

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

November 5, 2020

5:00 P.M.

Meeting Will Be Conducted Via Zoom Conference

AGENDA

PUBLIC PARTICIPATION:

The public may observe and/or participate in this meeting 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 this link: You are invited to a Zoom webinar.

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” is available at:

<https://support.zoom.us/hc/en-us/articles/205566129-Raise-Hand-In-Webinar>.

- 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.

You are invited to a Zoom webinar.

When: Nov 5, 2020 05:00 PM Pacific Time (US and Canada)

Topic: HOUSING, RESIDENTIAL RENT AND RELOCATION FULL BOARD MEETING November 05, 2020 5:00 PM

Please click the link below to join the webinar:

<https://zoom.us/j/99091712668>

Or iPhone one-tap :

US: +16699006833,,99091712668# or +12532158782,,99091712668#

Or Telephone:

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

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 990 9171 2668 International numbers available:

<https://zoom.us/j/adXGRIPgb8>

If you have any questions, please email Bkong-brown@oaklandca.gov.

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

1. CALL TO ORDER

2. ROLL CALL

3. OPEN FORUM

4. APPEALS*

a) T19-0307, Edwards v. Lam

b) T19-0301, Burnett v. Joyce

c) T19-0294, Schlageter v. Mael

5. ADJOURNMENT

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. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email sshannon@oaklandca.gov or call (510) 238- 3715 or California relay service at 711 by 5:00 P.M. one day before the meeting.

*Staff appeal summaries will be available at the Rent Program website and the Clerk's office at least 72 hours prior to the meeting pursuant to O.M.C. 2.20.080.C and 2.20.090

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 sshannon@oaklandca.gov o llame al (510) 238-3715 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 sshannon@oaklandca.gov 或致電 (510) 238-3715 或 711 California relay service.

CHRONOLOGICAL CASE REPORT

Case No.: T19-0307

Case Name: Edwards v. Lam

Property Address: 3617 Quigley Street, Oakland, CA 94619

Parties: Arlinda Edwards (Tenant)
Xavier Johnson (Tenant Representative)
May Lam (Owner)
Yuet Po-Lam (Owner)
Eleesa Lam (Owner Representative)

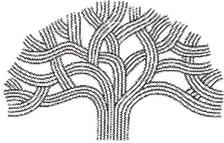
OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 29, 2019
No Owner Response filed	-----
Hearing Decision mailed	February 24, 2020
Owner Appeal filed	March 4, 2020

000003

T19-0307 RC/MA

RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. 2019 MAY 29 AM 10:28
	<u>TENANT PETITION</u>	

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

Please print legibly

Your Name Arlinda Edwards	Rental Address (with zip code) 3617 Quigley Street Oakland CA 94619	Telephone: (510) 485-6908
		E-mail: lynn414@comcast.net
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) May Lam, Yuet Po-Lam	Mailing Address (with zip code) 4403 Alvarado Boulevard Union City, CA 94587	Telephone:
		Email:
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code) P.O. Box 98 Union City, CA 94587	Telephone:
		Email:

Number of units on the property: 2

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

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

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

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

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

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

Date you moved into the Unit: 12/2000 Initial Rent: \$ 900 /month

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

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
4/1/2019	5/1/2019	\$ 1200	\$ 1316	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11/4/2015	12/4/2015	\$ 1026.51	\$ 1200	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11/2/2011	12/2/2011	\$ 996.51	\$ 1026.51	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11/04/2008	12/04/2008	\$ 920.18	\$ 996.51	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10/3/2006	11/3/2006	\$ 900	\$ 920.18	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

I am not contesting conditions at this time but I reserve the right to do so in the future.

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

IV. VERIFICATION: The tenant must sign:

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

Alinda Edwards
Tenant's Signature

4-29-2019
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

Your property owner(s) will be required to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the Property Owner's Response. The petition and attachments to the petition can be found by logging into the RAP Online Petitioning System and accessing your case once this system is available. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

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

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



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T19-0307 Edwards v. Lam
PROPERTY ADDRESS: 3617 Quigley Street, Oakland, CA
DATE OF HEARING: December 16, 2019
DATE OF DECISION: February 21, 2020
APPEARANCES: Arlinda Edwards, Tenant
Alexis Payne, Tenant Representative
Xavier Johnson, Observer

SUMMARY OF DECISION

The tenant's petition is granted.

CONTENTIONS OF THE PARTIES

The tenant filed a petition on May 29, 2019, contesting a rent increase from \$1,244.93 to \$1,316.00 effective May 1, 2019, as well as all prior rent increases. The basis for the tenant's petition includes the following:

- The increase exceeds the CPI Adjustment and is unjustified or greater than 10%;
- I received a rent increase notice before the property owner received approval from the Rent Adjustment Program for such an increase and the rent increase exceeds the CPI Adjustment and the available banked rent increase;
- No written notice of Rent Program was given to me together with the notice of increases I am contesting;
- The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increase(s); and
- The rent increase notices were not given to me in compliance with State Law.

