not be considered in a Rent Adjustment proceeding. (Provide proof of payment.) **No**

Oakland Business License number **00083882**

City of Oakland

**City of Oakland**

**Rent Adjustment Program**

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

**Property Owner Petition**

Property Address: 232 29TH ST

Case: Petition: 11454

Date Filed: 6/24/2020

Have you paid the Rent Adjustment Program Service Fee (per unit)? The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition may not be considered in a Rent Adjustment proceeding. Note: If RAP fee is paid on time, the property owner may charge the tenant one half of the per-unit RAP Service fee.

**No**

**City of Oakland**

**Rent Adjustment Program**

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

**Property Owner Petition**

Property Address: 232 29TH ST

Case: Petition: 11454

Date Filed: 6/24/2020

**Reason(s) for Petition**

*Note: Justifications for Rent Increases other than the annual allowable rate are discussed in the Rent Adjustment Program Regulations – Appendix A, Sec. 10.*

I (We) petition for approval of one or more rent increases on the grounds that the increase(es) is/are justified by:

**Capital Improvements**

**Mediation**

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

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

Mediation will be scheduled only if both parties agree. 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.

Would you like to request Mediation?

**No**

City of Oakland

**Capital Improvement Petition -  
Supporting Documentation**

(33 pages including cover)

-

**232 29<sup>th</sup> Street, Oakland**

# RAP FEES PAYMENT

2/20/2020

Receipt

232 Rap

## Guest

Find Account → Registration → Calculation → Payment → Receipt

[Home](#) [Report a Problem](#)

Account # 00083883  
HERTZEL ENTERPRISES LLC

## Business License Online Renewal

### PRINT THIS PAGE FOR YOUR RECORD

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

Submission Date: 2/20/2020  
Confirmation #: 164843

### Account Information

Account #: 00083883  
Expire Date: 12/31/2020  
Name: HERTZEL ENTERPRISES LLC  
Address: 232 29TH ST  
City: OAKLAND  
Phone: (510) 838-0110

### Summary

STD	Input	Amount
Total # of units per Alameda County Records:	25	\$2,525.00
Total Due		\$2,525.00

### Payment Information

Payment Amount: \$2,525.00

After printing or saving this page for your records, you may close this browser window/tab.

<https://tax.oaklandnet.com/Renew/Renew5>

1/2

000085

2

232 29th Street  
Business License

Find Account → Registration → Calculation → Payment → Receipt

Home Report a Problem  
Account # 00083882  
HERTZEL ENTERPRISES LLC

**Business License Online Renewal**

PRINT THIS PAGE FOR YOUR RECORD

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

Submission Date 2/28/2020  
Confirmation # 173738

**Account Information**

Account # 00083882  
Expire Date 12/31/2020  
Name HERTZEL ENTERPRISES LLC  
Address 232 29TH ST  
City OAKLAND  
Phone (510) 836-0110

**Summary**

**STD**

	Input	Amount
Enter 2019 Gross Receipts *(Enter estimated 2020 Gross Receipts if business started in Oakland in 2019)*		\$8,044.71
BT SB1186 (AB1379)	1	\$4.00
BT Recordation and Tech	1	\$3.00
Enter Total # of Employees (Excluding Owners)		\$0.00
<b>Total Due</b>		<b>\$8,051.71</b>

**Payment Information**

Payment Amount \$8,051.71

After printing or saving this page for your records, you may close this browser window/tab.

Powered by Hcl?   
 Select Language | ▼



**PROPOSAL AND CONTRACT**  
*Proudly Celebrating 93 Years of Quality Service!*

October 23, 2017

Bay Property Group  
Attn: Ethan Brown  
482 W. MacArthur Blvd  
Oakland, CA 94609  
510-836-0110 x1023

Based on our discussion and inspection of your roof, options for the work are detailed below for your consideration.

The undersigned proposes to furnish all materials and perform all labor on the following described real property:  
232 29<sup>th</sup> Street  
Oakland, CA 94611

necessary to complete the following work of improvement in accordance with the specifications detailed hereto, and by reference incorporated herewith:

**Option #1 - Carlisle SynTec TPO Single Ply Roof Replacement**

Sweep existing roof surface clean of all debris and dispose of it. At this time, the complete roof structure is to be checked for dry rot and/or any other wood related issues. If any is found, it is to be replaced at a cost of \$95.00 per hour, plus materials, over and above the contract price. Dry rot repair and/or any wood replacement costs are not to exceed \$1,000.00 without the owner's approval. Repairs and/or wood replacement will not be painted.

Install a mechanically attached Carlisle SynTec TPO single ply membrane with pre-fabricated flashings and other items to comprise a roofing system. The work includes fasteners, two layers of fire sheet, roof membrane (60 ml), pre-fabricated flashings for protrusions of pipes, IB clad metal, edge metal and detail metal, sealants, exhaust vents, plumbing stacks, fire barriers, and vents and flashings.

The typical life expectancy of this roof system is 15 to 20 years.

Investment - \$65,960.00 (EBS) initial

**Option #2 - IB Roof Systems PVC Single Ply Roof Replacement**

Sweep existing roof surface clean of all debris and dispose of it. At this time, the complete roof structure is to be checked for dry rot and/or any other wood related issues. If any is found, it is to be replaced at a cost of \$95.00 per hour, plus materials, over and above the contract price. Dry rot repair and/or any wood replacement costs are not to exceed \$1,000.00 without the owner's approval. Repairs and/or wood replacement will not be painted.

Install a mechanically attached IB Roof Systems PVC single ply membrane with pre-fabricated flashings and other items to comprise a roofing system. The work includes fasteners, two layers of fire sheet, roof membrane (60 ml), pre-fabricated flashings for protrusions of pipes, IB clad metal, edge metal and detail metal, sealants, exhaust vents, plumbing stacks, fire barriers, and vents and flashings.

This roofing system shall be applied only by a contractor trained and authorized by IB Roof Systems prior to bid. The typical life expectancy of this roof system is 25 to 30 years.

Investment - \$74,890.00 ( ) initial

Due to the volatility of the oil (asphalt) markets, any increases from material suppliers, delays, accidents, or other factors beyond our control may be passed on to the customer.

If more than one option is offered, please initial the work to be performed. All applicable discounts have been included in the pricing.

000087

Contact your estimator once a decision has been made regarding the preferred product (if applicable) and/or the color of the material.

This proposal is based upon using the driveway/ground cover by a vehicle during the tear-off process and loading of the material. The vehicle will drive up and park on the driveway/ground cover. General Roofing Company is not responsible for cracks or breaks in the driveway/ground cover.

Workmanship is guaranteed for a period of five years from the date of completion of the job. A regular inspection and maintenance program must be implemented during the effective period of the guarantee to ensure it remains in effect. The manufacturer's warranty will apply for the products provided.

Any permits and/or applicable fees are included in this price.

**Advisory:** During the roofing/gutter process debris may fall into the attic if there is one. General Roofing Company is not responsible for tarping or cleanup of an attic area. In addition, where open beam ceilings are present, dust and/or debris may sift into the interior. General Roofing Company is not responsible for tarping or cleanup of interior areas, or for any cracks, nails popping through the ceiling, fixtures/pictures falling, etc., which may or may not be as a result of the roofing process. The owner is solely responsible for protecting any personal property and is strongly urged to remove or secure items that may fall, (pictures, mirrors, etc.) and vehicles (i.e., cars, motorcycles), etc. from the area during the roofing process.

General Roofing Company is not responsible for wire breakage, poor reception, re-calibration, etc., of antennas/satellite dishes, cable/telephone/internet service, or other such devices.

Any exterior debris resulting from the job is to be cleaned up and hauled away and the jobsite left clean and in order on a daily basis.

General Roofing Company is fully covered by worker's compensation and liability insurance, with certificates available upon request.

Mold/Fungi/Microbe is present in many locations. Mold/Fungi/Microbe can be dangerous, and can cause health related diseases. General Roofing Company does not inspect for mold/fungi/microbe. We are specifically not qualified to determine if mold/fungi/microbe is present. It is the responsibility of the owner of the building to determine if mold/fungi/microbe is present. It is also the responsibility of the owner of the building to notify General Roofing Company within 24 hours of occurrence of any leak in the building and where mold/fungi/microbe may occur or may be present. General Roofing Company is not liable for any damages for not identifying any mold/fungi/microbe or for mold/fungi/microbe occurring, mold/fungi/microbe occurring at a later date, health effects or worker's compensation effects, from mold/fungi/microbe either directly or indirectly caused by our activities, materials used, processes or lack of recognition of those conditions at the above site.

All of the above work is to be completed in a substantial and workmanlike manner according to standard practices on or before (to be determined) save and except for any delays caused by strikes, Act of God, or other unforeseen happenstance over which the contractor has no control.

**Payment is to be made as follows:**

1. A deposit of ten percent (10%) or \$1,000.00 of the total amount of the job, whichever is less, is due upon acceptance of the contract.
2. Payment of fifty percent (50%) of the contract is due upon fifty percent (50%) completion of the project.
3. Payment in full is expected at the time each option is completed.
4. A handling fee of 2.5% will be added for payment by credit or debit card.
5. If there are any unresolved issues, change orders, etc., a retention not to exceed ten percent (10%) may be withheld until satisfactory resolution is reached.

Any alteration or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing.

This proposal shall be binding upon the contractor for a period not to exceed thirty (30) days, unless earlier revoked by written notice of revocation prior to acceptance, at which time this proposal shall terminate automatically. No contractual rights arise until this proposal is accepted in writing.

Respectfully submitted,

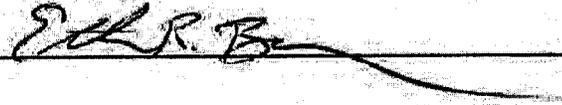


Michael Wakerling  
Owner  
General Roofing Company

## Acceptance

The above proposal is hereby accepted according to terms thereof and the owner agrees to pay the amounts mentioned in said proposal and according to the terms thereof. Please sign, date, and return one copy upon acceptance.

Signature:



Date:

12/14/17

WATT 14039-1

# Invoice

**GENERAL ROOFING COMPANY**  
PO BOX 2526  
CASTRO VALLEY, CA 94546  
610 836-3356  
STATE CONTRACTOR'S LICENSE #154732

DATE	INVOICE #
5/29/2018	97582

**BILL TO:**

Bay Property Group  
Ethan Brown  
482 W. MacArthur Blvd  
Oakland CA 94609

232 29th St.  
Oakland CA 94611



18-433C      Due on receipt      MLW

DESCRIPTION	AMOUNT
-------------	--------

5/25/2018	Carlisle roof system ( 60ml White) installed as detailed in contract.	65,960.00
-----------	---	-----------

\$65,960.00

**Payments Applied**      -\$1,000.00

**TOTAL**      \$64,960.00

Thank you for your business.



298001

000090



# Transaction Search

## Images

Date/Time Printed: 03/10/2020, 12:35 PM PDT  
Check 22201 - 1000.00 USD

<b>LEGAL ONE REALTY</b> <b>DBA BAY PROP GROUP/INTRO PROP MGMT</b> <b>REAL ESTATE TRUST ACCOUNT</b> <b>PROPERTY OPERATING ACCOUNT</b> 482 W. MACARTHUR BLVD OAKLAND, CA 94609-2829 510-636-0110		Wells Fargo Bank, N.A. 11-0288/1210	<b>022201</b>
PAY TO THE ORDER OF <b>GENERAL ROOFING, CO., INC.</b> **** ONE THOUSAND AND 00/100 DOLLARS		12/19/2017 \$ 1,000.00 DOLLARS	
General Roofing, Co., Inc. 3309 Elmwood Ave. Oakland, CA 94601		 AUTHORIZED SIGNATURE	
MEMO 232 29th Roof Deposit			

<p>12/29/2017 682686150684838</p>	DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE RESERVED FOR FINANCIAL INSTITUTION USE	X PLEASE DEPOSIT WITHIN 60 DAYS OF THE DATE CASTRO VALLEY, CA 94548 GENERAL ROOFING COMPANY 68268615
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### Item Details

Account Number	[REDACTED]	Item Sequence	008516974413
Account Name	Property Operating	Number	[REDACTED]
Check Amount	22201 1000.00 USD Debit	Bank ID	[REDACTED]
Status	Check Paid		
Posting Date	12/29/2017		
As of Date	12/29/2017		

12/19/2017

**GENERAL ROOFING, CO., INC.**

**1,000.00**

\*\*\*\* ONE THOUSAND AND 00/100 DOLLARS

General Roofing, Co., Inc.  
3309 Elmwood Ave.  
Oakland, CA 94601

232 29th Roof - Deposit

Date: 12/19/2017    Check #22201    Account: WFB Property Operating  
Pay to: General Roofing, Co., Inc.

Property	Unit	Reference	Description	Amount
232 29th - 232 29th Street Oakland, C...		12/2017 Option #1 Carlisle ...	Installation of new roof.	1,000.00
				1,000.00

Date: 12/19/2017    Check #22201    Account: WFB Property Operating  
Pay to: General Roofing, Co., Inc.

Property	Unit	Reference	Description	Amount
232 29th - 232 29th Street Oakland, C...		12/2017 Option #1 Carlisle ...	Installation of new roof.	1,000.00
				1,000.00



06/28/2018

**GENERAL ROOFING, CO., INC.**

**64,960.00**

\*\*\*\* SIXTY-FOUR THOUSAND, NINE HUNDRED SIXTY AND 00/100 DOLLARS

General Roofing, Co., Inc.  
3309 Elmwood Ave.  
Oakland, CA 94601

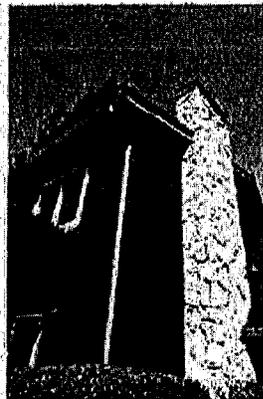
232 29th Roof - Paid In Full

Date: 06/28/2018    Check #23795    Account: WFB Property Operating  
Pay to: General Roofing, Co., Inc.

Property	Unit	Reference	Description	Amount
232 29th - 232 29th Street Oakland, C...		12/2017 Option #1 Carlisle ...	Installation of new roof.	64,960.00
				64,960.00

Date: 06/28/2018    Check #23795    Account: WFB Property Operating  
Pay to: General Roofing, Co., Inc.

Property	Unit	Reference	Description	Amount
232 29th - 232 29th Street Oakland, C...		12/2017 Option #1 Carlisle ...	Installation of new roof.	64,960.00
				64,960.00



**MARCH 26, 2018**

**CUSTOMER NAME: BAY PROPERTY GROUP**

**PROJECT LOCATION: 232 29<sup>TH</sup> ST, OAKLAND**

**SUBMITTED BY**

**SUBMITTED TO**

**Tony Lima**  
4061 E. Castro Valley Blvd. #411  
Castro Valley, CA. 94552  
Direct: 510.600.7358  
Office: 888.320.7566  
Fax: 888.838.5523  
Email: [tony@raycomail.com](mailto:tony@raycomail.com)

**CONTACT:**  
Contact Name: Ethan Brown  
Phone: 510.836.0110 ext. 1023  
Email: [service@baypropertygroup.com](mailto:service@baypropertygroup.com)

Dear Ethan,

Thank you for giving Rayco the opportunity to provide a proposal for your property. Please review the scope of work, general specifications, and the terms and conditions of sale-**we always encourage and appreciate the opportunity to meet with you in person to go through our proposal and strategy for the job.**

Feel free to visit our website [www.raycopainting.com](http://www.raycopainting.com) or Google search our name and see why people choose Rayco. Please take the opportunity to call our references and read our reviews online.

Rayco has been in business 8 years and has repaired and painted over 3000 homes, commercial buildings and complexes. We carry a B general contractor's license C-33 Painters and decorator license. All of our carpenters, painters and partners go through Rayco's extensive training program, Lead safety training and strict weekly OSHA training. We carry a 2 million dollar insurance policy specific to HOA and commercial building painting and construction.

**Thank you once again from the Rayco Team and have a great day!**

**SCOPE OF WORK**

All Labor, Materials and Equipment necessary to complete the work will be provided by Rayco unless otherwise specified below:

**1.A. Exterior 2 finish coats body and trim**

Work to be done: See General Specifications below.

Price.....\$49,310.00

- Accept 1.A (client initial)

*EB*

**Project inclusions**

- Stucco (color A)
- Wooden trim, garage doors (color A or B)
- Railings (color A, B or C)
- Stairs and landings (color D)
- Wrought iron garage door (*black*)
- Brick front of building garage level (color A, B, C, D or E)
- Interior of garage and laundry room (*white*)
- Remove and replace pipe insulation on left side of building (time and material ~\$125)
- Optional doors (\$125/door) not included in pricing
- Lift will be used to access front and left side of building (with neighbor permission)
- Scaffolding as needed for right side of building

**PAYMENT TERMS**

\$1000 - Retainer Deposit.....\$  
 25%% - Due at Beginning of Project.....\$  
 25%% - Due at end of week 2.....\$  
 25%% - Due at end of week 3.....\$  
 Final Balance - Due Upon Completion of Project.....\$

*Please make all checks payable to Rayco*



**GENERAL SPECIFICATIONS****Exterior painting**

1. Fully power wash areas to be painted or prepped. Bleach will be used on mold and mildew. Tri-sodium phosphate or a bio degradable cleaner will be used on caulking surfaces
2. Remove necessary lighting fixtures.
3. Mask and cover windows, doors, and exposed items to ensure they are not to be painted.
4. Scrape and sand all peeling paint and remove failing material such as caulking and patch.
5. Inspect all wood surfaces for dry rot or failure beyond basic repair (replace if specified in below).
6. Trench soil around property if necessary, to receive full coverage.
7. Re-nail or replace loose nails with galvanized screws. Apply red-iron oxide on rusted nails and metal.
8. Spot prime bare wood and prepped areas with premium oil or water based primer depending on appropriate application
9. Caulk and patch cracks, joints, and open seams with elastomeric compounds and tolled to match surrounding textures (We do not seal expansion joints).
10. Spray and back roll to ensure proper penetration and uniformity.
11. Trim is usually brush and rolled unless a spray coat is specified for a smoother finish.
12. Cut in and touch up surfaces as necessary.
13. De-mask and replace all removed items from work area.
14. Clean work area surroundings and haul away work related debris.

**Equipment to be used**

1. Ladders
2. Lifts
3. Scaffolding

## GENERAL WORK PROVISIONS

### Warranty

One Coat: Stucco & Masonry 3 years, Wood 3 years and Metal 2 years

Two Coats: Stucco & Masonry 6 Years, Wood 5 years and Metal 3 years

Any defect such as peeling, flaking, or failing within warranty period will be taken care of in a timely manner

### Experience

Rayco painting has been around for 8 years and has painted over 20 million dollars' worth of homes, commercial buildings and complexes. We carry a C-33 Painters and Decorator license and a B General Contractor license. All of our painters and carpenters go through Rayco's extensive training program, Lead safety training and strict weekly OSHA training. Please take the opportunity to call our references and read our reviews online.

### New Lead standards from the EPA-RRP

Rayco is certified by TSCA Section 402 directed EPA certification program for lead-based paint professionals working in residential housing, public and commercial buildings.

Please refer and distribute the online brochure:

<http://www.epa.gov/lead/pubs/renovaterightbrochure.pdf>

### Rayco's Work Practices

- Work will be completed in consecutive business day's weather permitting from 8am to 4:30pm unless specified otherwise.
- All employees will be dressed professionally in Rayco shirts and/or painting apparel.
- All work performed will be completed by Rayco employees and/or our network of qualified partners.
- Work areas will clearly be marked by cones, signs or caution tape when near areas of pedestrian traffic.
- All residents are responsible to clear personal item from work areas.

### Job Notifications

Rayco will notify residents:

- Two weeks prior to start with planned painting schedule
- 24-48 hours before working on unit.
- Scheduling options for front door painting.

### Communication

During the project, the foreman of the project will be able to answer all on-site questions and issues. You will also have a direct management contact that will be available at all times.

### On Site Storage and facilities

We will provide onsite storage for materials and equipment if available. We will also provide potable bathrooms and clean stations if needed.

### Insurance

We carry a 2 million dollar insurance policy specific to HOA and commercial building painting and construction.

### Exclusions

Areas that are currently not painted or items that are not from the original provided scope of work of the building such as owner installed items, parking lot stripping, vent pipes sidewalks, window frames (steel aluminum or vinyl) Areas that are not currently caulked will not be caulked including expansion joints

### Additional Items

- Color changes will require a second coat

Additional work not specified will be completed at \$65.00 per hour plus materials.

## TERMS & CONDITIONS OF SALE

Any alteration or deviation from the above specifications, including but not limited to any such alteration or deviation involving additional material and/or labor costs, will be executed only upon a written order for same, signed by Owner and Contractor, and if there is any charge for such alteration or deviation, the additional charge will be added to the contract price of this contract. If payment is not made when due, Contractor may suspend work on the job until such time as all payments due have been made. A failure to make payment for a period in excess of 15 days from the due date of the payment shall be deemed a material breach of this contract. In addition, the following general provisions apply:

All work shall be completed in a workman-like manner and in compliance with all building codes and other applicable laws. Contractor warrants it is adequately insured for injury to its employees and others incurring loss or injury as a result of the acts of Contractor or its employees or subcontractors.

Contractor shall obtain all permits necessary for the work to be performed. The actual cost due for any permits to be obtained will be passed on to the Owner.

Contractor shall not be liable for any delay due to circumstances beyond its control including strikes, casualty or general unavailability of materials and acts of nature.

Color Changes: All colors must be chosen by the client before any work is done.

Previous Coat Breakdown: Rayco Painting cannot be held responsible for the failure of a paint film which was not applied by Rayco

### LABOR AND PRODUCT WARRANTY

Contractor warrants to Owner that all materials and equipment furnished shall be new unless otherwise specified and that all work under this Agreement will be performed in a good and workmanlike manner, shall be of good quality, free from faults and defects for the specified warranty period. All work not conforming to these requirements including substitutions not properly approved and authorized, may be considered defective. The warranty provided in this section shall be in addition to and not in limitation of any other warranty or remedy required by law. Warranty does not apply to: Previous Paint Failure, Roof Leaks, Bursting Pipes, Construction Failures, Mildew problems prior to us painting.

### INDEMNIFICATION

Each party shall save the other harmless from and against, and shall indemnify the other for, any liability, loss, costs, expenses, or damages howsoever caused by reason of any, injury, (whether to body, property, or personal or Products character or reputation) sustained by any person or to any person or to property, by reason of any act, neglect default, or omission of the indemnifying party or any of that party's agents, employees, or other representatives. If (either party is sued: in any court for damages by reason of any of the acts of the indemnifying party referred to in this Paragraph the indemnifying party must defend the action (or cause a defense to be provided) at the indemnifying party's own expense and must pay and discharge any judgment that may be rendered in the action, if the indemnifying party fails or neglects to defend the action, the party sued may defend the action, and any expenses, including reasonable attorney's

fees, that it may pay or incur in defending the action, and the amount of any judgment that it may be required to pay, must be promptly reimbursed upon demand. Nothing in this Paragraph is intended to relieve, nor shall it relieve, either party from liability for the party's own act, omission, or negligence.

### ARBITRATION

Any and all disputes relating to this Agreement or its breach, as well as any disputes regarding the representation of Client and its adequacy, in which the amount in controversy exceeds the jurisdiction of California Small Claims Court shall be settled by arbitration, by a single arbitrator, in San Francisco, California, by an arbitrator appointed by JAMS/Endispute in accordance with the then-current rules of JAMS/Endispute. Judgment upon the award entered by the arbitrator may be entered in any Court having jurisdiction thereof. Costs of arbitration, including reasonable attorney's fees incurred in arbitration, as determined by the arbitrator, together with any reasonable attorney's fees incurred by prevailing Party in Court enforcement of the arbitration award after it is rendered by the arbitrator, must be paid to the prevailing Party by Party designated by the Arbitrator or Court. Said arbitration shall be conducted in the English language and the award rendered in United States dollars. Service of the Petition to Confirm Arbitration and written notice of the time and place of the time and place of hearing on the Petition to Confirm the Award of the Arbitrator shall be made in the manner provided herein for all notice. Such service shall be complete on personal delivery or the deposit of the Petition and notice in the United States mail. Should one party either dismiss or abandon his/her claim or counterclaim before hearing thereon, the other party shall be deemed the "prevailing Party pursuant to this Agreement. Should both parties receive judgment or award on their respective claims, the Party in whose favor the larger judgment or award is rendered shall be deemed the "prevailing Party" pursuant to this Agreement.

### NOTICES AND REQUESTS

Any notice, demand, or request required or permitted to be given under this Agreement must be in writing and deposited in the United States mail, postage prepaid, registered or certified, and addressed to the addressee at the principal office set forth above. Either party may change that party address for purposes, of this Agreement by written notice given in accordance with this Paragraph.

Entire Agreement, No amendment, modification or attempted waiver of any provision herein shall be binding on either party unless set forth in writing and signed by either parties or their authorized representatives. A written waiver of any provision shall be valid only in the instance for which given and shall not be deemed a continuing waiver or construed as a waiver of any other provision. Any violation of this agreement will result in the immediate termination of this agreement and exclusion from any and all future endeavors of Broker. If any portion of this agreement is determined by a court of competent jurisdiction to be void, invalid, or unenforceable, the remaining provisions will remain in full force and effect and will be in no way affected or invalidated.

**SIGNATURES**

I accept above terms and authorize this agreement.

Customer's Signature: *Ethan R. Brown*

Date: *4-4-18*

Print Name: *Ethan Brown*

Title: *Maintenance Director*

The Notice of Cancellation, regarding your right to cancel this contract, is attached hereto and made a part to this contract.

You may cancel this transaction, without any penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled. If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk. If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to:

Contractor Name and Address: Rayco Painting & Construction 4061 E. Castro Valley Blvd. #411 Castro Valley, CA. 94552

**REFERENCES**

**COMMON INTEREST MANAGEMENT SERVICES**

Fredy Peccorini | 650.286.0292 ext. 514  
 Kim Hoskin | 408.370.9902 ext 306  
 Crystal Manoki | 925.743.3080 ext 234

**MASSINGHAM AND ASSOCIATES**

Diane Harn | 408.540.5050  
 Darryl Clark | 510-780-8570

**WOODMONT REAL ESTATE SERVICES**

Sandra Chorazyczewski | 408.973.0783

**PRADO GROUP**

Tim Poll | 415.395.0880 ext 307

**MCGUIRE REAL ESTATE**

Jeanne Zimmerman | 415.901.2773

**VALLEY MANAGEMENT GROUP**

Christina Flores | 408.286.4000

**RICHARD AVELAR ASSOC & ARCHITECTS**

Ken Kosloff | 510.893.5501

**LBA REALTY**

Jaydee Rodriguez | 408.435.1221

**BORELLI MANAGEMENT COMPANY**

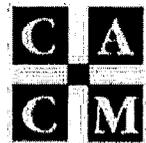
Lee Jatta | 408.453.4700

**PARKVIEW PROPERTY SERVICES**

Jim Henderson | 650-380-5761

*More References available upon request*

RAYCO IS A PROUD  
MEMBER OF



**Bill Detail**

Properties: 232 29th - 232 29th Street Oakland, CA 94611

Payee: Rayco Painting & Construction, Inc.