The owner did not file a response and did not appear for the hearing.

THE ISSUES

- (1) Has the tenant received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice)?
- (2) Are the rent increases valid?

EVIDENCE

Rent History

The tenant testified that she moved into the unit in December of 2000 at a monthly rent of \$900.00. In November of 2006 the rent was raised to \$920.18 monthly. In December of 2008 the rent was raised to \$996.51 monthly. In December of 2011 the rent was raised to \$1,026.51 monthly. In January of 2018 the rent was raised to \$1,244.93 monthly. The tenant testified that although the effective date of the increase was January 1, 2018, she did not begin paying the increased amount of \$1,244.93 until April of 2018. The tenant submitted copies of rent receipts verifying rent payments.¹

Finally, the tenant testified that she received a new lease from the owner in March of 2019, proposing to increase the rent to \$1,316.00 monthly, effective May 1, 2019.² The tenant testified that she has not paid this rent increase, and has continued to pay \$1,244.93 monthly.

RAP Notice

The tenant testified that she has never received the Notice to Tenants of the Residential Rent Adjustment Program (RAP Notice).

No Appearance by Owner at the Hearing

On August 27, 2019, a Notice of Settlement Conference and Hearing was mailed to the owner's address with a proof of service. No mail was returned as non-delivered.

The Notice of Hearing was properly served and the Hearing came on regularly on December 16th, 2019, at 10:00 a.m. as scheduled, without the appearance of the owner. The Hearing Officer waited until 10:15 a.m. for the owner to appear.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

RAP Notice and Rent Increases

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an

¹ Exhibit 1 and 2

² Exhibit 2

owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy³ and together with any notice of rent increase.⁴

Because the owner never provided the RAP Notice to the tenant, the contested rent increases are not valid and the tenant's monthly rent remains \$900.00, the rent amount prior to the first contested rent increase. Because the tenant paid the rent increases, the tenant is entitled to restitution for overpayment of rent but restitution is limited to three (3) years prior to the hearing⁵. The tenant will receive a credit for rent overpayments as shown on the table below:

OVERPAID RENT

From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Jan-17	1-Mar-18	\$1,026.51	\$900	\$ 126.51	15	\$ 1,897.65
1-Apr-18	1-Dec-19	\$1,244.93	\$900	\$ 344.93	21	\$ 7,243.53
TOTAL OVERPAID RENT						\$ 9,141.18

RESTITUTION

	MONTHLY RENT	\$ 900.00
	TOTAL TO BE REPAID TO TENANT	\$ 9,141.18
	TOTAL AS PERCENT OF MONTHLY RENT	1016%
AMORTIZED OVER	MO. BY REG. IS	
OR		
OVER	24 MONTHS BY HRG. OFFICER IS	\$ 380.88

ORDER

1. Petition T19-0307 is granted.
2. The contested rent increases are invalid and the tenant's base rent remains \$900.00 as of March 1, 2020.
3. The tenant is owed restitution in the amount of \$9,141.18. This overpayment is adjusted by a rent decrease for twenty-four (24) months in the amount of \$380.88 a month.
4. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to all parties.

³ O.M.C. Section 8.22.060(A)

⁴ O.M.C. Section 8.22.070(H)(1)(A)

⁵ HRRAB Appeal Decisions T06-0051 (Barajas/Avalos v. Chu) & T08-0139 (Jackson-Redick v. Burks)

5. If the owner wishes to, the owner can repay the restitution owed to the tenant at any time. If the owner does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.

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

Dated: February 21, 2020



Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE
Case Number T19-0307

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

May & Yuet Po Lam
P.O. Box 98
Union City, CA 94587

Owner

May & Yuet Po Lam
4403 Alvarado Blvd.
Union City, CA 94587

Tenant

Arlinda Edwards
3617 Quigley Street
Oakland, CA 94619

Tenant Representative

Xavier Johnson, Centro Legal De La Raza
3022 International Boulevard Suite # 410
Oakland, CA 94601

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 **February 24, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

000012

RUMA

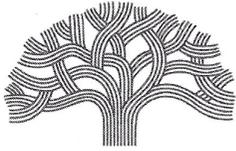
Interpreter.

Cantonese. Please.

CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

For date stamp.

2020 MAR -4 AM 10:46



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

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

APPEAL

Appellant's Name <i>May King Lam</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>4403 Alvarado Blvd., Union City, CA 94587</i>			
Appellant's Mailing Address (For receipt of notices) <i>Same</i>		Case Number <i>T19-0307</i>	Date of Decision appealed
Name of Representative (if any) <i>Eleesa Lam</i>		Representative's Mailing Address (For notices) <i>19130 Karris Ln, Castro Valley, CA 94546</i>	

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.

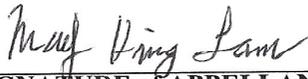
000013

- 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: 1.