Payment Type: All

GL Accounts: All

Bill Status: All

Date Type: Bill Date

Date Range: 01/01/2018 to 07/02/2018

# Rayco Painting

## 232 29th

### Exterior Paint

## Completed 6/29/18

Reference	Bill Date	Due Date	Account	Property	Unit	Payee Name	Paid	Unpaid	Check #	Paid Date	Description
<b>6230 - Painting</b>											
3955	04/17/2018	04/17/2018	6230 - Painting	232 29th - 232 29th Street Oakland, CA 94611		Rayco Painting & Construction, Inc.	1,000.00	0.00	23240	04/17/2018	Deposit for exterior painting.
	Inv 3955										
3967	06/07/2018	06/07/2018	6230 - Painting	232 29th - 232 29th Street Oakland, CA 94611		Rayco Painting & Construction, Inc.	12,327.00	0.00	23613	06/07/2018	Exterior mobilization 1st payment of 25%.
	Inv 3967										
2nd 25% Progression Payment	06/14/2018	06/14/2018	6230 - Painting	232 29th - 232 29th Street Oakland, CA 94611		Rayco Painting & Construction, Inc.	12,327.50	0.00	23636	06/14/2018	6/13/18 Inv 3961 2nd 25% Payment Due at the end of week 2.
	Inv 3981										
2nd 25% Progression Payment	06/14/2018	06/14/2018	6230 - Painting	232 29th - 232 29th Street Oakland, CA 94611		Rayco Painting & Construction, Inc.	12,327.50	0.00	23704	06/21/2018	6/20/18 Inv 3984 Paint exterior; 3rd 25% Progression Payment.
	Inv 3984										
2nd 25% Progression Payment	06/14/2018	06/14/2018	6230 - Painting	232 29th - 232 29th Street Oakland, CA 94611		Rayco Painting & Construction, Inc.	11,328.00	0.00	23806	07/02/2018	6/29/18 Inv 3986 Final Invoice: Paint exterior; Job completed.
	Inv 3986										
2nd 25% Progression Payment	06/14/2018	06/14/2018	6230 - Painting	232 29th - 232 29th Street Oakland, CA 94611		Rayco Painting & Construction, Inc.	1,080.00	0.00	23806	07/02/2018	6/29/18 Additional painting - doors/planter box/red striping.
	Inv 3986										
							50,390.00	0.00			
<b>Total</b>							50,390.00	0.00			

WO # 15077-1

Rayco Painting  
20885 Redwood Rd. #123  
Castro Valley, CA 94546  
US  
(888) 320-7566  
info@raycomail.com



# INVOICE

**BILL TO**  
ethan brown  
bay property group  
232 29th St  
oakland, ca

**SHIP TO**  
ethan brown  
bay property group  
232 29th St  
oakland, ca

**INVOICE # 3955**  
**DATE 04/09/2018**  
**DUE DATE 04/09/2018**  
**TERMS Due on receipt**

ACTIVITY	QTY	RATE	AMOUNT
Painting Services exterior painting deposit	1	1,000.00	1,000.00

**BALANCE DUE**

**\$1,000.00**

PLEASE MAKE CHECKS PAYABLE TO: Rayco

000102



Rayco Painting  
20885 Redwood Rd. #123  
Castro Valley, CA 94546  
US  
(888) 320-7566  
info@raycomail.com



# INVOICE

**BILL TO**  
bay property group  
232 29th street  
oakland, CA

**SHIP TO**  
bay property group  
232 29th street  
oakland, CA

**INVOICE # 3967**  
**DATE 05/31/2018**  
**DUE DATE 05/31/2018**  
**TERMS Due on receipt**

ACTIVITY	QTY	RATE	AMOUNT
Painting Services exterior mobilization	1	12,327.00	12,327.00
<b>BALANCE DUE</b>			<b>\$12,327.00</b>

PLEASE MAKE CHECKS PAYABLE TO: Rayco®

000104



06/07/2018

**RAYCO PAINTING & CONSTRUCTION, INC.**

**12,327.00**

\*\*\*\* TWELVE THOUSAND, THREE HUNDRED TWENTY-SEVEN AND 00/100 DOLLARS

Rayco Painting & Construction, Inc.  
4061 East Castro Valley Blvd.  
Castro Valley, CA 94552

3967 Exterior Mobilization

Date: 06/07/2018    Check #23613    Account: WFB Property Operating  
Pay to: Rayco Painting & Construction, Inc.

Property	Unit	Reference	Description	Amount
232 29th - 232 29th Street Oakland, C...		3967	Exterior mobilization 1st p...	12,327.00
				12,327.00

Date: 06/07/2018    Check #23613    Account: WFB Property Operating  
Pay to: Rayco Painting & Construction, Inc.

Property	Unit	Reference	Description	Amount
232 29th - 232 29th Street Oakland, C...		3967	Exterior mobilization 1st p...	12,327.00
				12,327.00

Rayco Painting  
20885 Redwood Rd. #123  
Castro Valley, CA 94546  
US  
(888) 320-7566  
info@raycomail.com



# INVOICE

**BILL TO**  
bay property group  
232 29th street  
oakland, CA

**SHIP TO**  
bay property group  
232 29th street  
oakland, CA

**INVOICE #** 3981  
**DATE** 06/11/2018  
**DUE DATE** 06/11/2018  
**TERMS** Due on receipt

ACTIVITY	QTY	RATE	AMOUNT
Painting Services exterior - progress #2	1	12,327.00	12,327.00

**BALANCE DUE** **\$12,327.00**

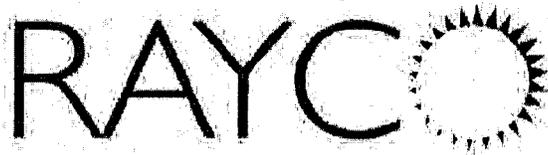
**APPROVED**  
*[Signature]*

PLEASE MAKE CHECKS PAYABLE TO: Rayco

000107



**Rayco Painting**  
20885 Redwood Rd. #123  
Castro Valley, CA 94546  
US  
(888) 320-7566  
info@raycomail.com



# INVOICE

**BILL TO**  
bay property group  
232 29th street  
oakland, CA

**SHIP TO**  
bay property group  
232 29th street  
oakland, CA

**INVOICE #** 3984  
**DATE** 06/20/2018  
**DUE DATE** 06/20/2018  
**TERMS** Due on receipt

ACTIVITY	QTY	RATE	AMOUNT
Painting Services progress payment #3	1	12,327.00	12,327.00

**BALANCE DUE** **\$12,327.00**



# Transaction Search

## Images

Date/Time Printed: 03/10/2020, 12:44 PM PDT  
Check 23704 - 12327.50 USD

LEGAL ONE REALTY  
DBA BAY PROP GROUP/INTRO PROP MGMT  
REAL ESTATE TRUST ACCOUNT  
PROPERTY OPERATING ACCOUNT  
482 W. MACARTHUR BLVD  
OAKLAND, CA 94608-2828  
810-636-0110

WELLS FARGO Wells Fargo Bank, N.A.  
11-4288/1210

023704  
06/21/2018

PAY TO THE ORDER OF **RAYGO PAINTING & CONSTRUCTION, INC.**  
TWELVE THOUSAND, THREE HUNDRED TWENTY-SEVEN AND 50/100 DOLLARS

\$ 12,327.50  
DOLLARS

Raygo Painting & Construction, Inc.  
4081 East Castro Valley Blvd.  
Castro Valley, CA 94552

MEMO 232 29th Exterior Paint 3rd 25% Pay



THIS DOCUMENT INCLUDES THE FOLLOWING SECURITY FEATURES: EXCESSIVE INK COPIES, COLORED SECURITY PATTERN ON REVERSE WITH COLOR COPY, INVISIBLE WATER MARKS, MICR LINE, SECURITY PAPER, AND SECURITY INK. THIS DOCUMENT MAY BE ALTERED AFTER THIS DOCUMENT WILL BE CANCELED BY THE ISSUING INSTITUTION.

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE  
RESERVED FOR PAYROLL INSTITUTION USE

CREDITED TO THE ACCOUNT OF  
WITHIN NAMED PAYEE  
Heritage Bank of Commerce  
90-4228 Pleasanton, CA 94528

Branch Name: PLEASANTON  
Bus ID: 06/27/16 Item Name: 780032636945  
Inst: HERITAGE BANK OF COMMERCE-RIN

### Item Details

Account Number	[REDACTED]	Item Sequence	008153900693
Account Name	Property Operating	Number	[REDACTED]
Check	23704	Bank ID	[REDACTED]
Amount	12327.50 USD		
Status	Debit		
Posting Date	Check Paid		
As of Date	06/28/2018		
	06/28/2018		

Rayco Painting  
20885 Redwood Rd. #123  
Castro Valley, CA 94546  
US  
(888) 320-7566  
info@raycomail.com



# INVOICE

**BILL TO**  
bay property group  
232 29th street  
oakland, CA

**SHIP TO**  
bay property group  
232 29th street  
oakland, CA

**INVOICE #** 3986  
**DATE** 06/29/2018  
**DUE DATE** 06/29/2018  
**TERMS** Due on receipt

ACTIVITY	QTY	RATE	AMOUNT
Painting Services (final: \$11,329 plus \$1,080 (doors/planter box/red striping) = \$12,409	1	12,409.00	12,409.00

BALANCE DUE

~~\$12,409.00~~

12,408

**PAID**  
7/3/2018

**APPROVED**

PLEASE MAKE CHECKS PAYABLE TO: Rayco

000111









02/12/2020

**MORGAN GORRONO****3,530.13**

\*\*\*\* THREE THOUSAND, FIVE HUNDRED THIRTY AND 13/100 DOLLARS

Morgan Gorrano  
1813 Cannon Drive  
Walnut Creek, CA 94597

Date: 02/12/2020 Check #28983 Account: WFB Property Operating  
Pay to: Morgan Gorrano

Property	Unit	Reference	Description	Amount
2451 Seminary - 2451 Seminary Avenue ...	104	283533	Repair lock on mailbox.	85.00
646 42nd / 4211 MLK - 646 42nd Oaklan,...	3	283534	Installed 4 new locks and k...	140.00
2418 High Street - 2418 High Street O...	05	283535	Replaced large front GE sto...	124.21
646 42nd / 4211 MLK - 646 42nd Oaklan...	3	283538	Repairs to microwave-new ve...	383.21
621-623 Fillmore St. - 621-623 Fillmo...	623 Fil...	283539	Service call to inspect gas...	97.50
2845 Washington - 2845 Washington Str...	4	283544	Kitchen sink not draining. ...	185.00
5400 Mountain - 5400 Mountain Blvd., ...		932303	Had to drilled out kitchen ...	185.00
5400 Mountain - 5400 Mountain Blvd., ...		932303	Materials.	145.21
2264-2268 Market - 2264-2268 Market S...	2264 Co...	932304	Service call to inspect dri...	85.00
232 29th - 232 29th Street Oakland, C...		932601	Order, pick up, install pie...	2,100.00
				3,530.13

Date: 02/12/2020 Check #28983 Account: WFB Property Operating  
Pay to: Morgan Gorrano

Property	Unit	Reference	Description	Amount
2451 Seminary - 2451 Seminary Avenue ...	104	283533	Repair lock on mailbox.	85.00
646 42nd / 4211 MLK - 646 42nd Oaklan...	3	283534	Installed 4 new locks and k...	140.00
2418 High Street - 2418 High Street O...	05	283535	Replaced large front GE sto...	124.21
646 42nd / 4211 MLK - 646 42nd Oaklan...	3	283538	Repairs to microwave-new ve...	383.21
621-623 Fillmore St. - 621-623 Fillmo...	623 Fil...	283539	Service call to inspect gas...	97.50
2845 Washington - 2845 Washington Str...	4	283544	Kitchen sink not draining. ....	185.00
5400 Mountain - 5400 Mountain Blvd., ...		932303	Had to drilled out kitchen ...	185.00
5400 Mountain - 5400 Mountain Blvd., ...		932303	Materials.	145.21
2264-2268 Market - 2264-2268 Market S...	2264 Co...	932304	Service call to inspect dri...	85.00
232 29th - 232 29th Street Oakland, C...		932601	Order, pick up, install pie...	2,100.00
				3,530.13

000116

33



**CASE NO. L20-0071**  
**(Hertzel Enterprises LLC v. Tenants)**

To: Ava Silveira, Case Analyst (asilveira@oaklandca.gov);  
CC: City of Oakland Rent Adjustment Program (hearingsunit@oaklandca.gov)  
From: Kimberly Roehn, Owner Representative  
Date: 6/1/2021  
**Re: Additional Documents for Filing**

--

Dear Ms. Silveira,

Enclosed please find the following documents, which are to be filed in the above-listed case:

- Re-Roof Certificate (2 page)
- Capital Improvement Calculator (1 page)
- Proof of Service

If you have any questions, I can be reached at kim@roehnlaw.com or (925) 464-2202.

Thank you,

Kim Roehn  
Owner Representative

R1000 207

CITY OF OAKLAND

# REROOFING REGISTRATION

COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY  
(510) 238-3587

\*\*\*\*\*

Post this card on the jobsite so that it is visible from the street.

Valuation of work \$ 65,960- Date 4/2/2018  
232 29<sup>th</sup> Street OAKLAND CA 94611  
Address

Owner  
General Roofing Co 510 636 3350  
Contractor Telephone

Sweep existing roof. Install a GOM

Description of roofing system

TPO single ply roof.

C-39/154732 7368 GENC912330  
State License# City Business tax # W C policy#

\*\*\*\*\*

This building is    is not    located in the Fire Hazard Area as defined in OMC sec 15.04.085-K.

Roof system fire rating: Class A X B C

**000118**

Residential\*    Commercial X Industrial

2001 CALIFORNIA  
BUILDING CODE

SECTION 310.9.1

Smoke Detectors and Sprinkler Systems

Section 310.9.1. General. Dwelling units, congregate residences and hotel or lodging house guest rooms that are used for sleeping purposes shall be provided with smoke detectors. Detectors shall be installed in accordance with the approved manufacturer's instructions.

Section 310.9.1.2. Additions, alterations or repairs to Group R Occupancies. When the valuation of an addition, alteration or repair to a Group R Occupancy exceeds \$1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, smoke detectors shall be installed in accordance with Sections 310.9.1.3, 310.9.1.4, and 310.9.1.5 of this section.

**Exception:** Repairs to the exterior surfaces of a Group R Occupancy are exempt from the requirements of this section.

Section 310.9.1.3 Power source. In new construction, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source and shall be equipped with a battery backup. The detector shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than those required for over-current protection. Smoke detectors may be solely battery operated when installed in existing buildings; or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions regulated by Section 310.9.1.2 of this section.

Section 310.9.1.4 Location within dwelling units. In dwelling units, a detector shall be installed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke detector shall be installed on the upper level, except that if the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the

000119

Capital Improvement Calculator  
 City of Oakland Rent Adjustment Program

IMPROVEMENTS BENEFITING ALL UNITS BUILDING WIDE										
L20-0071 (232 29th Street)								Petition Date		6/24/20
								Number of Residential Units		25
IMPROVEMENT OR REPAIR	DATE PERMIT OBTAINED (or date started if permit not required)	DATE COMPLETED	FULL COST	ALLOWABLE PASS THROUGH (70%)	ALLOWABLE PASS THROUGH PER UNIT	Imputed Interest	Amortization Period (years)	Allowable Monthly Amortized Cost For Building (70%)	Allowable Amortized Cost per Unit	Date Validation (2 years ago max)
Re-roof	4/2/2018	06/28/18	\$65,960.00	\$46,172.00	\$1,846.88	4.265%	10	\$473.30	\$18.93	OK
Painting (exterior)	4/17/2018	07/02/18	\$50,390.00	\$35,273.00	\$1,410.92	4.265%	5	\$653.82	\$26.15	OK
Exterior walkway plexiglass	2/10/2020	02/12/20	\$4,975.00	\$3,482.50	\$139.30	3.915%	5	\$64.00	\$2.56	OK
Subtotal (with weighted averages)				\$84,927.50	\$3,397.10	4.250%	8	\$1,045.11	\$41.80	
Place X in cell B19 if property is mixed use.										
Residential square footage										
Other use square footage										
Percent residential use										
Total Cost Per Unit Allocated to Residential Units					\$3,397.10	4.250%	8		\$41.80	



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

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

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

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

I served a copy of: Additional Evidence filed in L20-0071:  
Capital Improvement Calculator; Re-Roof Certificate.  
(insert name of document served)  
 And Additional Documents

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

- a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. Deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as listed below.
- c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.

**PERSON(S) SERVED:**

Name	See Attached Service List
Address	
City, State, Zip	

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on 6/1/2021 (insert date served).

Vickie Lazio  
PRINT YOUR NAME

Vickie Lazio  
SIGNATURE

6/1/2021  
DATE

*Attachment: Service List  
(L20-0071)*

Eugene W. Kang  
232 29<sup>th</sup> St. #2  
Oakland, CA 94611

Gregory P Kouri  
232 29<sup>th</sup> St. #3  
Oakland, CA 94611

Khary Moye  
232 29<sup>th</sup> St. #4  
Oakland, CA 94611

Christopher Juan  
232 29<sup>th</sup> St. #5  
Oakland, CA 94611

Ann Canann  
232 29<sup>th</sup> St. #8  
Oakland, CA 94611

Jeremy M. Sweeney  
232 29<sup>th</sup> St. #9  
Oakland, CA 94611

Graham J. Brown  
232 29<sup>th</sup> St. #10  
Oakland, CA 94611

Christopher Goldman  
232 29<sup>th</sup> St. #11  
Oakland, CA 94611

Sangodogbon A. Akinsoga  
232 29<sup>th</sup> St. #15  
Oakland, CA 94611

Andrea Breon  
232 29<sup>th</sup> St. #16  
Oakland, CA 94611

Paolo M. Maloles  
232 29<sup>th</sup> St. #17  
Oakland, CA 94611

Sarah Mallas  
232 29<sup>th</sup> St. #18  
Oakland, CA 94611

Martin Brown  
232 29<sup>th</sup> St. #20  
Oakland, CA 94611

Mitchell R. Colbert  
232 29<sup>th</sup> St. #23  
Oakland, CA 94611

Fitsum T. Chiffa  
232 29<sup>th</sup> St. #24  
Oakland, CA 94611

Marilyn Fontenrose  
232 29<sup>th</sup> St. #25  
Oakland, CA 94611

Arielle Peet  
232 29<sup>th</sup> St. #26  
Oakland, CA 94611

**City of Oakland Rent Adjustment Program****Tenant Response**

Case **L20-0071**  
Property Address **232 29TH ST**

<b>Party</b>	<b>Name</b>	<b>Address</b>	<b>Mailing Address</b>
Tenant	Khary Moye	232 29TH ST Unit 04 Oakland, CA 94611	
Tenant	Gregory Kouri	232 29TH ST Unit 03 Oakland, CA 94611	
Tenant	Eugene Kang	232 29TH ST Unit 02 Oakland, CA 94611	
Tenant	William Jones	232 29TH ST Unit 01 Oakland, CA 94611	
Tenant	Arielle Peet	232 29TH ST 26 Oakland, CA 94611	
Tenant	Marilyn Fontenrose	232 29TH ST Unit 25 Oakland, CA 94611	
Tenant	Fitsum Chiffa	232 29TH ST Unit 24 Oakland, CA 94611	
Tenant	Mitchell Colbert	232 29TH ST Unit 23 Oakland, CA 94611	
Tenant	Eman Haggag	232 29TH ST Unit 22 Oakland, CA 94611	
Tenant	Thomas Stewart	232 29TH ST Unit 21 Oakland, CA 94611	
Tenant	Martin Brown	232 29TH ST Unit 20 Oakland, CA 94611	
Tenant	RESIDENT RESIDENT	232 29TH ST Unit 19 Oakland, CA 94611	
Tenant	Sarah Mallas	232 29TH ST Unit 18 Oakland, CA 94611	
Tenant	Paolo Maloles	232 29TH ST Unit 17 Oakland, CA 94611	
Tenant	Andrea Breon	232 29TH ST Unit 16 Oakland, CA 94611	
Tenant	Sangodogbon Akinsoga	232 29TH ST	

**City of Oakland Rent Adjustment Program**

**Tenant Response**

Case **L20-0071**  
 Property Address **232 29TH ST**

		Unit 15	
		Oakland, CA 94611	
Tenant	Neda Tafreshi	232 29TH ST	
		Unit 14	
		Oakland, CA 94611	
Tenant	Shauna Kimball	232 29TH ST	
		Unit 12	
		Oakland, CA 94611	
Tenant	Christopher Goldman	232 29TH ST	
		Unit 11	
		Oakland, CA 94611	
Tenant	Graham Brown	232 29TH ST	
		Unit 10	
		Oakland, CA 94611	
Tenant	Jeremy Sweeney	232 29TH ST	
		Unit 09	
		Oakland, CA 94611	
Tenant	Ann Canann	232 29TH ST	
		Unit 08	
		Oakland, CA 94611	
Tenant	Rajini Subramanian	232 29TH ST	
		Unit 07	
		Oakland, CA 94611	
Tenant	RESIDENT	232 29TH ST	
		Unit 06	
		Oakland, CA 94611	
Tenant	Christopher Juan	232 29TH ST	
		Unit 05	
		Oakland, CA 94611	
Manager	Bay Property Group	482 W MacArthur Blvd	
	(510) 836-0110	Oakland, CA 94609	
Owner	HERTZEL ENTERPRISES LLC Bay	482 W MacArthur Blvd.	482 W MacArthur Blvd.
	Property Group		
	(510) 698-9560	Oakland, CA 94609	Oakland, California 94609
Representative	Kimberly Roehn	1954 Mountan Blvd.	
	Law Offices of Kimberly Roehn	Suite 13125	
	(510) 698-9560	Oakland, CA 94661	
	kim@roehnlaw.com		

## City of Oakland Rent Adjustment Program

### Tenant Response

Case **L20-0071**  
Property Address **232 29TH ST**

#### Rental Property Information

Type of unit you rent Apartment, Room or Live-work

Total number of units

Are you current on your rent? Yes

Please explain why the property owner is not entitled to the proposed increase.

#### Rent History

When did you move into the unit? 08-01-2012

When did you enter into the rental agreement for this unit? 07-16-2012

When did you move into the unit? 08-01-2012

Initial monthly rent 1075

When did the property owner first provide you with the RAP Notice, a written notice of the existence of the Rent Adjustment Program? 2-25-2021

I was given a RAP NOTICE by my property owner. Yes

#### Mediation

Mediation Requested **No**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

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

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

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

I served a copy of:

Tenant Response  
(insert name of document served)  
 And Additional Documents

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

- a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. Deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as listed below.
- c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.

**PERSON(S) SERVED:**

Name	Hertzel Enterprises, LLC / Bay Property Group
Address	482 W MacArthur Blvd
City, State, Zip	Oakland, CA, 94609

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

Name	
Address	
City, State, Zip	

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on \_3/9 /2021 (insert date served).

Jeremy Sweeney

PRINT YOUR NAME



SIGNATURE

3/09/2021

DATE

**City of Oakland Rent Adjustment Program****Tenant Response**

Case **L20-0071**  
Property Address **232 29TH ST**

<b>Party</b>	<b>Name</b>	<b>Address</b>	<b>Mailing Address</b>
Tenant	Khary Moye	232 29TH ST Unit 04 Oakland, CA 94611	
Tenant	Gregory Kouri	232 29TH ST Unit 03 Oakland, CA 94611	
Tenant	Eugene Kang	232 29TH ST Unit 02 Oakland, CA 94611	
Tenant	William Jones	232 29TH ST Unit 01 Oakland, CA 94611	
Tenant	Arielle Peet	232 29TH ST 26 Oakland, CA 94611	
Tenant	Marilyn Fontenrose	232 29TH ST Unit 25 Oakland, CA 94611	
Tenant	Fitsum Chiffa	232 29TH ST Unit 24 Oakland, CA 94611	
Tenant	Mitchell Colbert	232 29TH ST Unit 23 Oakland, CA 94611	
Tenant	Eman Haggag	232 29TH ST Unit 22 Oakland, CA 94611	
Tenant	Thomas Stewart	232 29TH ST Unit 21 Oakland, CA 94611	
Tenant	Martin Brown	232 29TH ST Unit 20 Oakland, CA 94611	
Tenant	RESIDENT RESIDENT	232 29TH ST Unit 19 Oakland, CA 94611	
Tenant	Sarah Mallas	232 29TH ST Unit 18 Oakland, CA 94611	
Tenant	Paolo Maloles	232 29TH ST Unit 17 Oakland, CA 94611	
Tenant	Andrea Breon	232 29TH ST Unit 16 Oakland, CA 94611	
Tenant	Sangodogbon Akinsoga	232 29TH ST Unit 15	

**City of Oakland Rent Adjustment Program**

**Tenant Response**

Case **L20-0071**

Property Address **232 29TH ST**

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Tenant	Christopher Goldman	Unit 12 Oakland, CA 94611 232 29TH ST	
Tenant	Graham Brown	Unit 11 Oakland, CA 94611 232 29TH ST	
Tenant	Jeremy Sweeney	Unit 10 Oakland, CA 94611 232 29TH ST	
Tenant	Ann Canann	Unit 09 Oakland, CA 94611 232 29TH ST	
Tenant	Rajini Subramanian	Unit 08 Oakland, CA 94611 232 29TH ST	
Tenant	RESIDENT	Unit 07 Oakland, CA 94611 232 29TH ST	
Tenant	Christopher Juan	Unit 06 Oakland, CA 94611 232 29TH ST	
Manager	Bay Property Group (510) 836-0110	Unit 05 Oakland, CA 94611 482 W MacArthur Blvd	
Owner	HERTZEL ENTERPRISES LLC Bay Property Group (510) 698-9560	Oakland, CA 94609 482 W MacArthur Blvd.	482 W MacArthur Blvd.
Representative	Kimberly Roehn Law Offices of Kimberly Roehn (510) 698-9560 kim@roehnlaw.com	Oakland, CA 94609 1954 Mountan Blvd. Suite 13125 Oakland, CA 94661	Oakland, California 94609

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## City of Oakland Rent Adjustment Program

### Tenant Response

Case **L20-0071**  
Property Address **232 29TH ST**

#### Rental Property Information

Type of unit you rent Apartment, Room or Live-work

Total number of units

Are you current on your rent? No

Please explain why the property owner is not entitled to the proposed increase.

#### Rent History

When did you move into the unit? 04-28-2018

When did you enter into the rental agreement for this unit? 04-09-2018

When did you move into the unit? 04-28-2018

Initial monthly rent 1895

When did the property owner first provide you with the RAP Notice, a written notice of the existence of the Rent Adjustment Program?

I was given a RAP NOTICE by my property owner. Yes

#### Rent Increase

RAP Notice Given	RAP Notice Date	Increase Effective Date	Increase From	Increase To
No	4/17/2020	6/1/2020	1959.43	2028.01
No	4/10/2019	6/1/2019	1895	1959.43

#### Mediation

Mediation Requested **No**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

CASE NUMBER L-20-0071

## TENANT RESPONSE TO OWNER PETITION FOR APPROVAL OF RENT INCREASE

**Please fill out this form as completely as you can.** Use this form to respond to the Property Owner Petition for Approval of Rent Increase filed by the property owner of your rental unit. The Rent Adjustment Ordinance allows property owners to increase rents above the allowable annual CPI (Consumer Price Index) rate, based on certain justifications ("grounds"), if approved after a hearing with the Rent Adjustment Program ("RAP"). By completing this Tenant Response and submitting it in the required time for filing, you will be able to participate in the hearing. Failure to provide the required information may result in your Tenant Response being rejected or delayed. See "Important Information Regarding Filing Your Response" on the last pages of this packet for more information, including filing instructions and how to contact RAP with questions. Additional information is also available on the RAP website. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING.** To make an appointment email [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov).

**Tenant Rental Information**

232 29th St 16 Oakland, CA 94611  
Street Number Street Name Unit Number Zip Code

Andrea Breon  
Your First Name Last Name

Mailing Address (if different from above): \_\_\_\_\_

Primary Telephone: 330-998-2386 Other Telephone: \_\_\_\_\_ Email: andrea\_breon@gmail.com

Type of unit (check one):  
 Single family home  
 Condominium  
 Apartment, room, or live-work

Are you current on your rent?  Yes  No\*

If not current, explain why: \_\_\_\_\_

Number of units on the property: \_\_\_\_\_

(\*Note: You must be current on your rent or lawfully withholding rent in order to file a response. Checking "No" without providing an adequate explanation may result in your response being excluded and limit your participation in the hearing.)

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

**Tenant Representative:** (Check one)  No Representative  Attorney  Non-Attorney

\_\_\_\_\_  
First Name Last Name Firm/Organization (if any)

\_\_\_\_\_  
Mailing Address:

\_\_\_\_\_  
Phone Number: Email:

### RENT HISTORY

Move-in Date: 4/28/18 Initial Rent at Move-In: \$ 1895 Current Rent: \$ 2028.01

When did the property owner first provide you with the City form, NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")?  I first received the RAP Notice on (date): 4/8/18  
 I was never provided with the RAP Notice  
 I do not remember if I ever received the RAP Notice

List all rent increases you have received for this unit in the past five years. Enter all information requested.

Date received rent increase notice: (mm/dd/yy)	Date rent increase went into effect: (mm/dd/yy)	Amount of increase:		Received RAP Notice with notice of rent increase?	
		FROM	TO	YES	NO
<u>04/10/20</u>	<u>06/01/20</u>	\$ <u>1943</u>	\$ <u>2028.01</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>04/17/19</u>	<u>06/01/19</u>	\$ <u>1895</u>	\$ <u>1943</u>	<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"/>

## RESPONSE TO PROPERTY OWNER PETITION

Use the space below to respond to the rent increase requested in the Owner Petition.

- To generally contest the Owner Petition, simply check the first box under the "GENERAL RESPONSE(S)" section below.
- You may also (but are not required to) raise specific defenses pertaining to the claimed rent increase justification(s) by selecting from the "SPECIFIC RESPONSES" checklist on the following page. **Note that the property owner has the burden of proving that all requirements for the requested rent increase have been met—your failure to check any of the boxes below does NOT mean that any objection you may have is waived.**

Attach additional sheets if needed to provide further explanation. You may attach any documentation supporting your position together with your Tenant Response form. For detailed information on allowable rent increases, see Appendix A of the Rent Adjustment Program Regulations or see the Rent Adjustment Ordinance. Copies of Appendix A and the Ordinance are available on the RAP website. Brief summaries of each rent increase justification are also listed on the last page of this response packet.

### GENERAL RESPONSE(S)

- I wish to generally contest the requested rent increase.
- The requested increase would cause my rent to increase by more than 30% in the last five years.
- I believe I should not have to pay the requested rent increase because the unit has been cited in an inspection report by a governmental agency as containing serious health, safety, fire, or building code violations. (Attach copy of inspection report.)
- I believe the property owner is not entitled to the proposed rent increase because: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

## SPECIFIC RESPONSES

(Optional)

*NOTE: You do not have to make these claims in order for these issues to be decided by the Hearing Officer.*

Justification	Tenant Response
<b>Capital Improvements</b>	<input type="checkbox"/> The claimed improvements do not meet the legal or factual requirements for "Capital Improvements" as set forth in Appendix A of the Rent Adjustment Program Regulations. <input type="checkbox"/> The claimed improvements were not completed by the date the Property Owner Petition was filed or were completed more than 24 months prior to the date the Petition was filed. <input type="checkbox"/> Property owner did not obtain finalized permit(s) for work that required permit(s). <input checked="" type="checkbox"/> The claimed improvements were not primarily a benefit to the tenants. <input type="checkbox"/> Other (provide explanation): _____
<b>Uninsured Repair Costs</b>	<input type="checkbox"/> Property owner received insurance reimbursement for claimed costs. <input type="checkbox"/> The need for some or all of the repairs was not caused by a natural disaster. <input type="checkbox"/> Other (provide explanation): _____
<b>Increased Housing Service Costs</b>	<input type="checkbox"/> The claimed expenses do not meet the legal or factual requirements for "Housing Service Costs" as set forth in Appendix A of the Rent Adjustment Program Regulations. <input type="checkbox"/> Property owner did not include all rental income or all expenses as required. <input type="checkbox"/> Other (provide explanation): _____
<b>Fair Return</b>	<input type="checkbox"/> Property owner did not provide adequate information or documentation on gross income or gross expenses as required. <input type="checkbox"/> Other (provide explanation): _____
<b>Banking</b>	<input type="checkbox"/> I have received an annual CPI increase each year since I moved in. <input type="checkbox"/> I have not received an annual CPI increase every year (just some years) but I think the proposed banking increase is too high. <input type="checkbox"/> I moved into the current unit more than 10 years ago. My rent amount 11 years ago was \$_____/month. <input type="checkbox"/> Other (provide explanation): _____
<b>Additional Occupant(s)</b>	<input type="checkbox"/> The additional occupant(s) is/are a one-for-one replacement of former tenant(s) (total number of tenants does not exceed the base occupancy level). <input type="checkbox"/> The additional occupant(s) is/are family member(s) and/or caretaker/attendant(s) of an existing tenant. (See O.M.C. § 8.22.020.) <input type="checkbox"/> The person does not permanently reside in the unit. <input type="checkbox"/> Other (provide explanation): _____





CITY OF OAKLAND

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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

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

On the following date: 03 / 22 / 21 I served a copy of (check all that apply):

**TENANT RESPONSE TO OWNER PETITION FOR APPROVAL OF RENT INCREASE** plus 0 attached pages (number of pages attached to Response not counting the Response form or PROOF OF SERVICE)

Other: \_\_\_\_\_

by the following means (check one):

- United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.
- Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

**PERSON(S) SERVED:**

Name	Hertzel Enterprises, LLC + Bay Property Group
Address	482 W. MacArthur Blvd
City, State, Zip	Oakland, CA 94609

Name	
Address	
City, State, Zip	

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

Andrea Breon

PRINTED NAME

Andrea Breon

SIGNATURE

3/20/21

DATE SIGNED



CITY OF OAKLAND

### CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

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

For Rent Adjustment Program date stamp.

CASE NUMBER L - 20-0071

## TENANT RESPONSE TO OWNER PETITION FOR APPROVAL OF RENT INCREASE

**Please fill out this form as completely as you can.** Use this form to respond to the Property Owner Petition for Approval of Rent Increase filed by the property owner of your rental unit. The Rent Adjustment Ordinance allows property owners to increase rents above the allowable annual CPI (Consumer Price Index) rate, based on certain justifications (“grounds”), if approved after a hearing with the Rent Adjustment Program (“RAP”). By completing this Tenant Response and submitting it in the required time for filing, you will be able to participate in the hearing. Failure to provide the required information may result in your Tenant Response being rejected or delayed. See “Important Information Regarding Filing Your Response” on the last pages of this packet for more information, including filing instructions and how to contact RAP with questions. Additional information is also available on the RAP website. **CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING.** To make an appointment email [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov).

Tenant Rental Information			
<u>232</u>	<u>29th St</u>	<u>11</u>	Oakland, CA <u>94611</u>
Street Number	Street Name	Unit Number	Zip Code
<u>Christopher</u>	<u>Goldman</u>		
Your First Name	Last Name		
Mailing Address (if different from above): _____			
Primary Telephone: <u>415-830-6550</u>	Other Telephone: _____	Email: <u>cgoldman@oolong.com</u>	
Type of unit (check one): <input type="checkbox"/> Single family home <input type="checkbox"/> Condominium <input checked="" type="checkbox"/> Apartment, room, or live-work	Are you current on your rent? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No*  If not current, explain why: _____  <small>(*Note: You must be current on your rent or lawfully withholding rent in order to file a response. Checking “No” without providing an adequate explanation may result in your response being excluded and limit your participation in the hearing.)</small>		
Number of units on the property: <u>26</u>			
Case number(s) of any relevant prior Rent Adjustment case(s): _____			
Tenant Representative: (Check one) <input checked="" type="checkbox"/> No Representative <input type="checkbox"/> Attorney <input type="checkbox"/> Non-Attorney			
_____	_____	_____	
First Name	Last Name	Firm/Organization (if any)	
Mailing Address: _____			
Phone Number: _____		Email: _____	

## RENT HISTORY

Move-in Date: 01/17/2009 Initial Rent at Move-In: \$ 950.00 Current Rent: \$ 1,200.19

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

- I first received the RAP Notice on (date): 06/16/2014  
 I was never provided with the RAP Notice  
 I do not remember if I ever received the RAP Notice

List all rent increases you have received for this unit in the past five years. Enter all information requested.

Date received rent increase notice: (mm/dd/yy)	Date rent increase went into effect: (mm/dd/yy)	Amount of increase:		Received RAP Notice with notice of rent increase?	
		FROM	TO	YES	NO
02/01/2016	03/01/2016	\$ 1,029.04	\$ 1,046.53	<input checked="" type="checkbox"/>	<input type="checkbox"/>
02/01/2017	03/01/2017	\$ 1,046.53	\$ 1,067.46	<input checked="" type="checkbox"/>	<input type="checkbox"/>
02/01/2018	03/01/2018	\$ 1,067.46	\$ 1,092.01	<input checked="" type="checkbox"/>	<input type="checkbox"/>
02/01/2019	03/01/2019	\$ 1,092.01	\$ 1,129.13	<input checked="" type="checkbox"/>	<input type="checkbox"/>
02/01/2020	03/01/2020	\$ 1,129.13	\$ 1,168.64	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## RESPONSE TO PROPERTY OWNER PETITION

Use the space below to respond to the rent increase requested in the Owner Petition.

- To generally contest the Owner Petition, simply check the first box under the "GENERAL RESPONSE(S)" section below.
- You may also (but are not required to) raise specific defenses pertaining to the claimed rent increase justification(s) by selecting from the "SPECIFIC RESPONSES" checklist on the following page. **Note that the property owner has the burden of proving that all requirements for the requested rent increase have been met—your failure to check any of the boxes below does NOT mean that any objection you may have is waived.**

Attach additional sheets if needed to provide further explanation. You may attach any documentation supporting your position together with your Tenant Response form. For detailed information on allowable rent increases, see Appendix A of the Rent Adjustment Program Regulations or see the Rent Adjustment Ordinance. Copies of Appendix A and the Ordinance are available on the RAP website. Brief summaries of each rent increase justification are also listed on the last page of this response packet.

### GENERAL RESPONSE(S)

- I wish to generally contest the requested rent increase.
- The requested increase would cause my rent to increase by more than 30% in the last five years.
- I believe I should not have to pay the requested rent increase because the unit has been cited in an inspection report by a governmental agency as containing serious health, safety, fire, or building code violations. (Attach copy of inspection report.)
- I believe the property owner is not entitled to the proposed rent increase because: \_\_\_\_\_
- Some of the payments were made prior to 24 months before the petition filing date.
  - Work that was done is incomplete, and of questionable benefit.
- \_\_\_\_\_
- \_\_\_\_\_

## SPECIFIC RESPONSES

(Optional)

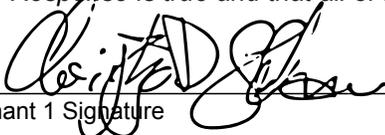
*NOTE: You do not have to make these claims in order for these issues to be decided by the Hearing Officer.*

Justification	Tenant Response
<b>Capital Improvements</b>	<input checked="" type="checkbox"/> The claimed improvements do not meet the legal or factual requirements for "Capital Improvements" as set forth in Appendix A of the Rent Adjustment Program Regulations. <input checked="" type="checkbox"/> The claimed improvements were not completed by the date the Property Owner Petition was filed or were completed more than 24 months prior to the date the Petition was filed. <input type="checkbox"/> Property owner did not obtain finalized permit(s) for work that required permit(s). <input checked="" type="checkbox"/> The claimed improvements were not primarily a benefit to the tenants. <input type="checkbox"/> Other (provide explanation): _____
<b>Uninsured Repair Costs</b>	<input type="checkbox"/> Property owner received insurance reimbursement for claimed costs. <input type="checkbox"/> The need for some or all of the repairs was not caused by a natural disaster. <input type="checkbox"/> Other (provide explanation): _____
<b>Increased Housing Service Costs</b>	<input type="checkbox"/> The claimed expenses do not meet the legal or factual requirements for "Housing Service Costs" as set forth in Appendix A of the Rent Adjustment Program Regulations. <input type="checkbox"/> Property owner did not include all rental income or all expenses as required. <input type="checkbox"/> Other (provide explanation): _____
<b>Fair Return</b>	<input type="checkbox"/> Property owner did not provide adequate information or documentation on gross income or gross expenses as required. <input type="checkbox"/> Other (provide explanation): _____
<b>Banking</b>	<input type="checkbox"/> I have received an annual CPI increase each year since I moved in. <input type="checkbox"/> I have not received an annual CPI increase every year (just some years) but I think the proposed banking increase is too high. <input checked="" type="checkbox"/> I moved into the current unit more than 10 years ago. My rent amount 11 years ago was \$ <u>950.00</u> /month. <input type="checkbox"/> Other (provide explanation): _____
<b>Additional Occupant(s)</b>	<input type="checkbox"/> The additional occupant(s) is/are a one-for-one replacement of former tenant(s) (total number of tenants does not exceed the base occupancy level). <input type="checkbox"/> The additional occupant(s) is/are family member(s) and/or caretaker/attendant(s) of an existing tenant. (See O.M.C. § 8.22.020.) <input type="checkbox"/> The person does not permanently reside in the unit. <input type="checkbox"/> Other (provide explanation): _____

## TENANT VERIFICATION

(Required)

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

  
\_\_\_\_\_  
Tenant 1 Signature

25 March 2021

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Tenant 2 Signature

25 March 2021

\_\_\_\_\_  
Date

## REQUEST FOR OWNER DOCUMENTATION IN EXCESS OF 25 PAGES

If the property owner submitted more than 25 pages of attachments in support of their petition, the owner may have opted to not serve you with a copy of all the attachments (see if box is checked on the Property Owner Petition under "Documentation in Excess of 25 pages"). You may contact RAP to request copies of the documents (email [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov)), or you may check the box below to request that the owner provide you with copies.

- I/We request that the owner provide me/us with copies of all documents submitted in support of the Property Owner Petition.

## CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

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

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

## MEDIATION PROGRAM

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

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

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

\_\_\_\_\_  
Tenant Signature

\_\_\_\_\_  
Date

## INTERPRETATION SERVICES

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

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

- Spanish (Español)  
 Cantonese (廣東話)  
 Mandarin (普通话)  
 Other: \_\_\_\_\_

**-END OF RESPONSE-**

Page 4 of 4



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

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

On the following date: 03 / 25 / 2021 I served a copy of (check all that apply):

- TENANT RESPONSE TO OWNER PETITION FOR APPROVAL OF RENT INCREASE** plus \_\_\_\_\_ attached pages (number of pages attached to Response not counting the Response form or PROOF OF SERVICE)
- Other: \_\_\_\_\_

by the following means (check one):

- United States Mail.** I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- Commercial Carrier.** I deposited the document(s) with a commercial carrier, using a service at least as expeditious as first-class mail, with all postage or charges fully prepaid, addressed to the person(s) listed below and at the address(es) below.
- Personal Service.** I personally delivered the document(s) to the person(s) at the address(es) listed below or I left the document(s) at the address(es) with some person not younger than 18 years of age.

**PERSON(S) SERVED:**

Name	Hertzel Enterprises LLC
Address	482 W MacArthur Blvd
City, State, Zip	Oakland, CA 94609

Name	
Address	
City, State, Zip	

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

Christopher D. Goldman

PRINTED NAME



SIGNATURE

25 March 2021

DATE SIGNED

# IMPORTANT INFORMATION REGARDING FILING YOUR RESPONSE

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## TIME TO FILE YOUR RESPONSE

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

## CONTACT A HOUSING COUNSELOR TO REVIEW YOUR RESPONSE BEFORE SUBMITTING

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

## DOCUMENTS SUBMITTED IN SUPPORT OF RESPONSE

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

## SERVICE ON PROPERTY OWNER

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

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

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

## FILING YOUR RESPONSE

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

**Via email:** [hearingsunit@oaklandca.gov](mailto:hearingsunit@oaklandca.gov)

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

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

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

### **AFTER RESPONSE IS FILED**

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

### **FILE/DOCUMENT REVIEW**

If the property owner submitted more than 25 pages of attachments in support of their Petition, the owner may have opted to not serve you with a copy of all the attachments (see if box is checked on the Property Owner Petition form under "Documentation in Excess of 25 pages"). You may contact RAP to request copies of the documents (email [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov)), or you may check the box on your Response to request that the owner provide you with copies.

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

### **FOR MORE INFORMATION**

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

## **SUMMARY OF JUSTIFICATIONS FOR RENT INCREASES ABOVE THE CPI**

### **Capital Improvements**

Allows pass-through of portion of costs for qualified capital improvements to units benefitting from improvements over amortization period based on expected life of improvement and not to exceed 10% of tenant's rent in starting year. Calculation for building-wide improvements must factor in total number of units, even if vacant or owner/manager-occupied. Not counted as part of base rent for calculating next increases. Pass-through drops off at end of amortization period.

### **Uninsured Repair Costs**

Costs for work done to secure compliance with any state or local law to repair damage resulting from, fire, earthquake, or other casualty or natural disaster, to the extent not reimbursed by insurance proceeds. Calculated and applied like capital improvements.

### **Increased Housing Service Costs**

Compares two (2) years' net operating costs to determine if increase rate exceeds current year's CPI. Calculation must include all rental income and all operating expenses (no one expense can be singled out). Replaces CPI increase for current year; applies to all units.

### **Fair Return on Investment**

Requires evidence to show that without the requested rent increase owner is being denied a fair return on investment in the subject property. Requires analysis and proof of gross income (e.g., total of gross rents lawfully collectible from a property at 100% occupancy, plus any other consideration received or receivable) and gross costs (e.g., property taxes, housing service costs, and the amortized cost of capital improvements) on subject property in the current year and base year. Cannot be combined with any other justification for increase. Replaces CPI increase for current year; applies to all units.

### **Banking**

Banking refers to deferred allowable annual rent increases. Any unclaimed CPI increase, or partial increase, may be carried over to a future year's increase ("banked"). A banked increase, including the current CPI, is capped at no more than three times (3X) the CPI on the date that increase takes effect, or 10% of the current rent, whichever is lower. Any banking left over may be carried over to another year. Banking cannot be given more than ten years after it accrues, and will expire. Banking can be combined with other rent increase justifications as long as the cap is not exceeded. If challenged, evidence of the rental history of the subject unit is required. A petition is not required to give a banked increase unless owner wishes to combine banking with other type(s) of justification.

### **Additional Occupant(s)**

Allows up to a 5% increase for each additional occupant above the base occupancy level. An additional occupant who is the spouse, registered domestic partner, parent, grandparent, child, adopted child, foster child, or grandchild of an existing tenant, or the legal guardian of an existing tenant's child or grandchild who resides in the unit, or a caretaker/attendant as required for a reasonable accommodation for an occupant with a disability, does not qualify as an "additional occupant" for purposes of imposing a rent increase.

Document	Page	Service	Amount	Date paid	Notes	Petition filing date
Owner Supporting Documentation (1)	2	Business L.O.R	2,525.00	02/20/2020		6/24/2020
Owner Supporting Documentation (1)	2	Business L.O.R	6,051.71	02/28/2020		
Owner Supporting Documentation (1)	7	Roofing	64,960.00	06/28/2018		
Owner Supporting Documentation (1)	8	Roofing	1,000	12/19/2017	More than 24 months before petition.	
Owner Supporting Documentation (2)	1	Painting	1,080.00	07/02/2018		
Owner Supporting Documentation (2)	3	Painting	1,000	4/17/2018	More than 24 months before petition.	
Owner Supporting Documentation (2)	5	Painting	12,327.00	06/07/2018	More than 24 months before petition.	
Owner Supporting Documentation (2)	8	Painting	12,327.50	06/14/2018	More than 24 months before petition.	
Owner Supporting Documentation (2)	10	Painting	12,327.500	06/21/2018	More than 24 months before petition.	
Owner Supporting Documentation (2)	12	Painting	<b>12,408.00</b>	07/02/2018	Check amount larger then invoice *	
Owner Supporting Documentation (2)	13	Plexiglass	2,875.00	02/10/2020	Never finished; what is the tenant benefiit?	
Owner Supporting Documentation (2)	15	Repairs	3,530.13	02/12/2020		

**City of Oakland Rent Adjustment Program****Tenant Response**

Case **L20-0071**  
Property Address **232 29TH ST**

<b>Party</b>	<b>Name</b>	<b>Address</b>	<b>Mailing Address</b>
Tenant	Khary Moye	232 29TH ST Unit 04 Oakland, CA 94611	
Tenant	Gregory Kouri	232 29TH ST Unit 03 Oakland, CA 94611	
Tenant	Eugene Kang	232 29TH ST Unit 02 Oakland, CA 94611	
Tenant	William Jones	232 29TH ST Unit 01 Oakland, CA 94611	
Tenant	Arielle Peet	232 29TH ST 26 Oakland, CA 94611	
Tenant	Marilyn Fontenrose	232 29TH ST Unit 25 Oakland, CA 94611	
Tenant	Fitsum Chiffa	232 29TH ST Unit 24 Oakland, CA 94611	
Tenant	Mitchell Colbert	232 29TH ST Unit 23 Oakland, CA 94611	
Tenant	Eman Haggag	232 29TH ST Unit 22 Oakland, CA 94611	
Tenant	Thomas Stewart	232 29TH ST Unit 21 Oakland, CA 94611	
Tenant	Martin Brown	232 29TH ST Unit 20 Oakland, CA 94611	
Tenant	RESIDENT RESIDENT	232 29TH ST Unit 19 Oakland, CA 94611	
Tenant	Sarah Mallas	232 29TH ST Unit 18 Oakland, CA 94611	
Tenant	Paolo Maloles	232 29TH ST Unit 17 Oakland, CA 94611	
Tenant	Andrea Breon	232 29TH ST Unit 16 Oakland, CA 94611	
Tenant	Sangodogbon Akinsoga	232 29TH ST	

**City of Oakland Rent Adjustment Program**

**Tenant Response**

Case **L20-0071**  
 Property Address **232 29TH ST**

Tenant	Neda Tafreshi	Unit 15 Oakland, CA 94611 232 29TH ST	
Tenant	Shauna Kimball	Unit 14 Oakland, CA 94611 232 29TH ST	
Tenant	Christopher Goldman	Unit 12 Oakland, CA 94611 232 29TH ST	
Tenant	Graham Brown	Unit 11 Oakland, CA 94611 232 29TH ST	
Tenant	Jeremy Sweeney	Unit 10 Oakland, CA 94611 232 29TH ST	
Tenant	Ann Canann	Unit 09 Oakland, CA 94611 232 29TH ST	
Tenant	Rajini Subramanian	Unit 08 Oakland, CA 94611 232 29TH ST	
Tenant	RESIDENT	Unit 07 Oakland, CA 94611 232 29TH ST	
Tenant	Christopher Juan	Unit 06 Oakland, CA 94611 232 29TH ST	
Manager	Bay Property Group (510) 836-0110	Unit 05 Oakland, CA 94611 482 W MacArthur Blvd Oakland, CA 94609	
Owner	HERTZEL ENTERPRISES LLC Bay Property Group (510) 698-9560	482 W MacArthur Blvd. Oakland, CA 94609	482 W MacArthur Blvd. Oakland, California 94609
Representative	Kimberly Roehn Law Offices of Kimberly Roehn (510) 698-9560 kim@roehnlaw.com	1954 Mountan Blvd. Suite 13125 Oakland, CA 94661	

## City of Oakland Rent Adjustment Program

### Tenant Response

Case **L20-0071**  
Property Address **232 29TH ST**

#### Rental Property Information

Type of unit you rent Apartment, Room or Live-work

Total number of units

Are you current on your rent? No

Please explain why the property owner is not entitled to the proposed increase.

We are currently in the middle of a global pandemic, where people's livelihood has been greatly affected. To decide to increase tenant's rent during this time is not legal.

#### Rent History

When did you move into the unit? 02-15-2015

When did you enter into the rental agreement for this unit? 02-15-2015

When did you move into the unit? 02-15-2015

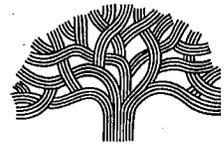
Initial monthly rent 2150

When did the property owner first provide you with the RAP Notice, a written notice of the existence of the Rent Adjustment Program? 2-26-2021

I was given a RAP NOTICE by my property owner. Yes

#### Mediation

Mediation Requested **No**



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

Housing and Community Development Department  
Rent Adjustment Program

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

## **HEARING DECISION**

**CASE NUMBER:** L20-0071, Hertzell Enterprises LLC v. Tenants

**PROPERTY ADDRESS:** 232 29th Street, Oakland, CA

**DATE OF HEARING:** June 8, 2021

**DATE OF DECISION:** August 4, 2021

**APPEARANCES:** Renuka Bornstein, Owner  
Ethan Brown, Managing Director, Bay Property Group  
Vickie Lazio, Property Manager, Bay Property Group  
Kimberly Roehn, Owner Representative  
Sarah Mallas, Tenant, Unit 18  
Christopher Juan, Tenant, Unit 5  
Marilyn Fontenrose, Tenant, Unit 25  
Christopher Goldman, Tenant, Unit 11  
Mitchell Colbert, Tenant, Unit 23  
Martin Brown, Tenant, Unit 20

### **SUMMARY OF DECISION**

The owner's petition is granted. The allowable rent increase is detailed in the Order below and in the attached Decision Summary.