• 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 3/4, 2020, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Arlinda Edwards
Address	3617 Quigley St.
City, State Zip	Oakland, CA 94619
Name	
Address	
City, State Zip	

	3/4/20
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.

March 4, 2020

Dear Rent Adjustment,

I happened to find this February 21, 2020 Hearing Decision letter on her table this Sunday. I asked if she received any similar letters before, she said she didn't remember.

My mom lives by herself ever since my dad passed away in December 2017. She doesn't read and write English.

I'm written this letter for her to ask a chance to appeal.

Sincerely,
Elesa Lam.

000016

CHRONOLOGICAL CASE REPORT

Case No.: T19-0301

Case Name: Burnett v. Joyce

Property Address: 13033 Broadway Terrace, Oakland, CA 94611

Parties: Diane Burnett (Tenant)
Theresa Joyce (Owner)
Joshua Bevitz, Esq. (Owner Representative)

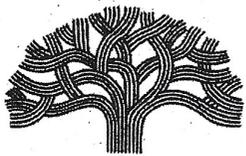
OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 23, 2019
Owner Response filed	September 30, 2019
Hearing Decision mailed	February 5, 2020
Owner Appeal filed	February 25, 2020

000017

T19-0301 KM/

KAM 5.23.19



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

250 Frank H. Ogawa Plaza, Ste. 5313
Oakland, CA 94612-0243
(510) 238-3721

RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM

For date stamp.
2019 MAY 23 PM 3:50

TENANT PETITION

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

Please print legibly

Your Name <i>Diane Burnett</i>	Rental Address (with zip code) <i>13033 Broadway Tier Oakland, CA 94611</i>	Telephone: <i>773-919-5656</i>
		E-mail: <i>DBur4900@gmail.com</i>
Your Representative's Name	Mailing Address (with zip code)	Telephone:
		Email:
Property Owner(s) name(s) <i>Theresa Joyce</i>	Mailing Address (with zip code) <i>45 Wilding Lane Oakland, CA 94618</i>	Telephone: <i>510-289-6175</i>
		Email: <i>theresaandpatrick@att.net</i>
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone:
		Email:

Number of units on the property: 2 *(We live in a house + there is a separate tenant living in the garage @ the same address)*

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

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

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

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

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

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

Lease Began 4/15/17

Date you moved into the Unit: April 15, 2017 Initial Rent: \$ 2200 /month

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

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>March 5, 2018</u>	<u>June 1, 2018</u>	\$ <u>2200</u>	\$ <u>2250</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<u>May 4, 2019</u>	<u>June 1, 2019</u>	\$ <u>2250</u>	\$ <u>2330</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

Yes No

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

Yes No

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

Yes No

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

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

} See Attached

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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


Tenant's Signature

5/22/19
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be received at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit.** **Mail to:** Oakland Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Ste. 5313, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; or through the **RAP Online Petitioning System:** <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. For more information, call: (510) 238-3721.

File Review

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

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

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

September 24, 2019

City of Oakland
Rent Adjustment Program
250 Frank Ogawa Plaza Suite 5313
Oakland, CA 94612

RECEIVED

SEP 30 2019

RENT ADJUSTMENT PROGRAM
OAKLAND

RE: File Name: Burnett v Joyce

Case #: T19-0301

To: City of Oakland RAP:

Please see the attached Property Owner Response.

I have completed what I can for my Mother, the property owner as she is out of town dealing with her brother who has fallen ill.

There are a few details/information I am unable to provide, however; upon my Mother's return she will send in an amended response along with a signed verification page.

I note the hearing date of 12/11/2019.

Feel free to contact me if you have any questions.



Linda Joyce
415-629-7367
lannersmj@gmail.com

For Theresa Joyce (property owner/landlord)

000022



CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM
 250 Frank H. Ogawa Plaza, Suite 5313
 Oakland, CA 94612-0243
 (510) 238-3721

For date stamp.

SEP 30 2019

RENT ADJUSTMENT PROGRAM
OAKLAND
PROPERTY OWNER
RESPONSE

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

CASE NUMBER T 19-0301

Your Name <i>Theresa Joyce</i>	Complete Address (with zip code) <i>45 wilding lane Oakland CA 94618</i>	Telephone: <i>50 289 6175</i>
		Email:
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Diane Burnett Maria Diaz</i>	Complete Address (with zip code) <i>13033 Broadway Terrace Oakland CA 94611</i>	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property

Have you paid for your Oakland Business License? Yes No Lic. Number: _____
 The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: _____
 The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: ___/___/1985

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

Type of unit (Circle One): House / Condominium / Apartment, room, or live-work

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return</u>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on 5 / 2017

The tenant's initial rent including all services provided was: \$ 2200 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants? Yes _____ No I don't know _____

If yes, on what date was the Notice first given? _____

Is the tenant current on the rent? Yes No _____

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
	<u>6 / 2018</u>	<u>\$ 2200</u>	<u>\$ 2250</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<u>6 / 2018</u>	<u>\$ 2250</u>	<u>\$ 2330</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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

Property Owner's Signature

Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. 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.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center.. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

Mediation Program

Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

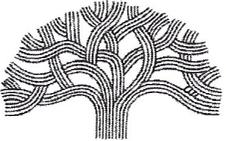
If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.