### **PROCEDURAL HISTORY**

The owner filed a *Property Owner Petition for Approval of Rent Increase* on June 24, 2020, seeking approval to increase the rent on the unit on the grounds of capital improvement expenditures. The owner submitted a proposed Capital Improvement Calculator listing three building-wide improvements: Re-roof; Painting (exterior); and Exterior walkway plexiglass. At the outset of the hearing, the owner withdrew the claim for the Exterior walkway plexiglass item.

Tenants Andrea Breon (Unit 16), Christopher Goldman (Unit 11), and Jeremy Sweeney (Unit 9) each submitted a *Tenant Response Contesting Rent Increase* along with a Proof of Service that the *Tenant Response* had been served on the owner.

Tenant Arielle Peet (Unit 26) submitted a *Tenant Response Contesting Rent Increase* without a Proof of Service form, and did not respond to the deficiency letter regarding the lack of a Proof of Service form, therefore Tenant Peet's *Tenant Response* was disregarded.

Of the tenants who properly submitted a *Tenant Response*, only Tenant Goldman attended the hearing. The participation of the other tenants who attended the hearing was limited to being given an opportunity to cross-examine the owner because they had not submitted a *Tenant Response* to the *Property Owner Petition*.

Prior to the hearing, the owner submitted an updated rent roll for the building with move-in dates and current rent amounts for the 25 units in the building. Only those tenants who were residing in the building at the time of the filing of the *Property Owner Petition* are subject to the decision in this case. This includes the tenants in the following units: 3, 4, 5, 8, 10, 11, 15, 16, 17, 18, 20, 23, 24, 25 and 26.<sup>1</sup>

At the outset of the hearing, the owner representative objected to the admission of Tenant Exhibit 1 (a spreadsheet submitted by Tenant Goldman) into evidence because she had not been served with that document. The Hearing Officer ruled, however, that the exhibit was admissible because the tenant provided proof of service on the owner, as required by the Rent Adjustment Ordinance.

### **THE ISSUES**

1. Were the tenants served with the *RAP Notice*?
2. Is the owner entitled to a capital improvement rent increase and, if so, in what amount?

### **EVIDENCE**

#### **RAP Notices**

Owner representative Kimberly Roehn attested via an email to the Rent Adjustment Program office dated November 12, 2020, that the Notice to Tenants of the Residential Rent Adjustment Program (*RAP Notice*) had been served on all of the tenants affected by the petition. None of the tenants who filed a *Tenant Response* or who appeared at the hearing contested that they had been served with the *RAP Notice*.

---

<sup>1</sup> The rent roll provided by the Owner states that the tenant in Unit 9 (Jeremy Sweeney) had given notice that he would move out on June 30, 2021. On July 27, 2021, Owner Representative Roehn confirmed that Tenant Sweeney did move out as planned. Therefore, this Hearing Decision does not apply to this tenant.

**Capital Improvements**

The building is a 26-unit apartment building. Owner representative Roehn testified about the projects that were done on the building.

**Re-Roof**

The entire building was re-roofed in 2018, with a completion date of June 28, 2018. The owner submitted a signed copy of a contract with General Roofing Company for \$65,960 for this project. (Owner Exhibit 1, pp. 4-6.) The owner also submitted a Re-Roofing Registration from the City of Oakland (dated April 2, 2018) for this project. (Owner Exhibit 2, p. 2.)

The owner submitted documents establishing payments to General Roofing Company totaling \$65,960 for this project. These consisted of: an invoice for \$65,960 (Owner Exhibit 1, p. 7); a canceled check for \$1,000 (Owner Exhibit 1, p. 8); and a canceled check for \$64,960 (Owner Exhibit 1, p. 10).

**Exterior Painting**

The entire building was re-painted in 2018, with a completion date of July 2, 2018.

The owner submitted a signed Project Proposal with Rayco Inc. for \$49,310. (Owner Exhibit 1, pp. 12-17.)<sup>2</sup>

The owner submitted documents establishing a total payment to Rayco of \$50,390 for this project. These consisted of: an invoice for \$1,000 (Owner Exhibit 1, p. 19); a canceled check for \$1,000 (Owner Exhibit 1, p. 20); an invoice for \$12,327 (Owner Exhibit 1, p. 21); a canceled check for \$12,327 (Owner Exhibit 1, p. 22); an invoice for \$12,327 (Owner Exhibit 1, p. 24); a canceled check for \$12,327.50 (Owner Exhibit 1, p. 25); an invoice for \$12,327 (Owner Exhibit 1, p. 26); a canceled check for \$12,327.50 (Owner Exhibit 1, p. 27); an invoice for \$12,408 (Owner Exhibit 1, p. 28); and a canceled check for \$12,408 (Owner Exhibit 1, p. 29).

The owner produced invoices and proof of payment as follows:

Item	Description	Vendor/Payee	Details	Date	Amount	Exhibits
1	Invoice	General Roofing Company	Carlisle roof system...installed as detailed in contract	5/29/18	\$65,960	Owner Exh. 1, p. 7
2	Canceled check	General Roofing Co., Inc.	Check #22201: 232 29 <sup>th</sup> Roof – Deposit	12/29/17	\$1,000	Owner Exh. 1, p. 8
3	Canceled check	General Roofing Co., Inc.	Check #23795: 232 29 <sup>th</sup> Roof – Paid in Full	7/5/18	\$64,960	Owner Exh. 1, p. 10
4	Invoice	Rayco Painting	Exterior painting deposit	4/9/18	\$1,000	Owner Exh. 1, p. 19
5	Canceled check	Rayco Painting & Construction, Inc.	Check #23240: Exterior painting deposit	4/26/18	\$1,000	Owner Exh. 1, p. 20

<sup>2</sup> The owner is actually claiming a total project amount of \$50,390, which includes additional painting on June 29, 2018, totaling \$1,080, for “doors/planter box/red striping.” (Owner Exhibit 1, p. 18.)

6	Invoice	Rayco Painting	Painting Services exterior mobilization	5/31/18	\$12,327	Owner Exh. 1, p. 21
7	Canceled check	Rayco Painting & Construction, Inc.	Check #23613: Exterior Mobilization	6/14/18	\$12,327	Owner Exh. 1, p. 22
8	Invoice	Rayco Painting	Painting Services exterior – progress #2	6/11/18	\$12,327	Owner Exh. 1, p. 24
9	Canceled check	Rayco Painting & Construction, Inc.	Check #23636: Exterior Paint 2 <sup>nd</sup> 25% Progress Payment	6/20/18	\$12,327.50	Owner Exh. 1, p. 25
10	Invoice	Rayco Painting	Painting Services progress payment #3	6/20/18	\$12,327	Owner Exh. 1, p. 26
11	Canceled check	Rayco Painting & Construction, Inc.	Check #23704: Exterior Paint 3 <sup>rd</sup> 25% Payment	6/28/18	\$12,327.50	Owner Exh. 1, p. 27
12	Invoice	Rayco Painting	Painting Services final: \$11,329 plus \$1,080 (doors/planter box/red striping)	6/29/18	\$12,408	Owner Exh. 1, p. 28
13	Canceled check	Rayco Painting & Construction, Inc.	Check #23806: Exterior Paint Final Pa	7/12/18	\$12,408	Owner Exh. 1, p. 29

Tenants’ testimony

The tenants who appeared at the hearing did not present any evidence as to code violations in the building. In their cross-examination of the owner, Tenants Goldman and Colbert asserted that there were problems with the roof leaking in the building, however they did not submit any documents or photos regarding this issue. Tenant Goldman, the only tenant allowed to play a role in the hearing other than cross-examination because of his proper filing of a *Tenant Response*, did not testify as to any personal knowledge of roof leaks.

Owner Bornstein testified that she believed the building was last re-roofed in 2012 or 2013, prior to her acquiring ownership in April 2014. According to Owner Representative Roehn, there were no major or recurring incidents of the roof leaking and any leak complaints were always addressed within two to four weeks.

Tenant Godman testified that the building was “sorely in need of painting,” starting before he moved into the building in November 2009. To his knowledge, the building had not been painted since he moved in.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**Were the tenants served with the *RAP Notice*?**

The Rent Adjustment Ordinance requires an owner to serve the *RAP Notice* at the start of a tenancy<sup>3</sup> and together with any notice of rent increase.<sup>4</sup> Additionally, an *Owner*

<sup>3</sup> O.M.C. § 8.22.060(A)

<sup>4</sup> O.M.C. § 8.22.070(H)(1)

*Petition* cannot be considered filed until the owner has produced evidence of having served each affected tenant with the *RAP Notice* prior to filing the petition.<sup>5</sup>

The owner representative stated that the tenants in all of the units affected by the Owner *Petition* were properly served with the *RAP Notice* prior to the filing of the petition. None of the tenants disputed this. Therefore, it is found that the tenants were served with the *RAP Notice*.

**Is the owner entitled to a capital improvement rent increase and, if so, in what amount?**

The Ordinance: A rent increase in excess of the CPI Rent Adjustment may be justified by capital improvement costs.<sup>6</sup> Capital improvements 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.”<sup>7</sup> Normal routine maintenance and repair is not a capital improvement cost, but a housing service cost.<sup>8</sup> In order for a capital improvement to be allowed, the improvement must primarily benefit the tenants rather than the owner.<sup>9</sup>

Items eligible for a capital improvement increase will be amortized over the useful life of the improvement unless the useful life would cause the rent increase to exceed 10% or the amount permitted by California Civil Code Section 1947.12, whichever is lower.<sup>10</sup> The current limit is 8.8% (5 percent plus 3.8% cost of living). If the limit would be exceeded, the amount of the amortization period is extended.<sup>11</sup> The owner is also entitled to imputed interest for the cost of the capital improvements.<sup>12</sup> Finally, for all expenses, the owner is entitled to pass through to the tenants a maximum of 70% of the costs expended (plus imputed interest).<sup>13</sup>

The reimbursement of capital expenses must be discontinued at the end of the amortization period. An owner has discretion to make such improvements, and does not need the consent or approval of tenants. Additionally, the improvements must have been completed and paid for within 24 months prior to the date the owner files a petition.<sup>14</sup> An owner has the burden of proving every element of his/her case by a preponderance of the evidence. Since the owner’s petition was filed on June 24, 2020, the owner is entitled to pass through those allowable costs for improvements that were both completed and paid for after June 24, 2018.

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<sup>5</sup> O.M.C. § 8.22.090(B)(1)(c)

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

<sup>7</sup> Regulations Appendix A § 10.2

<sup>8</sup> Regulations Appendix A § 10.2.2(4)(e)

<sup>9</sup> Regulations Appendix A §§ 10.2 and 10.2.2(1)

<sup>10</sup> Regulations Appendix A § 10.2.3(2) and O.M.C. § 8.22.070(A)(2), amended July 21, 2020.

<sup>11</sup> Regulations Appendix A § 10.2.3(2)

<sup>12</sup> Regulations Appendix A § 10.2.3(3)(a)

<sup>13</sup> Regulations Appendix A § 10.2.3(3)(a)

<sup>14</sup> Regulations Appendix A § 10.2.1

Costs Allowed and Disallowed: To prove a capital improvement cost, both an invoice and proof of payment are necessary. The owner produced invoices and proofs of payment for the costs being claimed.

There are two categories of items that may not be considered as capital improvements.

First, repairs for code violations may not be considered as capital improvements if the tenant proves that the repair was performed to correct a Priority 1 or 2 Condition that was not created by the tenant, and that the owner failed to repair the condition within a reasonable time.<sup>15</sup>

The second category of items that may not be considered as capital improvements is:

Costs for work or portion of work that could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs after the landlord knew or should reasonably have known of the problem that caused the damage leading to the repair claimed as a capital improvement.<sup>16</sup>

Each item being claimed by the owner will be discussed individually. The items are as follows:

#### Re-Roof

The owner established that the building was re-roofed in early 2018. A new roof is an improvement that primarily benefits the tenants of a building.

The tenants did not introduce any evidence of code violations related to the roof.

In addition, no evidence was introduced that any costs for the work that was done could have been avoided by the owner in making timely repairs after the owner knew or should reasonably have known of a problem. Although Tenants Goldman and Colbert asserted that the roof had leaking problems, no evidence was submitted by the tenants supporting these claims. Even if the former roof did have leaks, the tenants did not establish that the owner failed to make timely repairs, or that the cost of the re-roofing "could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs."

In terms of dates, although the contract was signed on December 14, 2017 (Owner Exhibit 1, p. 6) and the initial deposit was paid on December 29, 2017 (Owner Exhibit 1, p. 8), the final payment on the project was not made until a check dated June 28, 2018 (that was cashed on July 5, 2018) (Owner Exhibit 1, p. 10). As noted above, the Oakland ordinance requires projects to be completed and paid for within 24 months of a petition being filed, which in this case would be after June 24, 2018.

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<sup>15</sup> Regulations Appendix A § 10.2.2(4)(a)

<sup>16</sup> Regulations Appendix A § 10.2.2(4)(b)

The owner representative asserted that the re-roofing project was completed on June 28, 2018, the date on the final check to General Roofing Company (Owner Exhibit 1, p. 10), and that the earlier deposit of \$1,000 made in December 2017 (Owner Exhibit 1, p. 8) should be allowed as a progress payment on the project. The Residential Rent and Relocation Board has recently held in L19-0163, Lake 1925 LP v. Tenants, that progress payments made more than 24 months before the filing of a petition can be allowed if the project was completed within the 24-month time frame. Because the re-roof project was completed after July 24, 2018, the payment made in December 2017 is an allowable cost.

The owner provided proof of the cost of this item through an invoice, along with proof of payment through canceled checks, and proof of obtaining a Re-Roofing Certificate for the work. Therefore, the entire \$65,960 paid by the owner for the re-roof is an allowable cost.

#### Exterior Painting

The owner's testimony established that the entire exterior of the building was painted. Repainting is an improvement that primarily benefits the tenants of a building; in fact, Tenant Goldman testified that the building needed to be repainted.

The tenants did not introduce any evidence of code violations related to the repainting. They also did not introduce any evidence that the cost of the repainting "could have been avoided by the landlord's exercise of reasonable diligence in making timely repairs."

In terms of dates, although the contract was signed on April 4, 2018 (Owner Exhibit 1, p. 17), and the initial deposit was paid on April 26, 2018 (Owner Exhibit 1, p. 20), the final payment on the project was not made until a check dated July 2, 2018 (that was cashed on July 12, 2018) (Owner Exhibit 1, p. 29). As noted above, progress payments made more than 24 months before the filing of a petition can be allowed if the project was completed within the 24-month time frame. Because the painting was completed on June 29, 2018 (with the additional painting of the doors/planter box/red striping) (Owner Exhibit 1, p. 18), and final payment was not made until July 12, 2018, the exterior painting project meets the requirement of being "completed and paid for" after June 24, 2018, and the payments for the exterior painting project made on April 26, 2018, June 14, 2018, and June 20, 2018, are allowable costs.

The owner provided proof of the cost of this item through a series of invoices, along with proof of payment through canceled checks. Therefore, the entire \$50,390 paid for the exterior painting project is an allowable cost.

#### What is the allowable pass-through?

The cost of the re-roof project (\$65,960), with an amortization period of 10 years according to the Amortization Schedule provided in the Rent Adjustment Board Regulations Appendix A, Exhibit 1, is an allowable cost. The cost of the exterior painting (\$50,390), with an amortization period of five (5) years, is an allowable cost.

These costs are added together and an amortization period of eight (8) years is applied, per the attached Capital Improvement Calculator (Exhibit A).

The owner is allowed to pass through 70% of the allowable costs, and the allocation of the costs for the building-wide improvements take into account the fact that there are 25 units in the building.

The attached Capital Improvement Calculator (Exhibit A) shows the allowable amortized cost for each unit that is subject to the petition except for Tenant Maloles in Unit 17. This tenant moved into the building on July 1, 2018, after the re-roof project was completed. The repainting was also completed on June 29, 2018, prior to this tenant's move-in date, although the final payment was not made until July (via a check dated July 2, 2018, cashed on July 12, 2018). It is not appropriate to pass on the cost of either of these improvements to a tenant who was not living in the building when the improvements were made, even though the final payment for the painting was made the day after he moved in. Conceivably, the cost of the re-roofing and the painting could have been factored into the initial rent he was charged. Therefore, the costs of these capital improvements cannot be passed through to Tenant Maloles (Unit 17).

Items eligible for a capital improvement increase will be amortized over the useful life of the improvement unless the useful life would cause the rent increase to exceed 10% or the amount permitted by California Civil Code Section 1947.12, whichever is lower.<sup>17</sup> The current limit is 8.8%. As indicated on Exhibit A, none of the amortization periods need to be adjusted because the rent increases are all under 8.8%.

During the Local Emergency, however, no rent increase greater than the CPI (currently 1.9%) can be served on any tenant. While this Hearing Decision ultimately permits the owner to increase the rent on the units listed on Exhibit A by the amounts stated, **any rent increase that exceeds 1.9% cannot be served at this time. Therefore, the owner can currently serve the rent increase on only Unit 26 (Peet) listed on Exhibit A.** Once the Local Emergency is lifted, the owner may serve those rent increases that could not be served during the Local Emergency.

### ORDER

1. Petition L20-0071 is granted.
2. The owner is entitled to the monthly rent increase for each tenant listed on Exhibit A based on capital improvements, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. **The owner may not serve the monthly rent increase on those tenants for whom the rent increase would exceed 1.9% until after the Local Emergency is lifted.**

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<sup>17</sup> Regulations Appendix A § 10.2.3(2) and O.M.C. § 8.22.070(A)(2), amended July 21, 2020.

3. No rent increase can be served with an effective date any earlier than 12 months after the tenant's last rent increase.

4. The capital improvement rent increase expires 96 months after it goes into effect for all units listed in Exhibit A.

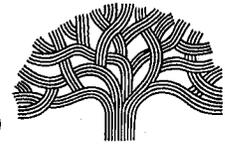
**Right to Appeal: This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within fifteen (15) calendar days after service 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: August 4, 2021

  
\_\_\_\_\_  
Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program

L20-0071 Exhibit A

IMPROVEMENTS BENEFITING ALL UNITS BUILDING WIDE										
						Petition Date			6/24/20	
						Number of Residential Units			25	
IMPROVEMENT OR REPAIR	DATE PERMIT OBTAINED (or date started if permit not required)	DATE COMPLETED	FULL COST	ALLOWABLE PASS-THROUGH (%)	ALLOWABLE PASS-THROUGH PER UNIT	Number of Units	Amortization Period (Years)	Allowable Monthly Amortization Per Unit (\$)	Allowable Monthly Amortization Per Unit (\$)	Notes
Re-roof	4/2/2018	06/28/18	\$65,960.00	\$46,172.00	\$1,846.88	4.265%	10	\$473.30	\$18.93	OK
Exterior Painting	4/17/2018	07/02/18	\$50,390.00	\$35,273.00	\$1,410.92	4.265%	5	\$653.82	\$26.15	OK
Subtotal (with weighted averages)				\$81,445.00	\$3,257.80	4.265%	8	\$1,002.81	\$40.11	
Place X in cell B19 if property is mixed use.										
Residential square footage										
Other use square footage										
Percent residential use										
Total Cost Per Unit Allocated to Residential Units						\$3,257.80	4.265%			
TOTAL RENT INCREASE FOR EACH UNIT										
Unit	Current Rent	Allowed Pass-through from F-25 (Building wide only)	Current Rent	Allowed Pass-through (%)	Number of Units	Amount Increase	Percent Increase (%)			
3 (Koun)	\$1,258.08	\$3,257.80	4.265%	8	\$40.11	3.19%				
4 (Moye)	\$1,172.75	\$3,257.80	4.265%	8	\$40.11	3.42%				
5 (Juan)	\$1,056.01	\$3,257.80	4.265%	8	\$40.11	3.80%				
8 (Canann)	\$1,278.57	\$3,257.80	4.265%	8	\$40.11	3.14%				
10 (Brown)	\$1,923.39	\$3,257.80	4.265%	8	\$40.11	2.09%				
11 (Goldman)	\$1,200.19	\$3,257.80	4.265%	8	\$40.11	3.34%				
15 (Akinsoga)	\$1,004.39	\$3,257.80	4.265%	8	\$40.11	3.99%				
16 (Breon)	\$2,028.01	\$3,257.80	4.265%	8	\$40.11	1.98%				
18 (Mallas)	\$1,895.29	\$3,257.80	4.265%	8	\$40.11	2.12%				
20 (Brown)	\$1,342.14	\$3,257.80	4.265%	8	\$40.11	2.99%				
23 (Colbert)	\$1,650.00	\$3,257.80	4.265%	8	\$40.11	2.43%				
24 (Chiffa)	\$1,281.83	\$3,257.80	4.265%	8	\$40.11	3.13%				
25 (Fontenrose)	\$1,603.71	\$3,257.80	4.265%	8	\$40.11	2.50%				
26 (Peet)	\$2,507.62	\$3,257.80	4.265%	8	\$40.11	1.60%				



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Housing and Community Development Department  
Rent Adjustment Program

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

## **DECISION SUMMARY**

**CASE NUMBER:** L20-0071, Hertzell Enterprises LLC v. Tenants  
**PROPERTY ADDRESS:** 232 29th Street, Oakland, CA  
**DATE OF HEARING:** June 8, 2021  
**DATE OF DECISION:** August 4, 2021

1. Petition L20-0071 is granted.
2. As to the tenant in unit 3 (Gregory Kouri), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.
3. As to the tenant in unit 4 (Khary Moye), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.
4. As to the tenant in unit 5 (Christopher Juan), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.
5. As to the tenant in unit 8 (Ann Canann), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

6. As to the tenant in unit 10 (Graham Brown), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

7. As to the tenant in unit 11 (Christopher Goldman), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

8. As to the tenant in unit 15 (Sangodogbon Akinsoga), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

9. As to the tenant in unit 16 (Andrea Breon), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

10. As to the tenant in unit 18 (Sarah Mallas) the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

11. As to the tenant in unit 20 (Martin Brown), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

12. As to the tenant in unit 23 (Mitchell Colbert), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

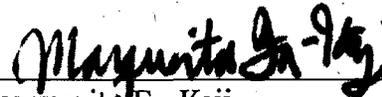
13. As to the tenant in unit 24 (Fitsum Chiffa), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the

*Decision Summary.* The new capital improvement pass-through will expire 96 months after it goes into effect.

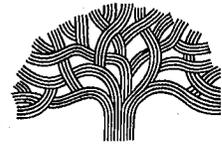
14. As to the tenant in unit 25 (Marilyn Fontenrose), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

15. As to the tenant in unit 26 (Arielle Peet), the owner is entitled to a capital improvement rent increase of \$40.11 per month, which will be effective 30 days (35 days if served by mail) after the owner serves the rent increase notice, a *RAP Notice*, and the *Decision Summary*. The new capital improvement pass-through will expire 96 months after it goes into effect.

Dated: August 4, 2021



Marguerita Fa-Kaji  
Hearing Officer  
Rent Adjustment Program



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Housing and Community Development Department  
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CA Relay Service 711

**Notice re: Rent Increase  
Moratorium**

On March 27, 2020, the Oakland City Council adopted an Ordinance imposing a moratorium on all rent increases that exceed the consumer price index (CPI) unless required to provide a fair return. The current CPI effective July 1, 2021 - June 30, 2022 is 1.9%.

This rent increase moratorium remains in effect for the duration of the Local Emergency. The ordinance is still in effect and will remain in effect until the Local Emergency is declared to be over.

While a property owner may receive a hearing decision allowing for a rent increase larger than the current CPI, no rent increase for an amount larger than the CPI may be served until the Local Emergency has ended. The only exception to this moratorium is if the owner has received a final decision from the Rent Adjustment Program granting a rent increase to provide a fair return.

If the rent increase moratorium continues after July 1, 2022, and if the maximum rent increase allowed has increased above 8.8%,<sup>1</sup> the property owner may ask for a Compliance Hearing to recalculate the allowable increase.

For more information on the moratorium, please visit our website at [www.oaklandca.gov/rap](http://www.oaklandca.gov/rap) or email us at [rap@oaklandca.gov](mailto:rap@oaklandca.gov).

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<sup>1</sup> The City Council changed the maximum rent increase from 10 percent to align with the allowable increase under state law, the Tenant Protection Act of 2019 (TPA). The current TPA maximum is 8.8% until July 31, 2022.

**PROOF OF SERVICE**  
**Case Number L20-0071**

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

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

**Documents Included**

Hearing Decision  
Decision Summary  
Notice Re: Rent Increase Mortorium

**Manager**

Bay Property Group  
482 W MacArthur Blvd  
Oakland, CA 94609

**Owner**

HERTZEL ENTERPRISES LLC Bay Property Group  
482 W MacArthur Blvd.  
Oakland, CA 94609

**Owner Representative**

Kimberly Roehn, Law Offices of Kimberly Roehn  
1954 Mountan Blvd. Suite 13125  
Oakland, CA 94661

**Tenant**

Andrea Breon  
232 29TH ST Unit 16  
Oakland, CA 94611

**Tenant**

Ann Canann  
232 29TH ST Unit 08  
Oakland, CA 94611

**Tenant**

Arielle Peet  
232 29TH ST 26  
Oakland, CA 94611

**000166**

**Tenant**

Christopher Goldman  
232 29TH ST Unit 11  
Oakland, CA 94611

**Tenant**

Christopher Juan  
232 29TH ST Unit 05  
Oakland, CA 94611

**Tenant**

Eman Haggag  
232 29TH ST Unit 22  
Oakland, CA 94611

**Tenant**

Eugene Kang  
232 29TH ST Unit 02  
Oakland, CA 94611

**Tenant**

Fitsum Chiffa  
232 29TH ST Unit 24  
Oakland, CA 94611

**Tenant**

Graham Brown  
232 29TH ST Unit 10  
Oakland, CA 94611

**Tenant**

Gregory Kouri  
232 29TH ST Unit 03  
Oakland, CA 94611

**Tenant**

Jeremy Sweeney  
232 29TH ST Unit 09  
Oakland, CA 94611

**Tenant**

Khary Moyer  
232 29TH ST Unit 04  
Oakland, CA 94611

**Tenant**

Marilyn Fontenrose  
232 29TH ST Unit 25

Oakland, CA 94611

**Tenant**

Martin Brown  
232 29TH ST Unit 20  
Oakland, CA 94611

**Tenant**

Mitchell Colbert  
232 29TH ST Unit 23  
Oakland, CA 94611

**Tenant**

Neda Tafreshi  
232 29TH ST Unit 14  
Oakland, CA 94611

**Tenant**

Paolo Maloles  
232 29TH ST Unit 17  
Oakland, CA 94611

**Tenant**

RESIDENT  
232 29TH ST Unit 06  
Oakland, CA 94611

**Tenant**

RESIDENT RESIDENT  
232 29TH ST Unit 19  
Oakland, CA 94611

**Tenant**

Rajini Subramanian  
232 29TH ST Unit 07  
Oakland, CA 94611

**Tenant**

Sangodogbon Akinsoga  
232 29TH ST Unit 15  
Oakland, CA 94611

**Tenant**

Sarah Mallas  
232 29TH ST Unit 18  
Oakland, CA 94611

**Tenant**

Shauna Kimball  
232 29TH ST Unit 12  
Oakland, CA 94611

**Tenant**

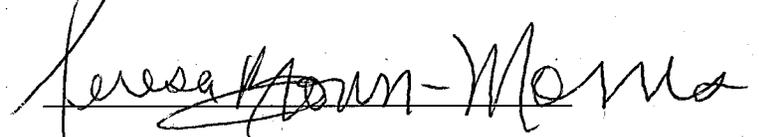
Thomas Stewart  
232 29TH ST Unit 21  
Oakland, CA 94611

**Tenant**

William Jones  
232 29TH ST Unit 01  
Oakland, CA 94611

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **August 05, 2021** in Oakland, CA.