Property Owner's Signature

Date

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

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp.
		<u>PROPERTY OWNER</u> <u>RESPONSE</u>

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

CASE NUMBER T 19-0301

Your Name <i>Theresa Joyce</i>	Complete Address (with zip code) <i>45 Wilding Lane Oakland CA 94618</i>	Telephone: <i>510 289 6175</i>
		Email: <i>theresaandpatrick@att.net</i>
Your Representative's Name (if any)	Complete Address (with zip code)	Telephone:
		Email:
Tenant(s) Name(s) <i>Diane Burnett Maria Diaz</i>	Complete Address (with zip code) <i>13033 Broadway Terrace Oakland CA 94611</i>	
Property Address (If the property has more than one address, list all addresses)		Total number of units on property

Have you paid for your Oakland Business License? Yes No Lic. Number: 00179770
 The property owner must have a current Oakland Business License. If it is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Have you paid the current year's Rent Program Service Fee (\$68 per unit)? Yes No APN: _____
 The property owner must be current on payment of the RAP Service Fee. If the fee is not current, an Owner Petition or Response may not be considered in a Rent Adjustment proceeding. **Please provide proof of payment.**

Date on which you acquired the building: 5/4/1985

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

Type of unit (Circle One): House Condominium/ Apartment, room, or live-work

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

I. JUSTIFICATION FOR RENT INCREASE You must check the appropriate justification(s) box for each increase greater than the Annual CPI adjustment contested in the tenant(s) petition. For the detailed text of these justifications, see Oakland Municipal Code Chapter 8.22 and the Rent Board Regulations. You can get additional information and copies of the Ordinance and Regulations from the Rent Program office in person or by phoning (510) 238-3721.

You must prove the contested rent increase is justified. For each justification checked on the following table, you must attach organized documentary evidence demonstrating your entitlement to the increase. This documentation may include cancelled checks, receipts, and invoices. Undocumented expenses, except certain maintenance, repair, legal, accounting and management expenses, will not usually be allowed.

<u>Date of Contested Increase</u>	<u>Banking (deferred annual increases)</u>	<u>Increased Housing Service Costs</u>	<u>Capital Improvements</u>	<u>Uninsured Repair Costs</u>	<u>Debt Service</u>	<u>Fair Return</u>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you are justifying additional contested increases, please attach a separate sheet.

II. RENT HISTORY If you contest the Rent History stated on the Tenant Petition, state the correct information in this section. If you leave this section blank, the rent history on the tenant's petition will be considered correct

The tenant moved into the rental unit on 5/2017

The tenant's initial rent including all services provided was: \$ 2200 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled "NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") to all of the petitioning tenants? Yes _____ No I don't know _____

If yes, on what date was the Notice first given? _____

Is the tenant current on the rent? Yes No _____

Begin with the most recent rent and work backwards. If you need more space please attach another sheet.

<u>Date Notice Given (mo./day/year)</u>	<u>Date Increase Effective</u>	<u>Rent Increased</u>		<u>Did you provide the "RAP NOTICE" with the notice of rent increase?</u>
		<u>From</u>	<u>To</u>	
	<u>6/2018</u>	\$ <u>2200</u>	\$ <u>2250</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<u>6/2018</u>	\$ <u>2250</u>	\$ <u>2330</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

III. EXEMPTION

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

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

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

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

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

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

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

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

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

IV. DECREASED HOUSING SERVICES

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

V. VERIFICATION

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

Theresa Joyce
Property Owner's Signature

2nd Dec 2019
Date

IMPORTANT INFORMATION:

Time to File

This form **must be received** by the Rent Adjustment Program (RAP), 250 Frank H. Ogawa Plaza, Suite 5313, Oakland, CA 94612-0243, within 35 days after a copy of the tenant petition was mailed to you. Timely mailing as shown by a postmark does not suffice. The date of mailing is shown on the Proof of Service attached to the response documents mailed to you. 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.

You can date-stamp and drop your Response in the Rent Adjustment drop box at the Housing Assistance Center.. The Housing Assistance Center is open Monday through Friday, except holidays, from 9:00 a.m. to 5:00 p.m.

File Review

You should have received a copy of the petition (and claim of decreased housing services) filed by your tenant. When the RAP Online Petitioning System is available, you will be able to view the response and attachments by logging in and accessing your case files. If you would like to review the attachments in person, please call the Rent Adjustment Program office at (510) 238-3721 to make an appointment.

Mediation Program

Mediation is an entirely voluntary process to assist you in reaching an agreement with your tenant. In mediation, the parties discuss the situation with someone not involved in the dispute, discuss the relative strengths and weaknesses of the parties' case, and consider their needs in the situation. Your tenant may have agreed to mediate his/her complaints by signing the mediation section in the copy of the petition mailed to you. If the tenant signed for mediation and if you also agree to mediation, a mediation session will be scheduled before the hearing with a RAP staff member trained in mediation.