Teresa Brown-Morris

Oakland Rent Adjustment Program

 <b>CITY OF OAKLAND</b> <b>RENT ADJUSTMENT PROGRAM</b> 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp.
	<b><u>APPEAL</u></b>

<b>Appellant's Name</b> Sarah Mallas		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
<b>Property Address (Include Unit Number)</b> 232 29th St Apt 18 Oakland CA 94611			
<b>Appellant's Mailing Address (For receipt of notices)</b> 232 29th St Apt 18 Oakland CA 94611		<b>Case Number</b> L20-0071	
		<b>Date of Decision appealed</b> August 4, 2021	
<b>Name of Representative (if any)</b> N/A		<b>Representative's Mailing Address (For notices)</b> N/A	

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

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

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

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

Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: 4.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •  
 I declare under penalty of perjury under the laws of the State of California that on August 13, 2021, 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>	Bay Property & Hertzler Enterprises LLC
<u>Address</u>	482 W MacArthur Blvd
<u>City, State Zip</u>	Oakland, CA 94609
<u>Name</u>	Kimberly Roenn, Roenn Law Offices, LLP
<u>Address</u>	1990 N. California Blvd Suite 800
<u>City, State Zip</u>	Walnut Creek, CA 94596

<u>Sarah Mallas</u>	<u>8/13/21</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

August 11, 2021

Hello,

I am submitting an appeal to the hearing decision in the case of Hertzell Enterprises LLC v. Tenants, case number L20-0071. This hearing occurred on June 8, 2021, the date of the decision was August 4th 2021. Hearing Officer Marguerita Fa-Kaji granted the owner's petition for a rent increase on the grounds of capital improvement expenditures.

The hearing decision excludes tenant Morales (unit 17) as he moved in after the work was completed. The decision states on page 8, "conceivably, the cost of the re-roofing and the painting could have been factored into the initial rent he was charged". Recently there have been multiple units in the building comparable to mine posted on the Bay Property vacancies web page for \$1700, including a one month free concession. Currently, unit 21 is posted on their site at this rate, the other postings have been rented. It would logically follow that the rate of \$1700 being offered to new tenants also has the re-roofing and painting cost factored in.

I signed a new one year lease for my unit, effective July 1, 2021, adjusting my rent to match the amount those units were advertised for. I was not allowed the one month free concession. (Which, at \$1700 is equal to 42 months, or 3.5 years, of payments of the \$40.11 monthly rent increase being asked of me). I am requesting exclusion from this rent increase as the amortized cost of the painting and re-roofing has presumably already been included in my current rate, same as the new tenants in comparable units at matched rental rates.

Kind regards,

Sarah Mallas

232 29th St. #18  
Oakland, CA 94611

**000172**

**RENEWAL LEASE AGREEMENT**THIS AGREEMENT between Bay Property Group "Landlord",

(Name of Landlord)

and Sarah Malias "Resident"

(List all Residents who will sign this Agreement)

is effective when fully executed by all parties.

## THE PARTIES AGREE AS FOLLOWS:

1. **RENTAL UNIT:** Subject to the terms and conditions of this Agreement, Landlord rents to Resident and Resident rents from Landlord for residential use only, the premises located at:

232 29th Street Unit # (if applicable), 1B  
 (Street Address)

Oakland CA, 94609  
 (City) (Zip)

2. **AB 1482 DISCLOSURES:**

- (a)
- 
- Separately Alienable From Any Other Dwelling Unit:**

This property is not subject to the rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12(d)(5) and 1946.2(e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.

- (b)
- 
- This Unit's AB 1482 New Construction Exemption May Expire During This Tenancy:**
- AB 1482 exempts housing that has been issued a certificate of occupancy within the last 15 years.

The following disclosure is effective \_\_\_\_\_  
 (Date)

California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.

- (c)
- 
- Subject to AB 1482 rent caps and just cause as provided in Civil Code Section 1946.2 and 1947.12. The following disclosure is required by law.**

California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.



3. **TERM:** The term of this Agreement is for 12 months, beginning on 6/1/2021 and ending on 5/31/2022  
(Term) (Date) (Date)

at which time this Lease shall terminate without further notice. Any holding over by the Resident after termination shall entitle the Landlord to initiate legal proceedings to recover possession of the premises. A "month-to-month" tenancy subject to the terms and conditions of this agreement shall be created only if Landlord accepts rent from Resident thereafter, and if so accepted, tenancy may be terminated by Resident after service upon the Landlord of a written 30-day notice of termination. Except as prohibited by law, that month-to-month tenancy may be terminated by the Landlord by service upon the Resident of a written 60-day notice of termination. However, Civil Code Section 1946.1 provides that "if any tenant or resident has resided in the dwelling for less than one year", the Landlord may terminate the tenancy by service upon the Resident of a written 30-day notice.

**For units subject to AB 1482 just cause,** Civil Code 1946.2(a) provides that "after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied: (1) all of the tenants have continuously and lawfully occupied the residential real property for 12 months or more, or (2) one or more tenants have continuously and lawfully occupied the residential real property for 24 months or more."

**For units subject to just cause under state law,** "just cause" to terminate the tenancy includes termination "if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property."

4. **RENT:** Rent is due in advance on the 1st day of each and every month, at \$ 1,700.00 per month.

**(a) Payment Methods for Rent and Other Amounts Due under This Agreement**

Payments made in person may be delivered between the hours of 9:30 AM and 5:00 PM on the following days of

the week:  Monday  Tuesday  Wednesday  Thursday  Friday  Saturday  Sunday  Other: Online and Mail

Acceptable methods of payment:

Personal Check  Cashier's Check  Money Order  EFT/Credit Card (see Landlord for details) and  Cash

**(b) Rent Payee and Location**

Rent is to be paid to Bay Property Group  
(Name to whom rent payment should be made)

and is to be delivered to Bay Property Group  
(Name to whom rent should be delivered)

at 462 W. MacArthur Blvd, Oakland, CA 94609  
(Address where payments should be delivered)

Telephone number for above address: (510) 836-0110

(Continued on Next Page)



RENT  
**\$1,700**

Available **NOW**



1 bed



1 bath



700 sqft.

Apply Now

Contact Us

### Terms

- Rent: \$1,700
- Application Fee: \$35
- Security Deposit: \$1,000

Print this page

Terms of Service

## 232 29th St., #21, Oakland, CA 94611

Spacious & Sunny 1BD w/ Parking Garage Nearby BART & Whole Foods

1 Month Free Concession

232 29th St., Unit #21, Oakland, CA 94611

Property Type: Apartment

Rent: \$1,700.00

Deposit: \$1,000.00

Bedrooms: 1

Bathrooms: 1

Parking: 1 Car Garage included

Pets Policy: No Pets Allowed

Lease Duration: 1 Year

Availability: Now

### DESCRIPTION

This bright and spacious apartment is located in a quiet and secure building. This renovated unit has new carpet, paint, bathroom flooring, shower and tub, sink and vanity, ceiling fan, and kitchen counter tops. This studio also features a walk in closet with ample space. The property is centrally located between Piedmont and Adams point, within walking distance to Whole Foods, 19th Street BART Station, and access to 580 Fwy.

### RENTAL FEATURES

- Living room
- Lots of Natural Light
- Dining area

**000175**

*CITY OF OAKLAND RENT ADJUSTMENT PROGRAM*

*Case Name: Hertzel Enterprises LLC v. Tenants*

*Case No.: L20-0071*

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**OWNER RESPONSE TO TENANT APPEAL**

Owner/Respondent Hertzel Enterprises LLC (hereinafter “the owner”) files the following response to tenant Sarah Mallas’ appeal in Rent Adjustment Program Case No. L20-0071, wherein the Hearing Officer granted the owner’s Petition for Capital Improvement Pass-Through in full. The owner respectfully requests that the Appeal Board uphold the Hearing Decision in its entirety.

**I. SUMMARY OF THE PROCEEDINGS**

The owner of 232 29<sup>th</sup> Street filed the Petition for Capital Improvement Pass-Through on June 24, 2020; several tenants (not including Ms. Mallas) filed responses and objections.

The hearing was held on June 8, 2021 and proceeded for approximately 1.5 hours. Six tenants, including Ms. Mallas, were in attendance; each party present was given an opportunity to present his or her facts and arguments in full.

On August 4, 2021, the Hearing Officer issued a detailed written decision granting the owner’s petition in its entirety.

Ms. Mallas now appeals. Her request does not challenge Hearing Officer’s findings. Instead, she bases her appeal on new facts and arguments that were not presented to the hearing officer, which is plainly improper. Additionally, Ms. Mallas’ appeal contains dishonest representations regarding her subsequently negotiated rent reduction which was conditioned upon her agreement to be subject to this capital improvement increase. Finally, Ms. Mallas asks this Appeal Board to determine facts which are not relevant to the findings required by the Oakland Municipal Code and Regulations for an owner pass-through. The owner objects to the appeal and requests the underlying decision be upheld.

**II. STANDARD OF REVIEW**

As the appellant, Ms. Mallas has the burden of proving her case on appeal.

The standard of review is determined based on the grounds of the appeal; however, the grounds of this appeal and their legal relevance are unclear. Ms. Mallas does not dispute any evidence or fact that was before the Hearing Officer, the sufficiency of the evidence, the Hearing Officer’s findings, nor the application of the law. She is not alleging any error in the record.

Instead, Ms. Mallas offers a novel theory regarding the appropriateness of her rent increase, citing one line of dictum from the hearing decision and applying new argument and facts which were not presented to the Hearing Officer. Ultimately, it seems Ms. Mallas’ position is that the Hearing Officer should have used her discretion (based on evidence and argument not offered) to exempt her unit from the rent increase *regardless* of the fact that the owner met all applicable legal requirements to prevail.

*CITY OF OAKLAND RENT ADJUSTMENT PROGRAM*

*Case Name: Hertzell Enterprises LLC v. Tenants*

*Case No.: L20-0071*

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Given that the appeal lacks any admissible evidence or valid request, it should be dismissed at the outset without applying any standard of review.

Should any assessment of the Hearing Officer's analysis and findings be performed, the "abuse of discretion" standard applies.

Under the "abuse of discretion" standard, a great amount of deference is given to the Hearing Officer's decision. As long as the court acts within the "bounds of reason," the court does not abuse its discretion. (*People v. Preyer* (1985) 164 Cal.App.3d 568, 573.) Reversal is only justified where the hearing officer made a discretionary decision in plain error, exercised discretion that was not justified by the evidence, or made a judgment that is clearly against the facts. Abuse of discretion may also be found when the lower court rests its decision on a clearly erroneous finding of fact, rules in an irrational manner or makes a clear error of law. In short, reversal is appropriate *only* where the Hearing Officer's findings are "arbitrary or absurd." (See California Courts website, available at <https://www.courts.ca.gov/12431.htm?rdeLocaleAttr=en>.)

### III. DISCUSSION

Ms. Mallas states her appeal is based on one sentence of dictum<sup>1</sup> contained in the Hearing Decision. In confirming the tenant in Unit 17 is exempt from the increase because he moved in *after* the capital improvement work was completed, the Hearing Officer remarked that: "*Conceivably, the cost of the re-roofing and the painting could have been factored into the initial rent he was charged.*" (See Hearing Decision, page 8.)

Ms. Mallas undisputedly moved into her unit in 2014. Nevertheless, she cites this comment to suggest that she, too, should be exempt from the increase based on:

- 1) the owner's recent accommodation of her request for a rent reduction and accompanying lease renewal on June 1, 2021, and
- 2) recent marketing promotions and rent amounts being offered to *prospective* tenants.

The hearing officer's ruling was sound and based on valid evidence, law, and reasoning. For the reasons discussed below, the appeal fails on several grounds.

- a. From the outset, the appeal cannot proceed because it is based entirely on new facts and arguments which are inadmissible and improper to consider.**

**It is settled law that appellants may not present new evidence on appeal.** The Appeal Board's role is to examine the hearing officer's findings and the evidence that is **already in the record.** (*Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 738.; *Foreman*, 3 Cal. 3d at 881; see also *Rent Adjustment Program's Landlord's Guide to Rent Adjustment* which states the tenants

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<sup>1</sup> Dictum is defined as "a remark, statement, or observation of a judge that is not a necessary part of the legal reasoning needed to reach the decision in a case. Although dictum may be cited in a legal argument, it is not binding as legal precedent, meaning that other courts are not required to accept it." See Nolo Legal Dictionary, available at <https://www.nolo.com/dictionary/dictum-term.html>.

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*Case No.: L20-0071*

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“are responsible for making sure that a sufficient record (not new evidence) is before the Board to support [their] position.”)

Ms. Mallas’ appeal **is entirely reliant** on facts and evidence that were not presented to the Hearing Officer.

Specifically, Ms. Mallas provides evidence of a current advertisement on the property management company’s website showing a rent promotion for new tenants; she also provides her (incomplete) lease documents dated June 1, 2021, which were executed after she requested a courtesy rent reduction from the owners. Ms. Mallas uses these documents to speculate, without context or support, that if her current monthly rent amount is acceptable to the owners, then they must not really “need” to implement the increase.

Regardless of the falsity of her presumption (which is discussed below), neither the evidence nor argument were presented to the Hearing Officer, so they are inadmissible on appeal. Therefore, it would be improper for this Appeal Board to consider any of Ms. Mallas’ request.

**b. Ms. Mallas recently negotiated a rent reduction and expressly agreed that the pending capital improvement increase would apply to her.**

As stated above, Ms. Mallas recently requested a rent reduction from the owners. Given the unprecedented and difficult circumstances caused by the COVID-19 pandemic, the owner agreed in good faith to reduce Ms. Mallas’ rent.

**What Ms. Mallas fails to mention in her appeal is that in those negotiations, she requested to be exempted from the pending capital improvement pass-through case, but the owner declined. Ultimately, she accepted the rent reduction on the express condition that she would still be subject to pending capital improvement increase petition.** (See emails attached as Owner’s Exhibit 1.)

For Ms. Mallas to omit this critical information and attempt to use the Appeal Board to obfuscate her prior negotiations is dishonest and improper. Ms. Mallas is bound by the Hearing Decision, and should she continue to use these proceedings to circumvent the terms of her rent reduction, the owner would be entitled to rescind the reduction and reinstate the prior rent based on her breach.

**c. Ms. Mallas is a proper recipient of the rent increase under the Oakland Municipal Code and Regulations.**

The Oakland Municipal Code and Regulations define the requirements to gain approval to rent based on capital improvement expenditures. These requirements are described in detail in the Hearing Decision at pages 5-6 (citing Regulations Appendix A § 10.2, 10.2.2(1), 10.2.2(4)(a)-(b).); O.M.C. § 8.22.10(B)). Included are the main requirements that the improvements:

- materially add to the value of the property,
- prolong its useful life or adapt it to new building codes,

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

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Case No.: L20-0071

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- primarily benefit the Tenant rather than the Owner.

If a Rent Adjustment Program Hearing Officer determines owner has met and proven all requirements, an approval for rent increase will be granted as to the tenants who resided at the property before the improvement work was completed. It is undisputed that new tenants are not subject to the increase because an owner may set their rent at an amount deemed to be appropriate based not only on the capital improvements, but on *all* conditions and circumstances that exist at the start of occupancy.

In this case, the owner presented evidence of re-roof and exterior painting projects in 2018. The Hearing Officer made specific findings that the owner met all necessary code/regulation requirements for each project and that no evidence was presented that make the improvements ineligible for approval.

There is no dispute that the owner met all code requirements in the capital improvement case. There is also no dispute that Ms. Mallas' move-in date was 9/1/2014.

Therefore, Ms. Mallas is subject to the increase. Her attempt to find a way to avoid the increase would require the Appeal Board to create an entirely new analysis that simply have no basis in or relevance to the code.

**d. The current rent, market prices, promotions, and marketing strategy of the owner's property management company are irrelevant to this case.**

Ms. Mallas is requesting that the Appeal Board read entirely new considerations into the regulations which are neither appropriate, relevant, nor reasonable.

Specifically, she is suggesting that Hearing Officers *should* be considering:

- Appropriate market rent rates for units at the subject property at the time the Hearing Decision is being written (not even at the time the improvements were being performed) *and weighed against* the allowable amount of increase;
- Owners' marketing strategies including pricing promotions offered to prospective tenants to limit increases that would otherwise be approved; and
- Whether an owner "needs" the increase.

These considerations are simply *not contemplated or required*, to any degree, by the current code and/or regulations.

They are also *entirely irrelevant*: the marketing strategy to attract new tenants has absolutely nothing to do with whether the improvement work was performed and whether the existing tenants are benefitting from it. Markets rise and fall—as we continue to witness in the COVID-era—but these conditions have no impact on an owner's statutory right to seek a rent increase based on capital improvement expenditures.

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In addition to being irrelevant, these considerations are **highly subjective** and would be impossible to standardize. For example, a Hearing Officer simply is not in the position to evaluate an owner's "need" to implement a rent increase, as doing so would require findings as to the owner's financial situation, personal circumstances, debts, goals, priorities, etc. In essence, the level of discretion that would be required for these considerations would lead to outcomes that are unpredictable, highly variable, and likely to be challenged.

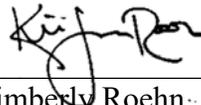
Another practical impossibility of these considerations is that they would require the Hearing Officer to perform a level of **investigation** that is extremely unrealistic in these types of cases. For example, to evaluate market rent for specific units, an expert would need to perform a market analysis for the area, a market forecast, analyze market rent at comparable buildings, evaluate the condition of the subject unit and building, etc., which the hearing officer would then make findings on. These matters would be so slow and expensive that their value and utility would be eliminated.

**IV. CONCLUSION**

Based on the foregoing, the appeal is meritless and improper. The Hearing Officer performed a proper analysis and made sound findings of fact in approving the owner's requests. The appeal contains no admissible, relevant, or proper grounds, and Ms. Mallas explicitly negotiated a rent reduction which was conditioned on her agreeing that this increase shall apply to her. Accordingly, the owner respectfully requests that the Appeal Board affirm the Hearing Officer's decision on the owner's Petition for Capital Improvement Pass-Through.

Dated: September 30, 2021

Respectfully submitted,



---

Kimberly Roehn  
Attorney for Owner/Respondent  
HERTZEL ENTERPRISES LLC

**OWNER'S EXHIBIT 1**

---

**From:** Sarah Mallas <sarahmallas@gmail.com>  
**Sent:** Friday, May 28, 2021 1:38 PM  
**To:** Vickie Lazio  
**Subject:** Re: Market rate rent adjustment

Hi Vicki,

My apologies for not responding yesterday, I was hosting a training at work for the last two days and it's been quite hectic.

I do see the document you sent through docusign, I'm still hoping talk to you before I sign it. I'll be able to pick up my phone for the rest of they, if you have a moment to call me back.

Best,  
Sarah Mallas

> On May 27, 2021, at 10:51 AM, Vickie Lazio <vickie@baypropertygroup.com> wrote:

>

> Hi Sarah,

>

> Are you free for a call now? If so, what is the best number to reach you?

>

> Vickie Lazio

> Portfolio Manager - Bay Property Group Corporate CALDRE #01517095

>

> vickie@baypropertygroup.com

> Main: 510-836-0110 x1017

> Fax: 510-836-0660

>

> Corporate Office: 482 W. MacArthur Blvd. Oakland, CA 94609 San

> Francisco: 507 Polk St. Suite 310, San Francisco, CA 94102 Multiple

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>

> "2013 Property Management Company of the Year" from EBRHA

>

> -----Original Message-----

> From: Sarah Mallas <sarahmallas@gmail.com>

> Sent: Wednesday, May 26, 2021 4:04 PM

> To: Vickie Lazio <vickie@baypropertygroup.com>

> Subject: Re: Market rate rent adjustment

>  
> Thanks, Vicki! I look forward to talking tomorrow.  
>  
> Have a nice evening.  
>  
>  
> Best,  
> Sarah  
>  
>  
>  
>> On May 26, 2021, at 2:52 PM, Vickie Lazio <[vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)> wrote:  
>>  
>> Hi Sarah,  
>>  
>> That's wonderful, I will send your renewal via DocuSign for your signature.  
>>  
>> I'm working remote today so I'm not available by phone, but I can give you a call from the office tomorrow.  
>>  
>> Thanks,  
>>  
>> Vickie Lazio  
>> Portfolio Manager  
>> Bay Property Group  
>> Corporate CAL BRE #01517095  
>>  
>> [vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)  
>> Main: (510) 836-0110 x1017  
>> Fax: (510) 836-0660  
>>  
>> Corporate Office: 482 W. MacArthur Blvd. Oakland, CA 94609 San  
>> Francisco: 507 Polk St. Suite 310, San Francisco, CA 94102 Multiple  
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>>  
>> "2013 Property Management Company of the Year" from EBRHA  
>>  
>> -----Original Message-----  
>> From: Sarah Mallas <[sarahmallas@gmail.com](mailto:sarahmallas@gmail.com)>  
>> Sent: Wednesday, May 26, 2021 2:39 PM  
>> To: Vickie Lazio <[vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)>  
>> Subject: Re: Market rate rent adjustment  
>>  
>> Hi Vickie,  
>>  
>> Yes please, I'd like to sign a new lease at the reduced rate of \$1700.  
>>

>> I left a VM for you today as well, I had one more thing to ask. Could you call me back at a convenient time for you?  
>>  
>> Thanks so much!  
>>  
>>  
>> Best,  
>> Sarah  
>>  
>>  
>>  
>>> On May 24, 2021, at 11:02 AM, Vickie Lazio <[vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)> wrote:  
>>>  
>>> Hello Sarah,  
>>>  
>>> Thank you for your reply. I've spoken to the owner and we can grant your request for the reduction to \$1,700 with a 12-month lease. **However, you will not be exempt from the capital improvement pass-through.** Please let me know if you would like me to draft your new lease.  
>>>  
>>> Regards,  
>>>  
>>> Vickie Lazio  
>>> Portfolio Manager - Bay Property Group Corporate CALDRE #01517095  
>>>  
>>> [vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)  
>>> Main: 510-836-0110 x1017  
>>> Fax: 510-836-0660  
>>>  
>>> Corporate Office: 482 W. MacArthur Blvd. Oakland, CA 94609 San  
>>> Francisco: 507 Polk St. Suite 310, San Francisco, CA 94102 Multiple  
>>> Bay Area Locations to Serve You  
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>>> Follow on: Facebook | Twitter | LinkedIn | Youtube  
>>> [www.baypropertygroup.com](http://www.baypropertygroup.com) | Search for New Rental Listings  
>>>  
>>>  
>>> "2013 Property Management Company of the Year" from EBRHA  
>>>  
>>> -----Original Message-----  
>>> From: Sarah Mallas <[sarahmallas@gmail.com](mailto:sarahmallas@gmail.com)>  
>>> Sent: Sunday, May 23, 2021 3:58 PM  
>>> To: Vickie Lazio <[vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)>  
>>> Subject: Re: Market rate rent adjustment  
>>>  
>>> Hi Vicki,  
>>>  
>>> There were two comparable units listed at \$1700 at the time of my request. There is now only one posted, so I assume the other was rented at that price. I'd like to re-request reducing to \$1700 as that was market rate when I submitted my request, and there is still a unit posted at that rate.  
>>>

>>> With the signing a new lease **would also like to be omitted form the capital gains pass-through the building owner initiated a hearing for.**

>>>

>>> If that is agreeable, I'd be happy to sign a new lease this week.

>>>

>>>

>>> Kind regards,

>>> Sarah Mallas

>>>

>>>

>>>

>>>> On May 21, 2021, at 1:10 PM, Vickie Lazio <[vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)> wrote:

>>>>

>>>> Hello Sarah,

>>>>

>>>> Happy Friday! Apologies for my delayed response.

>>>>

>>>> I have reviewed your request with the owner and although the one comparable unit advertised is \$1,700 rental rates in that area are slowly increasing. However, as a valued tenant we would like to offer a rent reduction to \$1,800 with a new one year lease.

>>>>

>>>> Please let me know if you would like to accept this offer.

>>>>

>>>> Thanks,

>>>>

>>>> Vickie Lazio

>>>> Portfolio Manager

>>>> Bay Property Group

>>>> Corporate CAL BRE #01517095

>>>>

>>>> [vickie@baypropertygroup.com](mailto:vickie@baypropertygroup.com)

>>>> Main: (510) 836-0110 x1017

>>>> Fax: (510) 836-0660

>>>>

>>>> Corporate Office: 482 W. MacArthur Blvd. Oakland, CA 94609 San

>>>> Francisco: 507 Polk St. Suite 310, San Francisco, CA 94102 Multiple

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>>>>

>>>> "2013 Property Management Company of the Year" from EBRHA

>>>>

>>>> -----Original Message-----

>>>> From: Vickie Lazio

>>>> Sent: Wednesday, April 28, 2021 12:39 PM

>>>> To: Sarah Mallas <[sarahmallas@gmail.com](mailto:sarahmallas@gmail.com)>

>>>> Subject: RE: Market rate rent adjustment

>>>>

>>>> Hello Sarah,  
>>>>  
>>>> Thank you for your message. I'm happy to bring your request to the owner, if approved it will require signing a new one year lease.  
>>>>  
>>>> I'll follow up as soon as possible.  
>>>>  
>>>> Regards,  
>>>>  
>>>> Vickie Lazio  
>>>> Portfolio Manager  
>>>> Bay Property Group  
>>>> Corporate CAL BRE #01517095  
>>>>  
>>>> vickie@baypropertygroup.com  
>>>> Main: (510) 836-0110 x1017  
>>>> Fax: (510) 836-0660  
>>>>  
>>>> Corporate Office: 482 W. MacArthur Blvd. Oakland, CA 94609 San  
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>>>> www.baypropertygroup.com | Search for New Rental Listings  
>>>>  
>>>> "2013 Property Management Company of the Year" from EBRHA  
>>>>  
>>>>  
>>>> -----Original Message-----  
>>>> From: Sarah Mallas [mailto:sarahmallas@gmail.com]  
>>>> Sent: Wednesday, April 28, 2021 11:37 AM  
>>>> To: Vickie Lazio <vickie@baypropertygroup.com>  
>>>> Subject: Market rate rent adjustment  
>>>>  
>>>> Hi Vickie,  
>>>>  
>>>> I see on the Bay Property website in the vacancies listings 2 available units in my building, 232 29th St, Oakland. One is comparable to mine, 1 bedroom/1 bath with a parking spot. However, it is listed for \$195 less than what I currently pay.  
>>>>  
>>>> I'd like to request to have my rent adjusted to match this, as this seems be the current market value. Please advise.  
>>>>  
>>>> I look forward to your reply.  
>>>>  
>>>>  
>>>> Best,  
>>>> Sarah Mallas  
>>>>  
>>>> 232 29th St

>>>> #18

>>>

>>

>



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**PROOF OF SERVICE**

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

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

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

I served a copy of: OWNER RESPONSE TO TENANT APPEAL (Case No. L20-0071)  
(insert name of document served)  
 And Additional Documents

and (write number of attached pages) 11 attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- a. United States mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- b. Deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as listed below.
- c. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.