If the tenant did not sign for mediation, you may want to discuss that option with them. You and your tenant may agree to have your case mediated at any time before the hearing by submitted a written request signed by both of you. If you and the tenant agree to a non-staff mediator, please call (510) 238-3721 to make arrangements. Any fees charged by a non-staff mediator are the responsibility of the parties that participate. You may bring a friend, representative or attorney to the mediation session. Mediation will be scheduled only if both parties agree and after your response has been filed with the RAP.

If you want to schedule your case for mediation and the tenant has already agreed to mediation on their petition, sign below.

I agree to have my case mediated by a Rent Adjustment Program Staff member at no charge.

Theresa Joyce
Property Owner's Signature

2nd Dec 2019
Date



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

Acknowledgement of Payment Received

Date: February 08, 2019

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

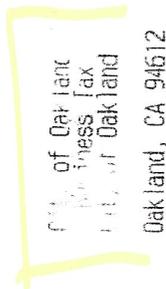
This payment will be tendered against the following account(s)

Account #: 00043983
Account Name: PATRICK & THERESA JOYCE
Account Address: 45 WILDING LN OAKLAND, CA 94618-2235
Account Paid: RAP - RENT ADJUSTMENT PROGRAM
Business Address: 13033 BROADWAY TER OAKLAND, CA 94611-1238

Please keep this acknowledgement for your records. Thank you.

Payment received by:

2019	
RAP Rent Adjustment Program	
<i>Visa Card</i>	\$68.00
Total	\$68.00



Oakland, CA 94612

#238358

Feb 08 2019 11:54 am Trans#254566

TRANSACTION RECORD

Card Number : *****3122
Expiry Date : **/**
Card Entry : SWIPED
Account : VISA
Trans Type : PURCHASE
Amount : \$68.00

Auth # : 04943C
Sequence # : 600100023
Reference # : 00100023
Trace # : F2JR
Merchant ID : 000018410142
Terminal # : 00101
Date : 19/02/08
Time : 11:54:28

APPROVE.

*** CUSTOMER CO.

THIS DOCUMENT HAS A "VERIFY FIRST" TRUE WATERMARK AND VISIBLE FIBERS DISCERNIBLE FROM BOTH SIDES

CITY OF OAKLAND

BUSINESS TAX CERTIFICATE

ACCOUNT NUMBER

00043982

The issuing of a Business Tax Certificate is for revenue purposes only. It does not relieve the taxpayer from the responsibility of complying with the requirements of any other agency of the City of Oakland and/or any other ordinance, law or regulation of the State of California, or any other governmental agency. The Business Tax Certificate expires on December 31st of each year. Per Section 85.04.190A, of the O.M.C. you are allowed a renewal grace period until March 1st the following year.

DBA

PATRICK & THERESA JOYCE

EXPIRATION DATE

12/31/2019

BUSINESS LOCATION

13033 BROADWAY TER
OAKLAND, CA 94611-1238

BUSINESS TYPE

M Rental- Residential

JOYCE PATRICK & THERESA
45 WILDING LN
OAKLAND, CA 94618-2235



THIS DOCUMENT IS ALTERATION PROTECTED AND REFLECTS FLUORESCENT FIBERS UNDER UV LIGHT

000032

CITY OF OAKLAND



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

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T19-0301, Burnett v. Joyce
PROPERTY ADDRESS: 13033 Broadway Terrace, Oakland, CA
DATE OF HEARING: December 11, 2019
DATE OF DECISION: February 4, 2020
APPEARANCES: Diane Burnett, Tenant
Maria Diaz, Tenant
Linda Joyce, Owner's Representative

SUMMARY OF DECISION

The tenant petition is granted in part.

CONTENTIONS OF THE PARTIES

On May 23, 2019, the tenant Diane Burnett filed a tenant petition contesting two rent increases, alleging the rent increases were unjustified and exceed the CPI amount, that the owner never provided the notice of the existence of the Rent Adjustment Program (the RAP Notice) and also claiming several decreased housing services.

On September 30, 2019, the owner filed a timely response, which stated that she has not given the RAP Notice to the tenant and that she did not receive a notice of some of the alleged decreased housing services until she received the Tenant Petition.

THE ISSUES

- (1) Did the tenant receive the RAP Notice?
- (2) Are the rent increases valid?
- (3) Have the tenant's housing services been decreased, and if so, by what amount?

000033

EVIDENCE

Background and Rent Increases

The tenant moved into the subject unit on April 15, 2017, at an initial rent of \$2,200.00.¹ The subject property is a residential building consisting of two (2) rental units. The current owner acquired the building on May 4, 1985.

The tenant contests the following rent increases:

1. from \$2,200.00 to \$2,250.00, effective June 1, 2018²; and
2. from \$2,250.00 to \$2,330.00, effective June 1, 2019.³

The tenant testified that she started paying \$2,250.00 on June 1, 2018, but did not pay the most recent rent increase. She kept paying \$2,250.00 through the date of the hearing. This evidence was not disputed.

RAP Notices

The tenant testified and stated on her petition that she never received the RAP Notice. She testified that the RAP Notice was not provided when she first moved into the subject unit or with any of the rent increases. The owner response stated that she did not provide the RAP Notice to the tenant.

Decreased Housing Services/Changed Condition

The tenant submitted a list of decreased housing services.⁴ At the hearing she identified the following as decreased housing services:

Splitting Utilities: There are no separate meters for each unit and the cost for trash, water and PG&E have been shared between the tenants. The tenant pays 2/3rds of the bill and the garage tenant pays 1/3rd of the bills. She submitted copies of PG&E bills and a worksheet listing how much the tenant paid for utilities from May 2017 through May 2019 – PG&E \$2,643.73, Water \$1,621.38, Waste Management \$736.80 - which totaled \$5,001.91⁵ This evidence was not disputed.

Rats/mice/fleas/insect: The tenant testified that they had rats and pests from the time they moved in. They notified the owner and the owner provided a regular pest control service for over one year from August 2017 through the fall of 2018, which solved the problem.

¹ Exhibit A

² Exhibit B

³ Exhibit C

⁴ Exhibit D

⁵ Exhibit E

Mold: The tenants testified that they suspects there is mold or potential mold due to a musty smell in the lower level of the house, specifically the bedrooms and the closets in the lower level. The owner supplied humidifier sometimes in 2017 and did not hear about this issue until the current petition. The owner testified that she will look into the inspection and testing for mold in the subject area.

Quiet Enjoyment: The tenants testified that they feel the owner is disrupting their quiet enjoyment of their property because the owner comes over to the property to do yard maintenance. The owner testified that she does the yard work once a week, usually on Mondays for several hours unless the tenants requests she reschedules. She testified that the subject property is locate in high fire area and the yard work is extensive to comply with the fire code.

Shared Mailbox: The tenants testified that there is one mailbox and they share the mailbox with the tenant who occupies the garage unit. They would like a separate mailbox. The owner testified that there has always been one mailbox at the property for both units.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Invalid Rent Increases - No RAP Notice

The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁶ and together with any notice of rent increase.⁷

Because the owner never provided the RAP notice, the contested rent increases are not valid and the monthly rent will be rolled back to \$2,200.00, the rent amount prior to the first contested rent increase. The tenants paid the first rent increase (\$2,250.00) and are entitled to restitution which will be applied as a credit for rent overpayments from June 1, 2018, through December of 2019, as follows:

OVERPAID RENT						
From	To	Monthly Rent paid	Max Monthly Rent	Difference per month	No. Months	Sub-total
1-Jun-18	1-Dec-19	\$2,250	\$2,200	\$ 50.00	19	\$ 950.00
TOTAL OVERPAID RENT						\$ 950.00

RESTITUTION	
MONTHLY RENT	\$2,200
TOTAL TO BE REPAID TO TENANT	\$ 950.00
TOTAL AS PERCENT OF MONTHLY RENT	43%
AMORTIZED OVER	
12	MONTHS BY HRG. OFFICER IS
	\$ 79.17

⁶ O.M.C. §8.22.060(A)

⁷ O.M.C. §8.22.070(H)(1)(A)

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent⁸ and may be corrected by a rent adjustment.⁹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability¹⁰ of a unit or one that was provided at the beginning of the tenancy and is no longer being provided, or one that was contracted between the parties.

In a decreased services case, the tenant has the burden of proving decreased housing services by a preponderance of the evidence and must establish she has given the owner notice of the problems and the opportunity to fix the problems before she is entitled to a relief.¹¹

Splitting Utilities: When more than one rental unit shares any type of utility bill with another rental unit, it is illegal to divide up the bill between units. Even if the parties agree to share the cost of utilities in the lease agreement, it is illegal as it violates the California law. Splitting the costs of utilities among tenants who live in separate units is prohibited by the public Utilities Commission Code and Rule 18 of PG&E.¹² The best way to remedy this situation is to install individual meters. Alternatively, the owner may choose to pay for the bill or include it into the tenant's rent as part of the rent, but it cannot be separately paid and split by the tenants.

It is undisputed that the tenants were sharing the cost for utilities with the other tenant in the garage unit. Therefore, this claim is granted and the tenants are entitled to a credit in the amount of \$5,001.91, which is the amount the tenants were charged for utilities from May of 2017 through May of 2019. The tenants will receive a credit as stated in the order below.

Rats/mice/fleas/insect: The owner acted reasonably by providing regular pest control service until the problem was solved. Therefore, this claim is denied.

Mold: The owner did not get notified until the tenant petition and testified at the hearing that she will address this issue. The owner is now on notice and has a reasonable time to remedy this issue before any relief may be ordered. Therefore, this claim is denied at this time.