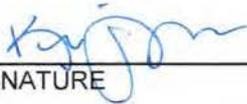
**PERSON(S) SERVED:**

Name	Sarah Mallas
Address	232 29th St., Apt. 18
City, State, Zip	Oakland, CA 94611

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and the documents were served on 9/30/2021 (insert date served).

Kimberly Roehn

\_\_\_\_\_  
PRINT YOUR NAME

  
\_\_\_\_\_  
SIGNATURE

9/30/2021  
DATE

## CHRONOLOGICAL CASE REPORT

Case No.: L19-0257

Case Name: Underwood v. Tenants

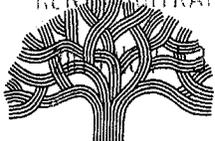
Property Address: 765 15th Street, Oakland, CA 94612

Parties: Vincent Underwood (Owner)  
Abigail Bracerros (Tenant)  
Michael Cohen (Tenant)

### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Property Owner Petition filed	November 13, 2019
Property Owner Submission	April 14, 2020
Property Tax Internet Copy	August 26, 2020
Property Tax Bill Photos	August 31, 2020
Property Tax Bill	September 1, 2020
Tenant Response filed	-----
Hearing Date	September 17, 2020
Hearing Decision mailed	September 22, 2021
Owner Appeal filed	October 7, 2021

49.02.17 KM/CC

 <p><b>CITY OF OAKLAND</b>  <b>RENT ADJUSTMENT PROGRAM</b>          250 Frank H. Ogawa Plaza, Suite 5313          Oakland, CA 94612-0243          (510) 238-3721</p>	<p>For date stamp.</p> <p align="center"><b><u>PROPERTY OWNER</u></b>  <b><u>PETITION</u></b>  <b><u>FOR CERTIFICATE OF</u></b>  <b><u>EXEMPTION</u></b>          (OMC §8.22.030.B)</p>
---	---

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

**Section 1. Basic Information**

Your Name <b>VINCENT RENALDE UNDERWOOD</b>		Complete Address (with zip code) <b>765 15<sup>th</sup> ST. OAKLAND CA 94612</b>	Telephone: <b>510 839-5370</b> Email: <b>VRUNDERWOOD@MGN.COM</b>
Your Representative's Name		Complete Address (with zip code)	Telephone:  E-Mail:
Property Address <b>765 15<sup>th</sup> ST., OAKLAND, CA 94612</b>		Total number of units in bldg or parcel. <b>3 UNITS</b>	
Type of units (circle one)	Single Family Residence (SFR)	Condominium	<u>Apartment or Room</u>
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No
Assessor's Parcel No. <b>3-77-35-4</b>			

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

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

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

**Single-Family or Condominium (Costa-Hawkins):** Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), please answer the following questions on a separate sheet:

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)? *NO*
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827? *NO*
3. Was the prior tenant evicted for cause? *NO*
4. Are there any outstanding violations of building, housing, fire, or safety codes in the unit or building? *NO*
5. Is the unit a single family dwelling or condominium that can be sold separately? *NO*
6. Did the current tenant have roommates when he/she moved in? *NO*
7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?
8. When did the tenant move into the unit? *767 15th ST. 2014, 763 15th ST. 2017*

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

<input checked="" type="checkbox"/>	New Construction
<input type="checkbox"/>	Single Family Residence or Condominium (Costa-Hawkins)

**Section 4. Verification Each petitioner must sign this section.**

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

*Vince R. Yn...*  
 Owner's Signature

*11/1/2019*  
 Date

\_\_\_\_\_  
 Owner's Signature

\_\_\_\_\_  
 Date

**Important Information**

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

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

#	Date	Street #	Street Name	Unit	Zip Code	Issued Re-issued Cancelled	Use	Owner / Applicant	Details	
									Corner Lot #	
250	11/12/14	767	15th Street		94612	Issued	Triplex	Vincent Underwood		
										APN: 003-0077-035-04
										Permit #: B9602765, RB1200947, RB1403341
										Other: add 3rd unit to duplex at 763-765 15th

I certify that this is a full, true and correct copy of the original document on file.

*C. Adams* *11-13-14*

Authorized Signature Date  
 CITY OF OAKLAND, CEDA  
 Building Services Division

Vincent R. Underwood  
765 15<sup>th</sup> Street  
Oakland, CA 94612  
(510) 839-5570

November 12, 2019

City of Oakland  
Rent Adjustment Program  
250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612-0243

RE: Property Owner Petition for Certificate of Exemption

I am filing for a Certificate of Exemption for my Property at 765 15<sup>th</sup> Street, Oakland, CA 94612. My house was built after January 1, 1983. This is a tri-plex House and I (owner) reside on the top unit. The 2 units below my unit was recently completed. 1-bedroom unit was completed in 2014 and the 2-bedroom unit in 2001. Below are the names and addresses of my tenants.

**Section 2. Tenants:**

Abigail Bracerros  
767 15<sup>th</sup> Street  
Oakland, CA 94612  
1-bedroom unit

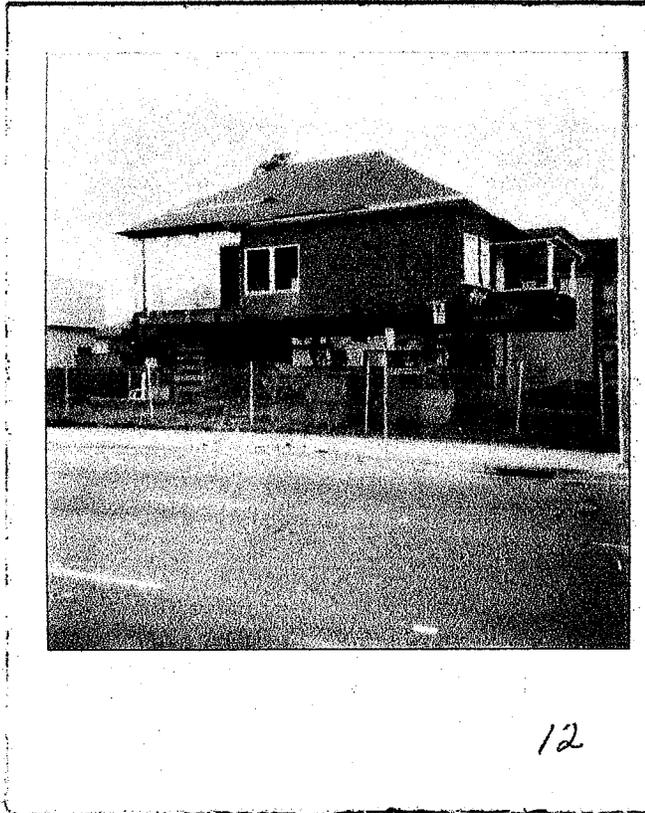
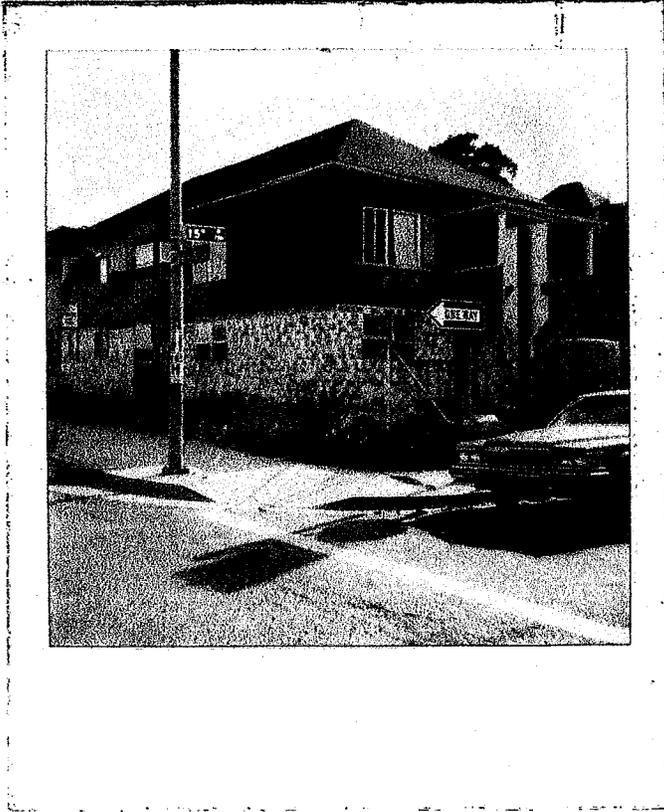
Michael Cohen  
763 15<sup>th</sup> Street  
Oakland, CA 94612  
2-bedroom unit

Sincerely,

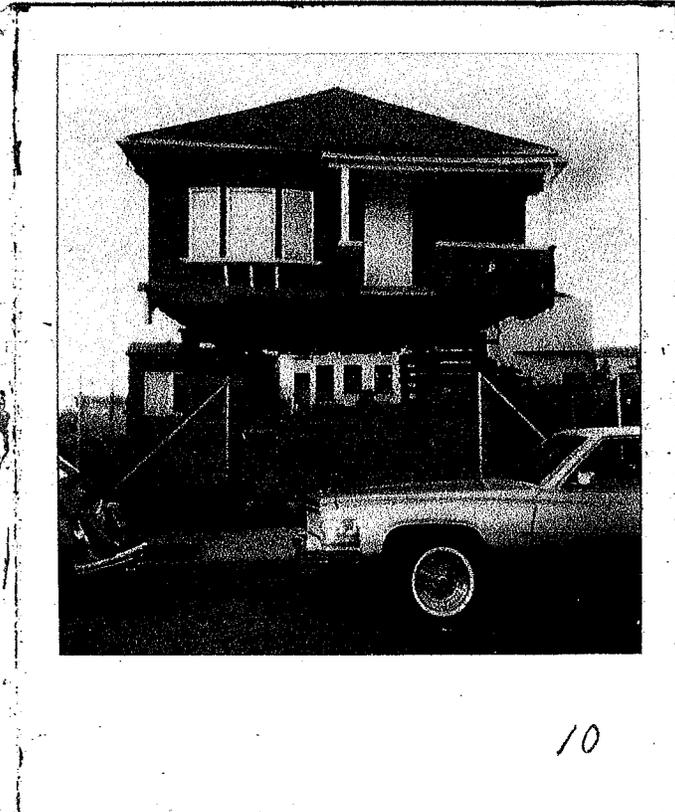


Vincent R. Underwood  
(510) 839-5570

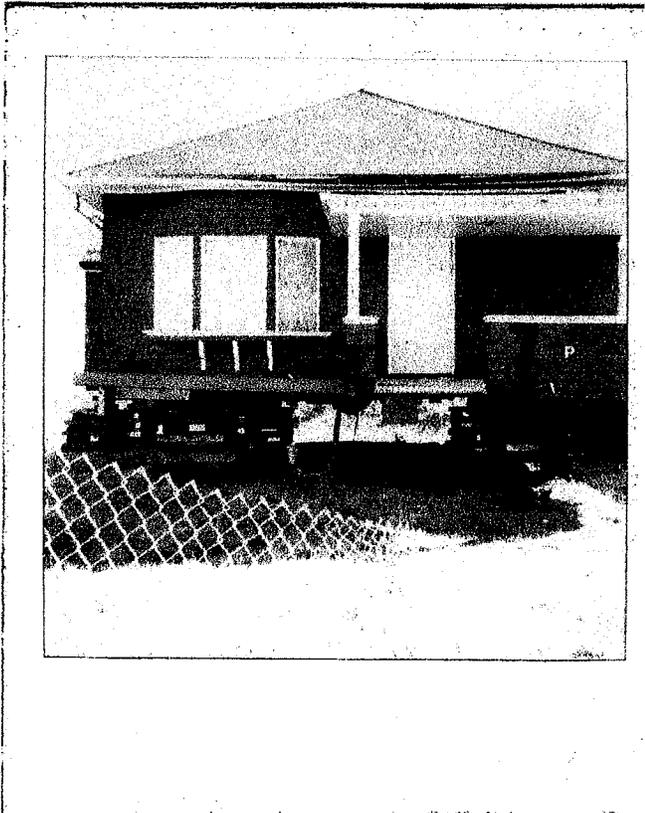
000193



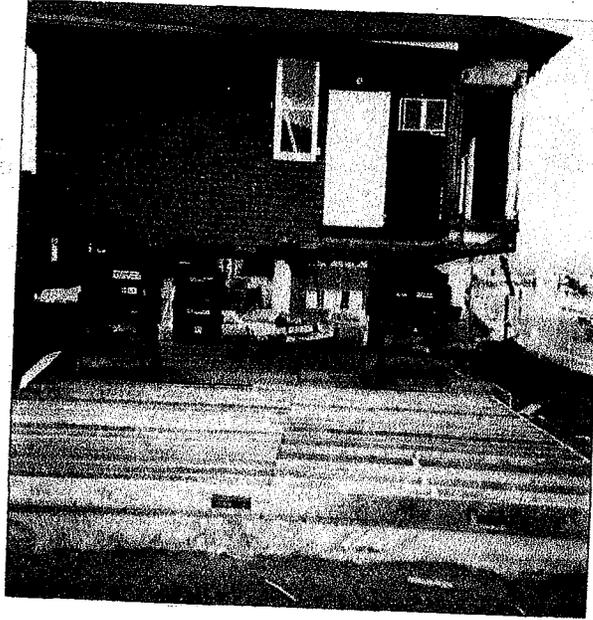
12



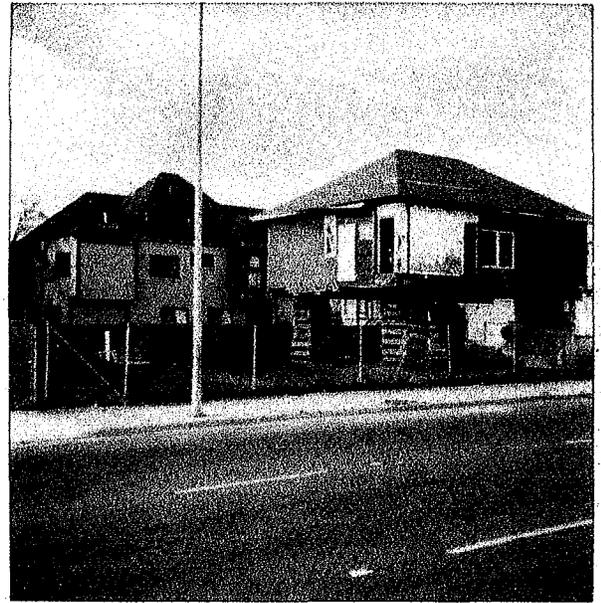
10



000194



21



14

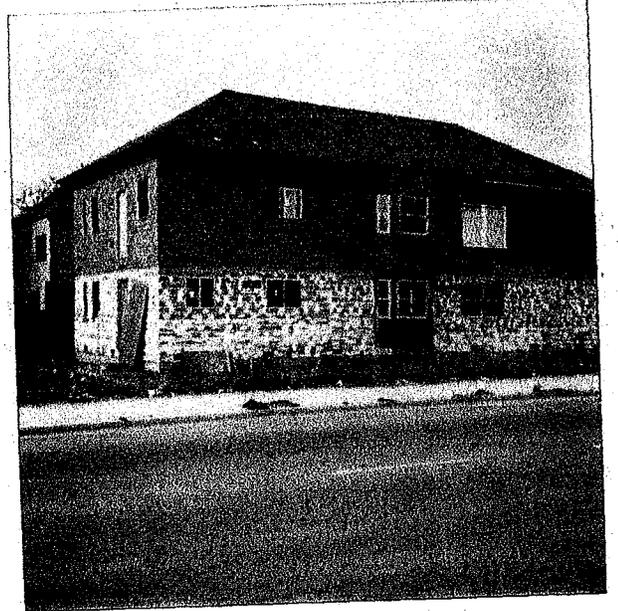
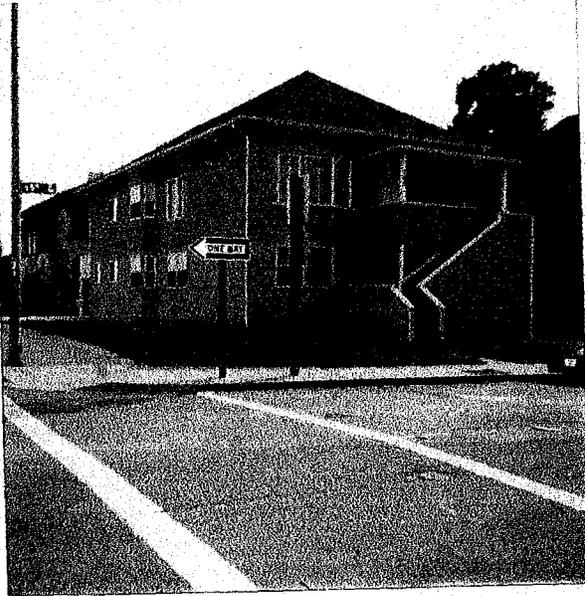


13



000195

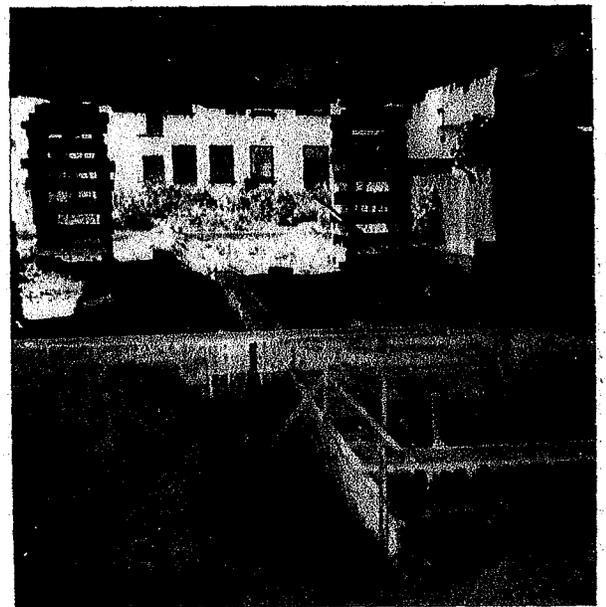
3



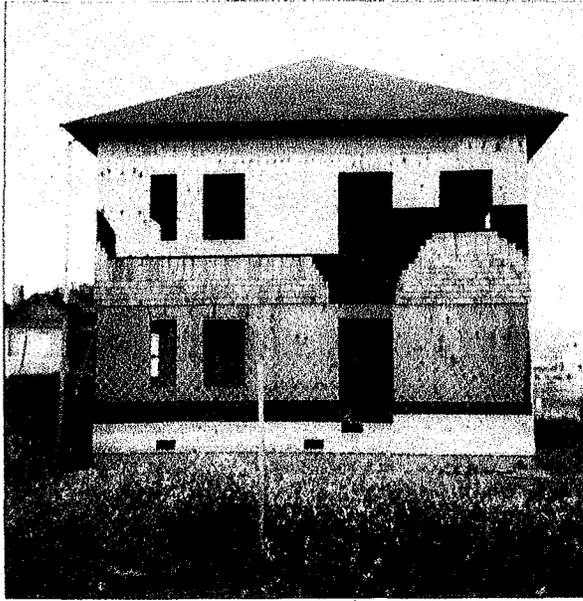
10/24/86



25

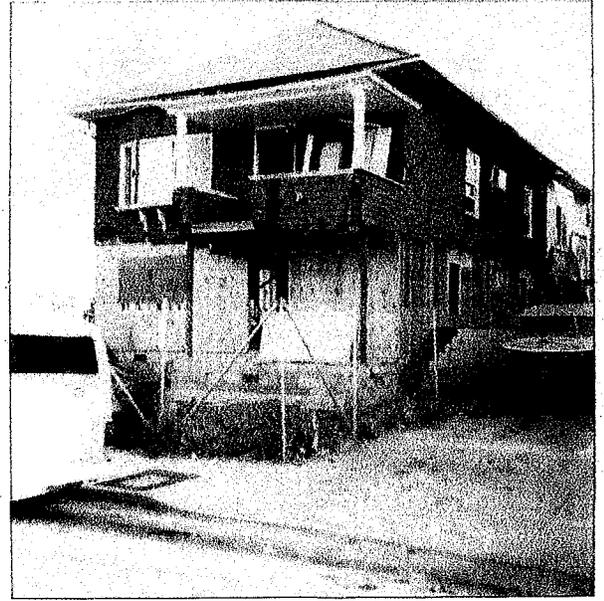


17



6/5/86

28D



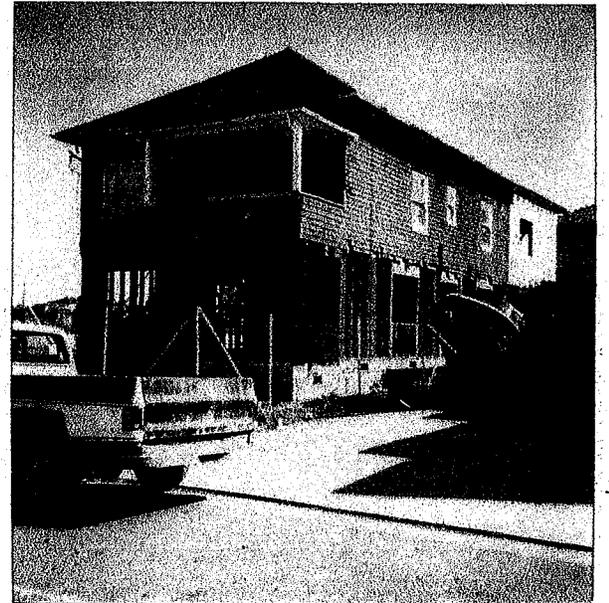
6/16/86

29D



6/5/86

31



5/10/86 000197 29A

RECEIVED

4/2/2020

Dear Reviewer: APR 14 2020

CASE # L19-0257

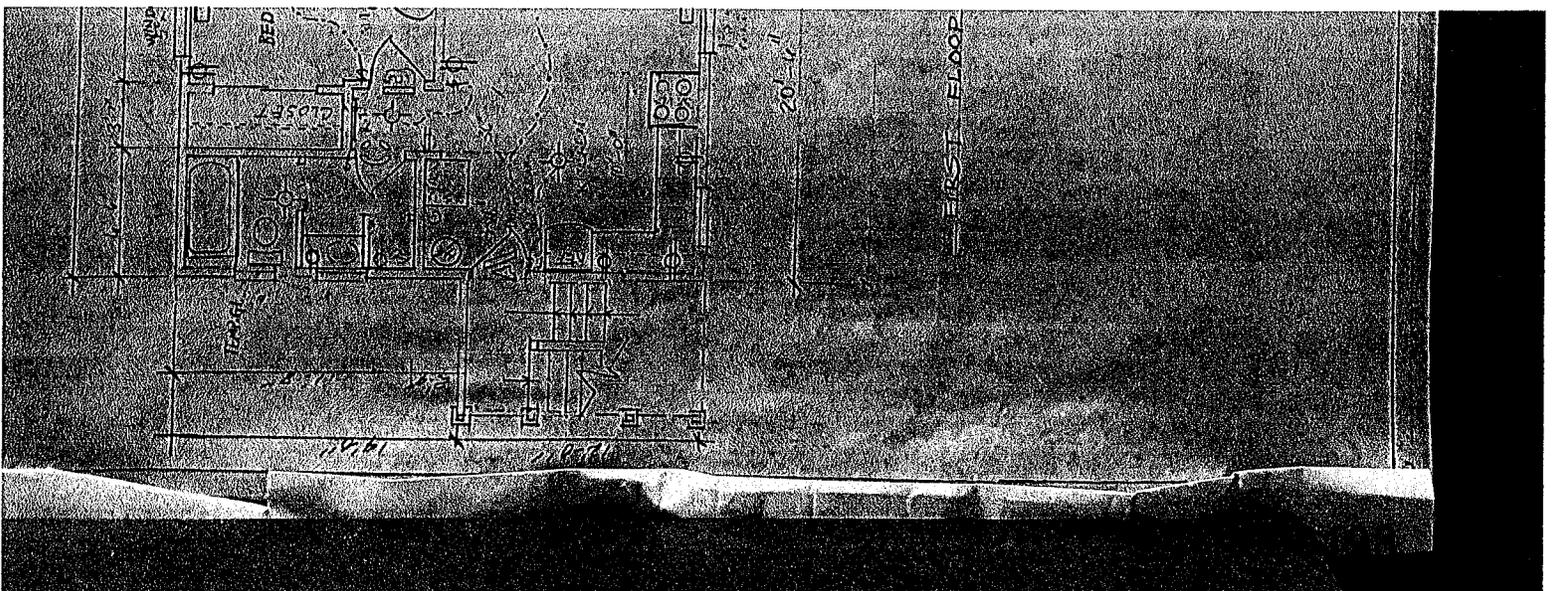
RENT ADJUSTMENT PROGRAM  
DAYS AME

The information provided proves, due to the date of my construction of my two Units 763 & 776 15th St. and the copies of the blue prints and to Certificate of Occupancy filed on 11/14/2014\* shows I am exempt from the Rent Adjustment Program. I am asking not to have to go to the hearing on 4/16/2020. Due to the virus I feel it would be best for a 72 year old man not to attend this hearing.

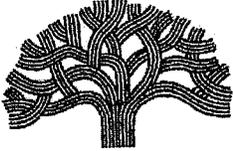
Vincent R. Underwood

PHONE (510) 839-5570

VINCENT R. UNDERWOOD



KEITH MASON



CITY OF OAKLAND

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

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

## NOTICE OF SETTLEMENT CONFERENCE AND HEARING

File Name: Underwood v. Tenants  
Property Address: 765 15th Street Oakland, CA 94612  
Case Number: L19-0257

The Hearing Officer will conduct a Settlement Conference to attempt to resolve this matter. The Settlement Conference in your case will begin on:

Date: April 16, 2020  
Time: 10:00 AM  
Place: 250 Frank H. Ogawa Plaza, Ste. #5313, Oakland, CA 94612

If the Settlement Conference is not successful, the Hearing will begin immediately after the Settlement Conference.

### Order to Produce Evidence

All proposed tangible evidence, including but not limited to documents and pictures, must be submitted to the Rent Adjustment Program not less than seven (7) days prior to the Hearing. Black out all sensitive information on the documents you submit, like bank or credit card account numbers and Social Security numbers. Proposed evidence presented later may be excluded from consideration. The Hearing Officer can also use the official records of the City of Oakland and Alameda County Tax Assessor as evidence if provided by the parties for consideration.