Loss of Quiet Enjoyment: The tenants seemed to suggest that when the owner comes to the property to do yard maintenance, it interferes with the tenants' right to the covenant of quiet enjoyment of their property. However, the Rent Adjustment Program is an administrative agency whose power is limited to enforce the provisions of the Rent

⁸ O.M.C. §8.22.070(F)

⁹ O.M.C. §8.22.110(E)

¹⁰ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

¹¹ Hearing Decision T11-0191, *Howard v. Smith* (2012)

¹² RAP Regs 10.1.10

Adjustment Ordinance. In the case of *Larson v. City and County of San Francisco*, (2011) 192 Cal. App. 4th 1263, the court examined the authority of San Francisco's Rent Board. The court held that the jurisdiction of administrative agencies is limited to those claims that are quantifiable in nature. The Court specifically held that the loss of quiet enjoyment is not such a claim. *Larson* at p. 1281.

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

Shared Mailbox: Since the tenants moved into the subject property, there was always one mailbox for both units. While it may be inconvenient, it is not a decreased housing service relating to habitability that would warrant reduction in rent. Therefore, this claim is denied.

ORDER

1. Tenant Petition T19-0301 is granted in part.
2. The rent increases are not valid. The monthly base rent is \$2,200.00.
3. The tenant is entitled to reduce the rent in accordance with the following restitution order after this Hearing Decision becomes final. The decision is final if no party has filed an Appeal within 20 days of the date this Hearing Decision is mailed to the parties.
4. The monthly base rent of \$2,200.00 is further decreased to \$1,704.01 for the next twelve (12) months per chart below.
5. The total credit is \$5,951.92, due to rent overpayments (\$950.00) and past decreased housing services due to splitting utilities (\$5,001.92). This amount may be adjusted by a rent decrease for the next 12 months as follows:

Base Rent	\$2,200.00
Rent overpayments amortized over 12 months (950.00 divided by 12 months)	- 79.17
	\$2,120.83
Rent overpayments due to splitting utilities amortized over 12 months (\$5,001.91 divided by 12)	- 416.82
Monthly Rent for the next 12 months	\$1,704.01

5. On March 1, 2021, the rent will increase by \$495.99 (\$79.17 plus \$416.82) as the credit for rent overpayments and past decreased services due to splitting utilities expires per chart above. This is not a rent increase.

6. The owner is otherwise eligible to increase the tenants' rent six months after proper service of the Notice of the existence of the Rent Adjustment Program and in accordance with California Civil Code §827.

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

Dated: February 4, 2020



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T19-0301

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

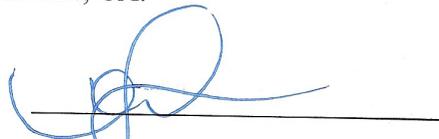
Theresa Joyce
45 Wilding Lane
Oakland, CA 94618

Tenant

Diane Burnett
13033 Broadway Terrace
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 **February 05, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

000039

9/24

 CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. 2020 FEB 25 PM 2:38
	<u>APPEAL</u>

Appellant's Name Theresa Joyce		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 13033 Broadway Terrace, Oakland, California 94611			
Appellant's Mailing Address (For receipt of notices) c/o Joshua Bevitz, Esq. Newmeyer Dillion 1333 N. California Blvd., Suite 600 Walnut Creek, CA 94596		Case Number T19-0301	Date of Decision appealed February 4, 2020
Name of Representative (if any) Joshua Bevitz, Esq.		Representative's Mailing Address (For notices) Newmeyer Dillion 1333 N. California Blvd., Suite 600 Walnut Creek, CA 94596	

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.)*
See attached.
- 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.)*
See attached.

See attached.

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.)
See attached.

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: 5.

• 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 February 25, 2020, 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>	Diane Burnett & Maria Diaz
<u>Address</u>	13033 Broadway Terrace
<u>City, State Zip</u>	Oakland, California 94611
<u>Name</u>	
<u>Address</u>	
<u>City, State Zip</u>	

 Joshua Bevitz, Esq. Appellant's Representative	February 25, 2020 DATE
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	

For more information phone (510) 238-3721.

Attachment to Appellant Theresa Joyce's Appeal
Case No. T19-0301

Appellant Theresa Joyce respectfully submits the following information in support of her appeal of the decision of the City of Oakland's Rent Adjustment Program in Case No. T19-0301, decided February 4, 2020 (the "Decision").

Appellant appeals the Decision on the following grounds:

I. The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations and/or prior decisions of the Board (Paragraph 2(a) on Appeal Form).

A. RAP Lacks Jurisdiction.

Single family residences are exempt from Oakland's Rental Ordinance under Costa-Hawkins.¹ Based thereon, RAP did not have jurisdiction to hear Ms. Maria Diaz and Ms. Diane Burnett's petition (the "Petition") and/or to render the Decision.