### Request to Change Date

A request for a change in the date or time of Settlement Conference and Hearing ("continuance") must be made on a form provided by the Rent Adjustment Program. The party requesting the continuance must try to get an agreement for alternate dates with the opposing parties. If an agreement cannot be reached, check the appropriate box on the form. A continuance will be granted only for good cause.

### Hearing Record

The Rent Adjustment Program makes an audio recording of the Hearing. Either party may bring a court reporter to record the hearing at their own expense. The Settlement Conference is not recorded. If the settlement is reached, the Hearing Officer will draft a Settlement Agreement to be signed by the parties.

### Inspections

During the Hearing, the Hearing Officer may decide to conduct an inspection of the subject unit(s). The inspection may be conducted on the same day as the Hearing or scheduled for a later date selected by the Hearing Officer or mutually agreed upon by the parties present at the Hearing. No testimony will be taken at the inspection.

000199







# 2019-2020 INTERNET COPY

For Fiscal Year Beginning July 1, 2019 and Ending June 30, 2020

## ALAMEDA COUNTY SECURED PROPERTY TAX STATEMENT

Henry C. Levy, Treasurer and Tax Collector  
1221 Oak Street, Room 131  
Oakland, California 94612

Parcel Number	Tracer Number	Tax-Rate Area	Special Handling
3-77-35-4	01457500	17-019	

Location of Property  
765 15TH ST, OAKLAND

Assessed to on January 1, 2019

ASSESSEE NAME AND ADDRESS ARE NOT AVAILABLE ONLINE  
PER CA GOV CODE §6254.21

### THIS IS NOT AN OFFICIAL BILL

Tax-Rate Breakdown		
Taxing Agency	Tax Rate	Tax Amount
COUNTYWIDE TAX	1.0000 %	2,371.79
VOTER APPROVED DEBT SERVICE:		
COUNTY GO BOND	0.0108 %	25.60
CITY OF OAKLAND 1	0.1975 %	468.43
SCHOOL UNIFIED	0.1168 %	277.03
SCHOOL COMM COLL	0.0257 %	60.96
BAY AREA RAPID TRANSIT	0.0120 %	28.46
EAST BAY REGIONAL PARK	0.0060 %	14.23
<b>TOTAL</b>	<b>1.3688 %</b>	<b>3,246.50</b>

#### Please Read Important Messages

A fee of \$61.00 will be imposed on all returned or dishonored payments.

ECheck accepted online through June 30, 2020  
@<http://www.acgov.org/propertytax/>.

Visa, Mastercard, Discover, or American Express credit cards accepted by phone (510)272-6800 or online @<http://www.acgov.org/propertytax/>, mobile @[www.acgov.org/mobile/apps/](http://www.acgov.org/mobile/apps/) through June 30, 2020. A convenience fee equal to 2.5% of the tax amount due will be added to your total payment.

Subscribe to receive email alerts about important property tax dates online @<http://www.acgov.org/propertytax/>.

This bill is as of August 26, 2020 3:25 PM and may not include pending payments and roll corrections.

#### Please See Reverse For More Information

Tax Collector's Office  
Payment Questions/Credit Card Payments  
(510) 272-6800

Assessor's Office  
Valuation/Exemption  
(510) 272-3787 (510) 272-3770

Description	Phone	Amount
MOSQUITO ABATEMENT	800-273-5167	3.50
CSA PARAMEDIC	925-867-3400	102.06
CSA VECTOR CONTROL	800-273-5167	14.40
CITY EMERG MEDICAL	510-238-2942	30.90
CITY PARAMEDIC SRV	510-238-2942	24.60
CSA LEAD ABATEMENT	510-567-8280	10.00
PERALTA CCD MEAS B	800-792-8021	48.00
VIOLENCE PREV TAX	510-238-2942	231.66
CITY LIBRARY SRV-D	510-238-2942	159.72
SFBRA MEASURE AA	888-508-8157	12.00
FLOOD BENEFIT 12	510-670-5212	16.00
HAZ WASTE PROGRAM	800-273-5167	19.92
CSA VECTOR CNTRL B	800-273-5167	7.00
MOSQUITO ASSESS 2	800-273-5167	3.44
AC TRANSIT MEAS VV	800-273-5167	96.00
CITY LIBRARY SERV	510-238-2942	223.34
EBMUD WETWEATHER	866-403-2683	111.24
* EAST BAY TRAIL LLD	888-512-0316	8.16
* EBRP PARK SAFETY/M	888-512-0316	24.84
CITY LANDSCP/LIGHT	510-238-2942	200.14
* Possible Sr Exemption - Call Agency		
<b>Total Fixed Charges and/or Special Assessments</b>		<b>1,346.92</b>

Tax Computation Worksheet			
Description	Full Valuation	x Tax Rate	= Tax Amount
LAND IMPROVEMENTS	35,703		
FIXTURES	208,476		
TOTAL REAL PROPERTY	244,179		
PERSONAL PROPERTY			
GROSS ASSESSMENT & TAX	244,179	1.3688 %	3,342.31
HOMEOWNERS EXEMPTION	-7,000	1.3688 %	-95.81
OTHER EXEMPTION			
NET ASSESSMENT AND TAX	237,179	1.3688 %	3,246.50
			<b>3,246.50</b>
<b>First Installment</b>	<b>Second Installment</b>	<b>Total Amount Due</b>	
<b>PAID \$ 2,296.71</b>	<b>PAID \$ 2,296.71</b>	<b>\$ 4,593.42</b>	

### SECOND INSTALLMENT PAYMENT, 2019-2020

PARCEL NO. 3-77-35-4  
TRACER NO. 01457500

# 2

## INTERNET COPY

THIS AMOUNT DUE FEB 1, 2020 ==>

**PAID \$ 2,296.71**



Pay this amount after APRIL 10, 2020  
(This includes delinquent penalty of 10% and \$10.00 cost)

**PAID APR 3, 2020**

### FIRST INSTALLMENT PAYMENT, 2019-2020

PARCEL NO. 3-77-35-4  
TRACER NO. 01457500

# 1

## INTERNET COPY

THIS AMOUNT DUE NOV 1, 2019 ==>

**PAID \$ 2,296.71**



Pay this amount after DECEMBER 10, 2019  
(This includes delinquent penalty of 10%)

**PAID NOV 4, 2019**

# 000203

<b>Total Additional Fixed Charges and/or Special Assessments</b>		

- 1. Property Assessment and Attachment of Tax Lien:** The Assessor annually assesses all the property in the county, except state-assessed property, to the person owning, claiming, possessing, or controlling it at 12:01 a.m. January 1, and a lien for taxes attaches at that time preceding the fiscal year for which the taxes are levied.
  - (a) If you disagree with a change in the assessed value as shown on the tax bill, you may have the right to an informal assessment review by contacting the Assessor's Office. If you disagree with the results of the informal review, you have the right to file an application for reduction in assessment for the following year with the Alameda County Assessment Appeals Board from July 2 to September 15. The Assessment Appeals Board may be contacted at the County Administration Building, Room 536, 1221 Oak Street, Oakland, California 94612 or by calling (510) 272-6352.
  - (b) Application for review and equalization of an assessment made outside of the regular assessment period must be filed with the Alameda County Assessment Appeals Board no later than 60 days from the first notification of that assessment.
- 2. Your Tax Collector does not determine the amount you pay in taxes.** Tax amounts are computed by multiplying the property's full value by the tax rates of the various taxing agencies. Fixed charges and/or special assessments such as Flood Control Benefit Assessment, sewer service, special assessment improvement bond charges, delinquent garbage liens, etc. from cities and districts are added to the computed tax amounts to arrive at the total amount due on the bill.
- 3. The Total Amount Due is payable in two installments:**
  - (a) The 1st installment is due on **NOVEMBER 1, 2019** and is delinquent at 5 p.m. **DECEMBER 10, 2019** after which a 10% penalty attaches.
  - (b) The 2nd installment is due on **FEBRUARY 1, 2020** and is delinquent at 5 p.m. **APRIL 10, 2020** after which a 10% penalty and \$10 cost attach.
  - (c) In order to pay both installments at the same time, remit the **TOTAL AMOUNT DUE** with both installment payment stubs by DECEMBER 10, 2019.
  - (d) If above delinquent due dates fall on a Saturday, Sunday, or legal holiday, no penalty is charged if payment is made by 5 p.m. on the next business day.
- 4. If the amount due is unpaid at 5 p.m. June 30, 2020,** it will be necessary to pay (a) delinquent penalties, (b) costs, (c) redemption penalties, and (d) a redemption fee. If June 30 falls on a Saturday, Sunday, or legal holiday, no redemption penalties shall attach if payment is made by 5 p.m. on the next business day. Property delinquent for the first year shall be declared defaulted for non-payment of taxes. After 5 years, the Tax Collector has the power to sell tax-defaulted property that is not redeemed.

**IMPORTANT REMINDERS**

1. Partial payments are not acceptable - payments made for less than the total installment due will be returned to the taxpayer.
2. Notices will not be mailed when the second installment is due. Mark your calendar or subscribe to e-mail alerts online @ [www.acgov.org/propertytax](http://www.acgov.org/propertytax).
3. Filing an application for reduced assessment does not relieve the applicant from the obligations to pay the taxes on the subject property before the applicable due date shown on the tax bill. If a reduction is granted, a proportionate refund of taxes will be made by the County Auditor's Office.
4. New owners and present owners with new construction may be required to pay a Supplemental tax bill. Supplemental tax bills are separate from and in addition to this annual bill and any previous or subsequent Supplemental bills.

**SEND THIS STUB WITH YOUR 2nd INSTALLMENT PAYMENT**

**Due: FEBRUARY 1, 2020**  
Delinquent: 5 p.m., APRIL 10, 2020

**Do Not Use This Stub After June 30, 2020**

**2nd INSTALLMENT PAYMENT CANNOT BE ACCEPTED UNLESS 1st INSTALLMENT IS PAID**

**SEND THIS STUB WITH YOUR 1st INSTALLMENT PAYMENT**

**Due: NOVEMBER 1, 2019**  
Delinquent: 5 p.m., DECEMBER 10, 2019

**Do Not Use This Stub After June 30, 2020**

**TO PAY BOTH INSTALLMENTS SEND BOTH STUBS**

**5. Full Value Exemption Legend:**

- |                          |                            |
|--------------------------|----------------------------|
| <b>C-</b> Church         | <b>D-</b> Welfare/Hospital |
| <b>G-</b> Cemetery       | <b>H-</b> Homeowner        |
| <b>M-</b> Miscellaneous  | <b>R-</b> Religious        |
| <b>S-</b> Public School  | <b>V-</b> Veteran          |
| <b>W-</b> Welfare/Others | <b>X-</b> Combination      |

**6. Homeowners' Exemption.** If your tax bill shows zero value on the Homeowners' Exemption line and you owned and occupied this property on January 1, 2019, you may be eligible for a partial (80%) homeowners' exemption if you file a claim with the Assessor on or before December 10, 2019. The homeowners' exemption tax reduction is attributable to the state-financed homeowners' tax relief program.

**7. Questions about property valuation, exemptions, payments and fixed charges and/or special assessments** should be directed to the telephone numbers indicated on the front of this bill.

**8. Property Tax Postponement for Senior Citizens, Blind, or Disabled Persons.** The State Controller's Office(SCO) administers the Property Tax Postponement(PTP) program, which allows eligible homeowners to postpone payment of current-year property taxes on their residence. PTP applications are accepted from October 1 to February 10 each year. For more information, go to [http://www.sco.ca.gov/ardtax\\_prop\\_tax\\_postponement.html](http://www.sco.ca.gov/ardtax_prop_tax_postponement.html). If you have any questions, call (800)952-5661 or email [postponement@sco.ca.gov](mailto:postponement@sco.ca.gov).

**000204**

2020

iscal Year Beginning July 1, 2019 and Ending June 30, 2020

# ALAMEDA COUNTY SECURED PROPERTY TAX STATEMENT

Henry C. Levy, Treasurer and Tax Collector  
1221 Oak Street, Room 131  
Oakland, California 94612

Parcel Number	Tracer Number	Tax-Rate Area	Special Handling
3-77-35-4	01457500	17-019	

Location of Property  
765 15TH ST, OAKLAND

Assessed to on January 1, 2019  
UNDERWOOD VINCENT R TR

UNDERWOOD VINCENT R TR  
765 15TH ST  
OAKLAND CA 94612-1055

Tax-Rate Breakdown		
Taxing Agency	Tax Rate	Tax Amount
COUNTY WIDE TAX	1.0000 %	2,371.79
VOTER APPROVED DEBT SERVICE		
COUNTY GO BOND	0.0108 %	25.80
CITY OF OAKLAND 1	0.1973 %	468.43
SCHOOL UNIFIED	0.1188 %	277.03
SCHOOL COMM COLL	0.0287 %	69.98
BAY AREA RAPID TRANSIT	0.0120 %	28.46
EAST BAY REGIONAL PARK	0.0080 %	19.23
<b>TOTAL</b>	<b>1.3686 %</b>	<b>3,240.72</b>

Please Read Important Messages.

A fee of \$61.00 will be imposed on all returned or delinquent payments.

SECC

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2020  
 Tax Year Beginning July 1, 2019 and Ending June 30, 2020  
**ALAMEDA COUNTY**  
**SECURED PROPERTY TAX STATEMENT**  
 TERRY L. LEE, Treasurer and Tax Collector  
 Oakland, California 94612

Parcel Number: 014-028-0000  
 Location of Property: 155 15TH ST, OAKLAND  
 Assessed to on January 1, 2019: UNDERWOOD VINCENT & TR  
 155 15TH ST, OAKLAND, CA 94612-1000

Category	Assessed Value	Rate	Amount
Land	1,000,000	0.0000	0.00
Improvements	1,000,000	0.0000	0.00
Special Assessments	1,000,000	0.0000	0.00
Other	1,000,000	0.0000	0.00
<b>Total</b>	<b>4,000,000</b>	<b>0.0000</b>	<b>0.00</b>

**SECOND INSTALLMENT PAYMENT, 2019-2020**  
 PARCEL NO. 014-028-0000  
 TRACER NO. 01407900  
 THIS AMOUNT DUE FEB 1, 2020 was PAID \$ 2,000.00  
 PAY BY APRIL 15, 2020 (This includes delinquent penalty of 10% and \$10.00 fee)  
 PAID APR 3, 2020

**FIRST INSTALLMENT PAYMENT, 2019-2020**  
 PARCEL NO. 014-028-0000  
 TRACER NO. 01407900  
 THIS AMOUNT DUE NOV 1, 2019 was PAID \$ 2,000.00  
 PAY BY APRIL 15, 2020 (This includes delinquent penalty of 10% and \$10.00 fee)  
 PAID NOV 4, 2019

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# 2019-2020

For Fiscal Year Beginning July 1, 2019 and Ending June 30, 2020

## ALAMEDA COUNTY SECURED PROPERTY TAX STATEMENT

Henry C. Levy, Treasurer and Tax Collector  
1221 Oak Street, Room 131  
Oakland, California 94612

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Location of Property

765 15TH ST, OAKLAND

Assessed to on January 1, 2019

UNDERWOOD VINCENT R TR

UNDERWOOD VINCENT R TR  
765 15TH ST  
OAKLAND CA 94612-1055

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### Please Read Important Messages

 A fee of \$61.00 will be imposed on all returned or dishonored payments.

 ECheck accepted online through June 30, 2020  
@<http://www.acgov.org/propertytax/>.

 Visa, Mastercard, Discover, or American Express credit cards accepted by phone (510)272-6800 or online @<http://www.acgov.org/propertytax/>, mobile @[www.acgov.org/mobile/apps/](http://www.acgov.org/mobile/apps/) through June 30, 2020. A convenience fee equal to 2.5% of the tax amount due will be added to your total payment.

Subscribe to receive email alerts about important property tax dates online @<http://www.acgov.org/propertytax/>.

 This bill is as of May 5, 2020 1:34 PM and may not include pending payments and roll corrections.

### Please See Reverse For More Information

 Tax Collector's Office  
Payment Questions/Credit Card Payments  
(510) 272-6800

 Assessor's Office  
Valuation/Exemption  
(510) 272-3787 (510) 272-3770

Fixed Charges and/or Special Assessments		
Description	Phone	Amount
MOSQUITO ABATEMENT	800-273-5167	3.50
CSA PARAMEDIC	925-867-3400	102.06
CSA VECTOR CONTROL	800-273-5167	14.40
CITY EMERG MEDICAL	510-238-2942	30.90
CITY PARAMEDIC SRV	510-238-2942	24.60
CSA LEAD ABATEMENT	510-567-8280	10.00
PERALTA CCD MEAS B	800-792-8021	48.00
VIOLENCE PREV TAX	510-238-2942	231.66
CITY LIBRARY SRV-D	510-238-2942	159.72
SFBRA MEASURE AA	888-508-8157	12.00
FLOOD BENEFIT 12	510-670-5212	16.00
HAZ WASTE PROGRAM	800-273-5167	19.92
CSA VECTOR CNTRL B	800-273-5167	7.00
MOSQUITO ASSESS 2	800-273-5167	3.44
AC TRANSIT MEAS VV	800-273-5167	96.00
CITY LIBRARY SERV	510-238-2942	223.34
EBMUD WETWEATHER	866-403-2683	111.24
* EAST BAY TRAIL LLD	888-512-0316	8.16
* EBRP PARK SAFETY/M	888-512-0316	24.84
CITY LANDSCP/LIGHT	510-238-2942	200.14
* Possible Sr Exemption - Call Agency		
<b>Total Fixed Charges and/or Special Assessments</b>		<b>1,346.92</b>

Tax Computation Worksheet			
Description	Full Valuation	x Tax Rate	= Tax Amount
LAND IMPROVEMENTS	35,703		
FIXTURES	208,476		
TOTAL REAL PROPERTY	244,179		
PERSONAL PROPERTY			
GROSS ASSESSMENT & TAX	244,179	1.3688 %	3,342.31
HOMEOWNERS EXEMPTION	-7,000	1.3688 %	-95.81
OTHER EXEMPTION			
NET ASSESSMENT AND TAX	237,179	1.3688 %	3,246.50
			<b>3,246.50</b>
First Installment	Second Installment	Total Amount Due	
PAID \$ 2,296.71	PAID \$ 2,296.71	<b>\$ 4,593.42</b>	

## SECOND INSTALLMENT PAYMENT, 2019-2020

PARCEL NO. 3-77-35-4

TRACER NO. 01457500

**2**

THIS AMOUNT DUE FEB 1, 2020 ==>

PAID \$ 2,296.71



Pay this amount after APRIL 10, 2020  
(This includes delinquent penalty of 10% and \$10.00 cost)

PAID APR 3, 2020

## FIRST INSTALLMENT PAYMENT, 2019-2020

PARCEL NO. 3-77-35-4

TRACER NO. 01457500

**1**

THIS AMOUNT DUE NOV 1, 2019 ==>

PAID \$ 2,296.71

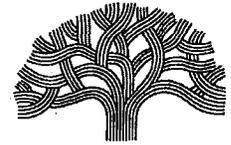


Pay this amount after DECEMBER 10, 2019  
(This includes delinquent penalty of 10%)

PAID NOV 4, 2019

**000207**

CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

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

**HEARING DECISION**

**CASE NUMBER:** L19-0257, Underwood v. Tenant

**PROPERTY ADDRESS:** 763, 765, and 767 15<sup>th</sup> Street, Oakland, CA

**DATE OF HEARING:** September 17, 2020

**DATE OF DECISION:** September 17, 2021

**PARTIES:** Vincent Underwood, Owner  
Michael Cohen, Tenant  
Abigail Bracerros, Tenant

**APPEARANCES:** Vincent Underwood, Owner  
Amy Estandia, Witness  
Michael Cohen, Tenant  
Abigail Bracerros, Tenant

**SUMMARY OF DECISION**

The owner's petition is granted in part and denied in part. The unit at 767 15<sup>th</sup> Street, is exempt from the Rent Adjustment Ordinance on the ground that it is new construction. This unit is not exempt from the Rent Program Service fee.

**CONTENTIONS OF PARTIES**

On November 13, 2019, the owner filed a petition for a Certificate of Exemption which alleges that the subject unit is exempt from the Rent Adjustment Program (RAP) as new construction. While the petition only lists, 765 15<sup>th</sup> Street, he notices the tenants in the other units on the parcel, who attend the hearing. Additionally, in the hearing, he references all of the units on the lot as part of this exemption petition process. It appears the Owner believed to be filing a petition for all three units, and not just the one stated, and all parties were served.

The tenants, Michael Cohen and Abigail Bracerros, did not file a response. Both tenants appeared at the hearing.

### **ISSUES**

1. Are the units at 763, 765, and 767 15 Street, exempt from the Rent Adjustment Ordinance on the grounds that it is new construction?
2. Are the units at 763, 765, and 767 15 Street, exempt from the Just Cause for Eviction Ordinance on the grounds that it is new construction?
3. Are the units at 763, 765, and 767 15 Street, exempt from paying the Rent Program Service fee?

### **EVIDENCE**

Unit History: The Owner, Vincent Underwood, testified that he, purchased the parcel in 1982 from the City of Oakland at 765 15<sup>th</sup> Street. The Owner also testified that there was a single family home on the property, but it lacked electricity, plumbing, a foundation, and was not inhabitable. The Owner testified that, subsequently, he rebuilt his dwelling 765 15<sup>th</sup> Street as a single residence in 1983. He later added the unit at 763 (Cohen) to the original layout of the prior building, and even later, added the unit at 767 (Bracerros) on an area of the parcel that had not been built on before. All the units on the parcel are now described as a unit in a 3 unit building (Exhibit A).

Tenant Michael Cohen moved into 763 15<sup>th</sup> Street in 2017.

The Owner resides in 765 15<sup>th</sup> Street and has lived there since he purchased the property.

Tenant Abigail Bracerros moved into 767 15<sup>th</sup> Street in November, 2014. The Owner testified that there were no prior tenants. The Owner provided a Certificate of Occupancy for 767 15<sup>th</sup> Street that was finalized on November 14, 2014 (Exhibit A).

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

#### **Are the units at 763, 765, and 767 15 Street, exempt from the Rent Adjustment Ordinance on the grounds that it is new construction?**

The Oakland Rent Adjustment Ordinance states that dwelling units are not “covered units” under the Ordinance if such units “were newly constructed and received a certificate of occupancy on or after January 1, 1983.<sup>1</sup>” The dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential. The only certificate of occupancy or finalized permit that was provided addresses the unit at 767 15<sup>th</sup> Street. There was no evidence provided to support the contention that 763 and 765 are new construction under the Rent Adjustment Ordinance since no finalized permit or certificate of occupancy was presented for these units.

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<sup>1</sup> O.M.C. §8.22.030(A)(5)

The question to be decided is whether the prior residential building on the property affects the decision in this case. A certificate of occupancy that does “not precede the residential use of the property” does not qualify a property for an exemption from rent control under Costa Hawkins. Civil Code § 1954.52(a)(1)<sup>2</sup>. Where there was a prior residential use of a property, a new Certificate of Occupancy was not controlling.<sup>3</sup>

In other words, if a property contains residential units that are subject to rent control but the units are redone such that a new certificate of occupancy (or its functional equivalent) is issued, the property does not qualify for an exemption from rent control for newly constructed dwelling units. The new construction must create new units from space not already being used for residential purposes to qualify for the Section 1954.52(a)(1) exemption or the exemption provided by the Rent Adjustment Ordinance. See also *Da Vinci Group v. San Francisco Residential Rent etc. Bd.* (1992) 5 Cal.App.4th 24 (rejecting rent control exemption for a live-work space that received a new certificate of occupancy for residential purposes after legalizing pre-existing residential uses).

Since the evidence established that units at 763 and 765 15<sup>th</sup> Street are in the footprint of the prior residential building, those units fall under the prior residential use of the property. The other unit, 767 15<sup>th</sup> Street, was built outside the footprint of the old residential unit and cannot reasonably be considered to fall under the prior residential use.

Therefore, the owner has met his burden of proof as to the unit at 767 15<sup>th</sup> Street. This unit is new construction and as such is exempt from the Rent Adjustment. However, the units at 763 and 765 15<sup>th</sup> Street are not new construction, as they fall under the prior residential use of the property, since the Certificate of Occupancy only references the third unit (767) as part of the conversion of a two unit building to a 3 unit building. Units 763 and 765 are covered units under the Ordinance.

The unit at 767 15<sup>th</sup> Street meets this requirement. It is found that the subject unit is exempt from the Rent Adjustment Ordinance on the ground that it is newly constructed.

Therefore, the unit at 767 15<sup>th</sup> Street is exempt from the Rent Adjustment Ordinance.

**Are the units at 763, 765, and 767 15 Street, exempt from the Just Cause for Eviction Ordinance on the grounds that it is new construction?**

The Just Cause for Eviction Ordinance applies to all residential rental units, and provides limited exemptions. The Just Cause for exemption applies to units built after December 31, 1995<sup>4</sup>.

The Owner testified that the unit was built at some time in 2014, which is after December 31, 1995. The Certificate of Occupancy is also dated November 2014, which is

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<sup>2</sup> *Burien, LLC v. Wiley* (2014) 230 Cal.App.4th 1039, 1049.

<sup>3</sup> *Ibid.*

<sup>4</sup> O.M.C. §8.22.350(I)

after December 31, 1995. The unit appears to be exempt from the Just Cause for Eviction Ordinance as it was built after December 31, 1995.

**Are the units at 763, 765, and 767 15 Street, exempt from paying the Rent Program Service fee?**

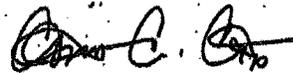
Oakland Municipal Code § 8.22.500 provides that the rent program service fee is to be “charged ... against any residential rental units that are either covered units or are covered by the Just Cause for Eviction Ordinance.” Since 763 and 765 15<sup>th</sup> Streets are not exempt under the Rent Ordinance, the Rent Program Service fee applies. The unit at 767 15<sup>th</sup> Street is exempt from the Rent Ordinance and is likely exempt under Just Cause for Eviction.

Therefore, the rent program service fee applies to units 763 and 765 15<sup>th</sup> Streets. The Business and Tax Office may make a determination that the Rent Program Service fee does not apply to the unit at 765 15<sup>th</sup> Street since it is currently owner occupied and exempt from the Rent Ordinance and Just Cause for Eviction Ordinance because there is no tenant that resides there.

**ORDER**

1. The owner’s petition is granted in part and denied in part. The unit at 767 is exempt from the Rent Adjustment Program on the grounds that it is new construction. The unit is likely exempt from the Rent Program Service fee.
2. A Certificate of Exemption will be issued upon this Decision becoming final.
3. **Right to Appeal:** This decision is the final decision of the Rent Adjustment Program Staff. Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) days after service of 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: September 17, 2021



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COMETRIA C. COOPER  
Hearing Officer  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number L19-0257**

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

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

**Documents Included**

Hearing Decision

**Owner**

Vincent Renalde Underwood  
765 15th Street  
Oakland, CA 94612

**Tenant**

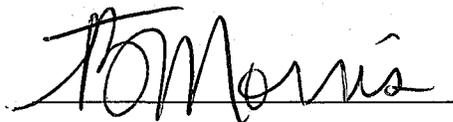
Abigail Braceros  
767 15th Street  
Oakland, CA 94612

**Tenant**

Michael Cohen  
763 15th Street  
Oakland, CA 94612

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

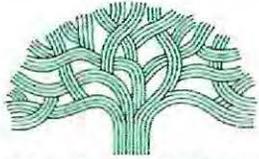
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **September 22, 2021** in Oakland, CA.



Teresa Brown-Morris

Oakland Rent Adjustment Program

**000212**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For date stamp.

**APPEAL**

Appellant's Name <b>VINCENT R. UNDERWOOD</b>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <b><del>765 15<sup>th</sup> ST.</del>, <b>763 15<sup>th</sup> ST.</b> AND <del>767 15<sup>th</sup> ST.</del>, OAKLAND</b>			
Appellant's Mailing Address (For receipt of notices) <b>765 15<sup>th</sup> ST, OAKLAND CA, 94612</b>		Case Number <b>L19-0257</b>	
		Date of Decision appealed <b>SEPTEMBER 25, 2024</b>	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

For more information phone (510) 238-3721.

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

Submissions to the Board must *not* exceed 25 pages from each party, and they must be received by the Rent Adjustment Program with a proof of service on opposing party within 15 days of filing the appeal. Only the first 25 pages of submissions from each party will be considered by the Board, subject to Regulations 8.22.010(A)(5). Please number attached pages consecutively. Number of pages attached: \_\_\_\_\_.

• You must serve a copy of your appeal on the opposing parties or your appeal may be dismissed. •  
 I declare under penalty of perjury under the laws of the State of California that on \_\_\_\_\_, 20\_\_\_\_, 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>	MICHAEL COHEN
<u>Address</u>	763 15 <sup>th</sup> ST.
<u>City, State Zip</u>	OAKLAND, CA 94612
<u>Name</u>	<del>ABIGAIL BRACEROS</del>
<u>Address</u>	<del>767 15<sup>th</sup> ST.</del>
<u>City, State Zip</u>	<del>OAKLAND, CA 94612</del>

	9/25/2021
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

**October 6, 2021**

**HEARING APPEAL**

CASE NUMBER: L19-0257

PROPERTY ADDRESS: 763 15th Street, Oakland, CA 94612

DATE OF HEARING: September 17, 2020

DATE OF DECISION: September 17, 2021

PARTIES: Vincent Underwood, Owner  
Michael Cohen, Tenant

APPEARANCES: Vincent Underwood, Owner  
Amy Estandian, Witness  
Michael Cohen, Tenant

**SUMMARY OF DECISION**

The owner's petition was approved for 767 but was denied for 763 15<sup>th</sup> Street from Rent Adjustment Ordinance. This appeal is for 763 only.

**CONTENTIONS OF PARTIES**

I, Vincent Underwood was put in the RAP program in error. This petition / appeal has nothing to do with my tenant. I never tried to evict him or unduly raise the rent. The rent my tenant pays is below market value and was never a problem. I don't know how the tenant got involved in my attempt to inform the RAP program administrators that my units were exempt from their program based on the dated of construction.

This appeal is to have 763 15<sup>th</sup> Street (two-bedroom unit) exempt from the Rent Adjustment Program on the grounds it is a new construction and not a re development of an existing unit.

**000215**

Also, I thought I provided an occupancy permit that covered two units. After looking at the certificate submitted I discovered the City of Oakland failed me again as the certificate provided was only for 767 and did not include 763.

However, 763 15th Street was completed in 2001. I asked for the certificate of occupancy but I have not received it yet. The unit 763 is new construction and never exist until it was completed in 2001.

The house I purchased from the City of Oakland was a single-story house. It was raised up and on top was developed into a 3-bedroom unit and the address is 765. The bottom below 765 was just two by sixes holding up the upper unit with no plumbing, wiring or framed rooms. In 2001, a new two-bedroom apartment was created using up two-third of the empty space below (leaving one-third of space to create a one-bedroom unit which became 767 15<sup>th</sup> Street in 2014). New gas and electric meters were installed and final inspections were completed on May 25, 2001 for 763 15<sup>th</sup> Street.

Attached is a copy showing the date the inspection was finalized for the new electric and gas meters.

The City of Oakland gave the two-bedroom new address, 763 15<sup>th</sup> Street and the post office and PG&E was notified. I did not receive and Occupancy Certificate. As a result of this endeavor I tried to get certificates for 763 and 767 15<sup>th</sup> and on 3/2/2020 the Building department only came up with a Certificate for 767 15<sup>th</sup> Street

Conclulsion:

763 unit did not exist and was completion in 2001 and this unit were not connected to the unit I live in (765) in any way. Unit 763 is a newly constructed and finalized in 2001. It was never occupied and never existed before then.

Please note that I did not intend to file an exemption for the unit I live in which is 765 15<sup>th</sup> St. Oakland CA 94612.



Vincent Underwood (owner)

765 15<sup>th</sup> Street

Oakland, CA 94612

510.839.5570

000216

<input type="checkbox"/>	11/12/2014	Final	<b>RB1403341</b>	Residential Building - Alteration	765 15TH ST, Oakland CA 94612	to final RB1200947 (trades final); convert 2 units to 3 per DR93164; final exp. #s B9304754/B9602765	to final RB1200947 (trades final); convert 2 units to 3; final exp. #s B9304754/B9602765
<input type="checkbox"/>	10/20/2014	Final	<b>RE1402355</b>	Residential Electrical - Alteration	765 15TH ST, OAKLAND CA	electrical to complete adding 3rd unit creating triplex	electrical to complete adding 3rd unit creating triplex
<input type="checkbox"/>	03/28/2012	Expired	<b>RE1200937</b>	Building/Residential/Electrical/Alteration	765 15TH ST, OAKLAND CA	Electrical for third unit	Electrical for third unit
<input type="checkbox"/>	03/28/2012	Final	<b>RM1200538</b>	Building/Residential/Mechanical/Alteration	765 15TH ST, OAKLAND CA	Mechanical for new F.A.U. 95% efficiency for the third unit.	Mechanical for new F.A.U. 95% efficiency for the third unit.
<input type="checkbox"/>	03/28/2012	Final	<b>RP1200706</b>	Building/Residential/Plumbing/Alteration	765 15TH ST, OAKLAND CA	Plumbing for third unit - see worksheet.	Plumbing for third unit - see worksheet.
<input type="checkbox"/>	03/22/2012	Expired	<b>RB1200947</b>	Building/Residential/Building/Addition	765 15TH ST, OAKLAND CA	To complete work under B9602765 for third unit.	To complete work under B9602765 for third unit.
<input type="checkbox"/>	12/15/2010	Final	<b>RE1003724</b>	Building/Residential/Electrical/Alteration	765 15TH ST, OAKLAND CA	Electrical for garage, new subpanel & 220 for electric car.	Electrical for garage, new subpanel & 220 for electric car.
<input type="checkbox"/>	11/16/2010	Final	<b>RB1004394</b>	Building/Residential/Building/Addition	765 15TH ST, OAKLAND CA	Build new garage with deck above. (Shared plans with RB1004395)	Build new garage with deck above. (Shared plans with RB1004395)
<input type="checkbox"/>	11/16/2010	Final	<b>RB1004395</b>	Building/Residential/Building/Repair	765 15TH ST, OAKLAND CA	Rebuild back stairs and porch to duplex. (shared plans with RB1004394)	Rebuild back stairs and porch to duplex. (shared plans with RB1004394)
<input type="checkbox"/>	05/25/2001	Final	<b>P0101529</b>	Building/Non- Residential/Plumbing/Alteration	763 15TH ST, OAKLAND CA	1 gas test (lower unit)	1 gas test (lower unit)
<input type="checkbox"/>	05/25/2001	Final	<b>Y0100051</b>	Building/Residential/Electrical/Alteration	763 15TH ST, OAKLAND CA	METER RESET FOR LOWER UNIT	METER RESET FOR LOWER UNIT



**MEMORANDUM**

**Date:** January 20, 2022  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Oliver Luby, Deputy City Attorney  
**Re:** Appeal Summary in T21-0088, Lerer v. Addleman  
**Appeal Hearing Date:** January 27, 2022

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Property Address: 270 Euclid Avenue, Unit 6, Oakland, CA  
Appellant/Owner: Barbara Addleman  
Respondent/Tenant: Drew Lerer

**BACKGROUND**

On June 1, 2021, tenant Drew Lerer filed a petition contesting a monthly rent increase from \$1,636 to \$1,701, effective June 1, 2021, based on \$65 increase in the existing \$50 fee for parking.

The owner filed a timely response, asserting that current monthly rent is \$1,586 and that there is a separate monthly parking fee of \$50 that was increased by \$65.

**RULING ON THE CASE**

The hearing officer issued an Administrative Decision on August 16, 2021 on the basis that the total consideration for the unit charged by the owner was not in dispute. The Decision granted the tenant's petition, finding that (1) the rent prior to the increase was \$1,618 (\$1,568 + \$50) and (2) the \$65 increase exceeded the applicable CPI Rent Adjustment. The Decision further referenced a notice of rent increase indicated by the owner of \$1,568 to \$1,616.13, effective August 1, 2021, which the Decision opined was defective and invalid.

## **GROUND FOR APPEAL**

On August 24, 2021, the owner timely appealed the hearing officer's decision on the grounds that (1) the decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board, (2) the decision is inconsistent with decisions issued by other Hearing Officers, (3) the decision is not supported by substantial evidence, and (4) denial of sufficient opportunity to respond to petitioner's claim. The owner specifically contends that (1) a decreased housing service can only exist if the service was provided at the inception of the tenancy, based on a 2008 hearing decision<sup>1</sup> that was not appealed to the Rent Board, (2) the parking fee is for a separate agreement that the parties entered into after tenant had been renting the unit for years, and (3) the hearing officer exceeded the scope of the petition by ruling on a rent increase effective for August 1, 2021, that was issued after the petition and not challenged by the tenant.

## **ISSUES**

1. May the owner increase the tenant's parking fee without limitation, or is the parking fee considered part of the tenant's rent?
2. Did the Administrative Decision state the correct amount of current rent prior to the contested increase, based upon undisputed facts as asserted by the petition and response?
3. May a hearing officer's decision on a petition rule on matters outside the scope of the petition?

## **APPLICABLE LAW AND PAST BOARD DECISIONS**

### **Applicable Law**

#### **a. Rent defined**

O.M.C. § 8.22.020- Definitions.

““Housing Services” means all services provided by the owner related to the use or occupancy of a covered unit, including, but not limited to, insurance, repairs, maintenance, painting, utilities, heat, water, elevator service, laundry facilities, janitorial service, refuse removal, furnishings, parking, security service, employee services, and any other benefits or privileges permitted the tenant by agreement, whether express or implied, including the right to have a specific number of occupants and the right to one-for-one replacement of

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<sup>1</sup> T08-0146 et seq, Various tenants v. Kumana.

roommates, regardless of any prohibition against subletting and/or assignment.”

““Rent” means the total consideration charged or received by an owner in exchange for the use or occupancy of a covered unit including all housing services provided to the tenant.”

**b. Rent Increases**

O.M.C. § 8.22.065 (Rent adjustments in general), subsection A.

“Notwithstanding any other provision of this Chapter, owners may increase rents only for increases based on the CPI Rent Adjustment or Banking, or by filing a petition to increase rent in excess of that amount. Any rent increase not based on the CPI Rent Adjustment or Banking that is not first approved by the Rent Adjustment Program is void and unenforceable.”

**c. Hearing Officer Decision Limited to Issues Raised by Petition**

O.M.C. § 8.22.110 (Hearing procedures), subsection A (Hearing Officer).

“A hearing shall be set before a Hearing Officer to decide the issues in the petition.”

RAP Regulation § 8.22.110.F.1.

“The Hearing Officer shall make written findings of fact and issue a written decision on petitions filed.”

**d. Administrative Decisions**

O.M.C. § 8.22.111.F.1.

“Notwithstanding the acceptance of a petition or response by the Rent Adjustment Program, if any of the following conditions exist, a hearing may not be scheduled and a Hearing Officer may issue a decision without a hearing:

- a. The petition or response forms have not been properly completed or submitted;
- b. The petition or response forms have not been filed in a timely manner;
- c. The required prerequisites to filing a petition or response have not been met;

d. A certificate of exemption was previously issued and is not challenged by the tenant; or

e. The petition and response forms raise no genuine dispute as to any material fact, and the petition may be decided as a matter of law.”

### Past Board Decisions

#### **a. Parking Fees Considered Part of Rent**

##### T01-0376, Millar v. Black Oak Properties

The owner served the tenant with separate rent increases for parking and for the apartment unit. The Board held that the owner was not entitled to the rent increase because he had previously increased the tenant’s rent, and the Rent Ordinance defines a rental unit to include all the housing services provided with the unit. The Appeal Decision noted, “Housing Services are defined to include parking.” The Board opined: “Where the landlord rents a rental unit and a parking space to the tenant, the parking is part of the housing services, even where the parking is separately charged. Under such circumstances, an increase in the separate parking fee is an increase in rent.”

##### T11-0115, Schacher v. McClain

Board affirmed Hearing Decision that found separately charged parking added after inception of tenancy to be a housing service subject to Rent Ordinance but amended decision to include parking fee as part of base rent before calculating the allowable CPI increase.

##### T17-0328, Guzman v. Mann Edge Properties

Board affirmed Hearing Decision that granted \$40 a month restitution for loss of an additional parking space that was not included in original lease but the use of which was granted to tenants by owner immediately after they moved in.

##### T19-0424, Thornton v. Joyce

The tenant contested a rent increase exceeding CPI which consisted of separate increases for parking and the unit. The Hearing Decision found that the parking is part of the housing services even if billed separately and denied the rent increase on the basis that the owner did not petition for a rent increase in excess of CPI. Board affirmed the Hearing Decision.

#### **b. Hearing Officer Decision Limited to Scope of Petition**

T10-0093, Davis v. Dorntge

Board affirmed hearing decision which did consider problem with utility bill because it was not raised in the petition.

T10-0116, Nunez v. Advent Props.

Board affirmed hearing decision which did not consider decreased housing services, which tenant argued should be awarded because of award to another tenant in a separate petition, because tenant's petition did not allege decreased housing services.

**c. Calculation Error**

T02-040, Santiago v. Vega

Board affirmed hearing decision with corrections for calculation errors.

T16-0313, Novela v. Lee

Board remanded hearing decision for staff recalculation and correction of clerical error.

#3134890v1



**MEMORANDUM**

**Date:** January 25, 2022  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Braz Shabrell, Deputy City Attorney  
**Re:** Appeal Summary in L20-0071, Hertzell Enterprises LLC v. Tenants  
**Appeal Hearing Date:** January 27, 2022

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**Property Address:** 232 29<sup>th</sup> Street, Oakland, CA  
**Appellant/Tenant:** Sarah Mallas  
**Respondent/Owner:** Hertzell Enterprises LLC  
Renuka Bornstein

**BACKGROUND**

On June 24, 2020, the owner filed a petition for approval of a rent increase based on capital improvements. The claimed improvements included re-roofing, exterior painting, and exterior walkway plexiglass. The property consists of 26 units. Of the 25 tenants subject to the petition, only four filed responses. Six of the tenants attended the hearing, which took place on June 8, 2021. The tenant who is appealing the decision, Sarah Mallas, attended the hearing but did not submit a response to the petition.

**RULING ON THE CASE**

The hearing officer issued a decision dated August 4, 2021, granting the owner's petition for a rent increase based on capital improvements. The hearing officer found that the tenants had been served with the required RAP Notice and that all of the costs submitted by the owner were allowable for purposes of the capital improvement pass-through. The owner was therefore granted a monthly rent increase of \$40.11 for each of the tenants subject to the petition. However, the decision notes that although the decision ultimately permits the owner to increase the rent on each unit subject to the

petition by the amount stated in the decision, the owner could not impose any rent increase that amounted to greater than the CPI (1.9%) until after the emergency moratorium was lifted.

### **GROUND FOR APPEAL**

On August 13, 2021, one tenant, Sarah Mallas, filed an appeal of the hearing decision. The tenant alleges that she entered into a new lease agreement with the owner effective July 1, 2021, reducing her monthly rent from \$1,895 to \$1,700. This was due to the fact that several units in the building had become vacant, and “new” units were being offered for rent at a market rate of \$1,700 per month. Since vacant units were being offered for less than what Mallas was paying for a comparable unit, the owner agreed to reduced Mallas’ rent to the amount advertised for the vacant units. The new rent amount of \$1,700 was memorialized in a “Renewal Lease Agreement,” a copy of which was attached to Mallas’ appeal.

Appellant argues that since a new lease agreement was entered into prior to the August 4 hearing decision, the hearing decision should not apply as to Appellant.

### **ISSUES**

1. May the Board consider the new evidence presented by Appellant? Has Appellant raised valid grounds for appeal of the August 4 hearing decision?
2. If the Board is able to consider the new evidence raised on appeal, what impact, if any, does the evidence have on the hearing decision? Does reduction of a tenant’s base rent amount prevent an owner from being able to impose an authorized capital improvement pass-through?

### **APPLICABLE LAW AND PAST BOARD DECISIONS**

#### **Applicable Law**

##### **a. New Evidence on Appeal**

O.M.C. § 8.22.120- Appeal Procedures.

C. Appeal Hearings. The following procedures shall apply to all appeal hearings:

...

4. Appeals shall be based on the record as presented to the Hearing Officer unless the Appeal Body determines that an evidentiary hearing is required. If the Appeal Body deems an evidentiary hearing necessary, the

case will be continued and the Appeal Body shall issue a written order setting forth the issues on which the parties may present evidence. All evidence submitted to the Appeal Body must be submitted under oath.

Regulations for O.M.C. § 8.22.120- Appeals.

#### F. Evidentiary Hearings

1. As a general rule, the Board and Appeal Panels should not conduct evidentiary hearings. When the Board or Appeal Panel determines that additional evidence or reconsideration of evidence is necessary, the Board or Appeal Panel should remand the matter back to a Hearing Officer for consideration of evidence.
2. The Board or Appeal Panel should only consider evidence when the evidence is limited in scope and resolution of the matter is more efficient than having it remanded to a Hearing Officer for consideration of the evidence.
3. In order for new evidence to be considered, the party offering the new evidence must show that the new evidence could not have been available at the Hearing Officer proceedings.

#### Past Board Decisions

##### a. Failure to File Timely Response to Petition

As a general rule, parties who fail to file a timely response to a petition are prohibited from introducing evidence and are limited to cross examination at the hearing.

##### b. New Evidence on Appeal

T05-0292, English v. Nero

Appellant not allowed to present evidence for first time on appeal when she did not file response to petition or appear at either of the hearing dates.

T05-0245, Hobbs v. Bernstein

Owner request to submit new evidence denied where evidence in the record is sufficient to support hearing decision.



**MEMORANDUM**

**Date:** January 24, 2022  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Braz Shabrell, Deputy City Attorney  
**Re:** Appeal Summary in L19-0257, Underwood v. Tenants  
**Appeal Hearing Date:** January 27, 2022

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Property Address: 763, 765, and 767 15<sup>th</sup> Street, Oakland, CA  
Appellant/Owner: Vincent Underwood  
Respondent/Tenant: Michael Cohen  
Abigail Braceros

**BACKGROUND**

On November 13, 2019, the owner filed a petition for a Certificate of Exemption from the Rent Adjustment Ordinance on the basis that the subject property is new construction. Although the petition only listed one address (765 15<sup>th</sup> Street), the subject property consists of three units: 763, 765, and 767 15<sup>th</sup> Street.

The owner purchased the subject property from the City of Oakland in 1982. At the time, 765 was a single-family home and the only unit on the property. In 1983, the owner “rebuilt” the house. The owner subsequently added unit 763 to the original layout of the building, and later added unit 767 on an area of the parcel that had not previously been built on. The only certificate of occupancy that was issued for the property was for unit 767, which was finalized in 2014.

The owner resides in unit 765 and rents out units 763 and 767 to tenants. The tenants did not file a response to the petition but attended the hearing.

**RULING ON THE CASE**

On September 17, 2021, the hearing officer issued a decision granting the petition in part. The hearing officer found that units 763 and 765 were not new construction because they were created from the footprint of an existing residential unit. The only certificate of occupancy or finalized permit that the owner provided was for unit 767. The owner did not meet his burden of proving that when unit 763 was created in 2001, it was created from space that was entirely non-residential. Unit 767 qualifies as new construction because it was built outside the footprint of the original building and has a certificate of occupancy that was issued in 2014. Therefore, unit 767 qualifies for a Certificate of Exemption, but units 763 and 765 do not.

### **GROUNDINGS FOR APPEAL**

On October 6, 2021, the owner appealed the hearing decision as it related to unit 763. The owner alleges that the unit is new construction and not a re-development of the existing building because it was completed in 2001. The owner contends that the certificate of occupancy issued in 2014 was supposed to be for both units 763 and 767, but erroneously only listed 767. The owner states that when he purchased the property in 1982, it was a single-story house. That house was raised up, and the top floor was developed into a 3-bedroom unit (765). The bottom was “just two by sixes holding up the upper unit with no plumbing, wiring or framed rooms.” In 2001, two-thirds of the bottom floor was developed into unit 763. In 2014, the remaining one-third of the space was developed into unit 767.

The owner claims that since unit 763 did not exist until 2001 and was not previously connected to the original unit 765, it should qualify for exemption.

### **ISSUES**

- 1) If a single-story home is raised up and converted into a two-level building, but the lower level is not developed into a second unit until several years later, does the creation of the second unit count as being “entirely newly constructed” for purposes of exemption from the Rent Adjustment Ordinance?
- 2) Is the hearing officer’s finding that the owner did not meet their burden of proving that the second unit was “created from space that was formerly entirely non-residential” supported by substantial evidence?
- 3) What is the impact of unit 763 not having a certificate of occupancy?

### **APPLICABLE LAW AND PAST BOARD DECISIONS**

#### Applicable Law

##### **a. Exemptions**

For a unit to be exempt at new construction, the unit must be “entirely newly constructed” or “created from space that was formerly entirely non-residential” and have “received a certificate of occupancy [or it’s functional equivalent, such as a finalized permit] on or after January 1, 1983.” If a unit has a certificate of occupancy that is issued after January 1, 1983, but the unit was *used* residentially prior to that date, the unit does not qualify for exemption. Da Vinci Group v. San Francisco Residential Rent etc. Bd. (1992) 5 Cal.App.4th 24; Burien LLC v. Wiley (2014) 230 Cal. App. 4<sup>th</sup> 1039.

O.M.C. § 8.22.030- Exemptions.

A. Types of Dwelling Units Exempt. The following dwelling units are not covered units for purposes of this Chapter...:

5. Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. This exemption does not apply to any newly constructed dwelling units that replace covered units withdrawn from the rental market in accordance with O.M.C. 8.22.400, et seq. (Ellis Act Ordinance). To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential.

O.M.C. § 8.22.030 Regulations

2. Newly constructed dwelling units (receiving a certificate of occupancy after January 1, 1983).
  - a. Newly constructed units include legal conversions of uninhabited spaces not used by Tenants, such as:
    - i. Garages;
    - ii. Attics;
    - iii. Basements;
    - iv. Spaces that were formerly entirely commercial.
  - b. Any dwelling unit that is exempt as newly constructed under applicable interpretations of the new construction exemption pursuant to Costa-Hawkins (California Civil Code Section 1954.52).
  - c. Dwelling units not eligible for the new construction exemption include:
    - i. Live/work space where the work portion of the space was converted into a separate dwelling unit;

ii. Common area converted to a separate dwelling unit.

**b. Certificate of Occupancy**

Burien LLC v. Wiley (2014) 230 Cal. App. 4<sup>th</sup> 1039

A certificate of occupancy that does “not precede the residential use of the property” does not qualify a property for an exemption from rent control under Costa Hawkins. Civil Code 1954.52(a)(1).

Da Vinci Group v. San Francisco Residential Rent etc. Bd (1992) 5 Cal. App. 4<sup>th</sup> 27

A commercial warehouse built in 1905 that was subsequently renovated and granted a certificate of occupancy in 1986 did not qualify as “new construction” for purposes of exemption from San Francisco rent control laws because the building had been used for residential purposes since 1980, even though a certificate of occupancy was not issued until 1986.

**Past Board Decisions**

**a. New Construction Exemption**

T16-0377, Buggs v. Bay Property Group

Board reversed hearing decision which denied new construction exemption for a 10-unit building that was built in the place of a single-family home, where the single-family home was demolished. The Ordinance states that the new construction exemption applies to units that are *either* “entirely newly constructed” *or* “created from space that was formerly entirely non-residential,” meaning that only one of the two conditions need apply. The hearing officer incorrectly interpreted the Ordinance to mean that both conditions were required.

T16-0683, Prager v.Lagos

Board reversed hearing decision which denied exemption on grounds that owner did not provide evidence of size of single-family residence to show tenant's unit was outside the footprint of the prior residential building to establish new construction. The case involved a 10-unit building on property where there was previously a single-family house. Board directed hearing officer to apply the standard in Buggs v. Bay Property, which states that properties with prior residential use that are totally demolished and replaced with new units are exempt.

T17-0173, Cortes v. Wong  
L17-0068, Yip v. Tenants

Where a single-family home was completely demolished and a 14-unit building was constructed in its place, the hearing officer determined that units 1-4 were not exempt as new construction because they were in the footprint of the prior structure. The Board rejected the interpretation regarding the footprint of the old structure rendering any portion of the new building under rent control, and held that the entire building was exempt. The Board distinguished the case from Burien LLC v. Wiley and Da Vinci Group v. San Francisco Residential Rent because those cases involved buildings that were not completely demolished and had prior residential use.

L17-0120, Bergen v. Tenants

Board affirmed hearing decision which granted exemption from the Rent Ordinance on the grounds of new construction where owner converted single-family residence into two units. The building was raised and a new unit was constructed on the ground floor. The owner provided evidence of an approved conditional use permit from the Planning Commission and a finalized building permit for the conversion of a single-family residence into two units.

**b. Certificate of Occupancy Required for New Construction Exemption**

T08-0023, Tuakoi v. Dawkins

For the new construction exemption, the owner must either present a certificate of occupancy or show good cause why they failed to obtain one. Upon a showing of good cause, a report of final building inspection (noted on building permit) may substitute for a certificate of occupancy. In this case, the Board reversed a decision granting exemption based on new construction because the owner did not present a certificate of occupancy or good cause for failure to obtain one.

T04-0163, Garsson v. Collins

State law and Oakland Municipal Code require a Certificate of Occupancy, or its functional equivalent, for exemption from Rent Adjustment Ordinance.

T12-0112, Williams v. Taplin

A “finalized” permit is the equivalent of a certificate of occupancy where building services could not locate the certificate of occupancy.