The subject property, located at 13033 Broadway Terrace in Oakland, California (the "Property") is a single family residence of less than 1,200 square feet. The Property is comprised of one structure. Accordingly, as a single family residence, the Property is exempt from RAP.

It does not appear from the Decision that any evidence was presented on the issue of whether the Property constitutes a single family residence and/or whether the space rented by the other tenant meets the definition of a "dwelling unit," such that the relief sought by the Petition is within the purview of RAP. In fact, the Hearing Officer remarked at the hearing to Appellant's representative (her daughter) that PG&E would not install individual meters because the Property would not be viewed as two separate residential units. Accordingly, Appellant requests the Board reverse the Decision on this point, or at the very least, remand the matter so the Hearing Officer can determine whether RAP has jurisdiction of this matter.

B. Splitting Utilities Does Not Constitute a Decrease in Housing Services.

The portion of the Decision finding that splitting utilities constitutes a decrease in housing services in the amount of \$5,001.92 is inconsistent with OMC Chapter 8.22, the Rent Board Regulations and prior decisions of the Board.

As stated in the Decision, a decrease in housing services requires the loss of a service that either (1) seriously affects the habitability of the unit² or (2) was one that was provided at the beginning of the tenancy and is no longer provided.

Splitting utilities does not affect the habitability of the unit, let alone *seriously* affect the habitability of the unit such that a decrease in housing services can be established.

¹ Hearing Decisions T11-0105 (*Kidd et al. v. Ly*); L17-0077 (*Premji V. Tenants*); T16-0068 (*Nazzari v. Massoumeh*); T14-0150 (*Harris v. Sullivan Management*)

² *Green v. Superior Court* (1974) 10 Cal. 3d 616, 637.

Decisions of this Board have found that mold and mildew³, bugs in a light fixture⁴, removal of square footage of a unit⁵, failure to repair roof leaks⁶, failure to make timely repairs⁷, and refusal to upgrade electrical⁸, are not serious conditions impacting habitability. It follows that splitting the cost of utilities does not seriously affect the habitability of the Property and no evidence was presented to the contrary.

The relevant Rent Board Regulations state that a decrease in housing services pertains to “any items originally included as housing service costs such as water, garbage, etc.” which is thereafter eliminated, at which time the decrease in rent will be calculated as “the average cost of the service eliminated.”⁹ The undisputed evidence referenced in the Decision establishes that the costs of the water, garbage, and PG&E have been shared amongst the tenants since the outset of Ms. Diaz and Ms. Burnett’s tenancy at the Property and continuing to the present. Therefore, there has been no loss of any services to justify a finding of a decrease in housing services.

The reasoning that the Hearing Officer applied to the shared mailbox applies with equal force to shared utilities yet contradictory findings were reached on these issues as it pertains to a decrease in housing services. On the issue of the shared mailbox, the Hearing Officer concluded in her Decision that “[s]ince the tenants moved into the subject property, there was always one mailbox for both units. While it may be inconvenient, it is not a decreased housing service relating to habitability that would warrant a reduction in rent. Therefore, the claim is denied.”¹⁰

Absent from the Decision is any explanation as to why a different result was reached on the utilities. Neither the Rent Board Regulations nor any of the other authorities cited in the Decision, including PG&E Rule 18, suggest that the fact of splitting utilities constitutes a decrease in housing services. Appellant is also unaware of any prior decision of this Board reaching such a finding¹¹.

Accordingly, Appellant respectfully requests that the portion of the Decision finding that splitting utilities in this case constitutes a decrease in housing services justifying a reduction in rent in the amount of \$5,001.92 be reversed as inconsistent with OMC Chapter 8.22, the Rent Board Regulations and, prior decisions of the Board.

I. The Claim Relating to Splitting Utilities is Untimely.

The undisputed evidence is that Ms. Diaz and Ms. Burnett lived at the Property for more than two years before they filed the Petition arguing (inter alia) that splitting utilities

³ Hearing Decision T12-0187 (*Kellybrew v. Lewis*)

⁴ *Id.*

⁵ Hearing Decision T12-0133 (*Goldfarb v. McGee*)

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Rent Adjustment Board Regulation 10.1.8

¹⁰ Page 5 of Decision regarding “Shared Mailbox.”

¹¹ Appellant’s representative made several requests to RAP to obtain copies of relevant Board decisions but did not receive any response.

constitutes a decrease in housing services. Many prior decision of this Board have denied petitions as untimely, such as a petition filed in 2010 regarding decreased housing services in 2008.¹² In the present case, despite an analogous timeframe of two years in a prior decision of the Board, the Decision in this matter fails to make any findings of fact or conclusions of law on the timeliness of the Petition and reaches an inconsistent result.

The Decision's findings on the split utilities is also unsupported by substantial evidence, as discussed below.

II. The Decision is not Supported by Substantial Evidence (Paragraph 2(e) on Appeal Form).

A. There is No Evidence Ms. Joyce was Provided Notice of a Decrease in Housing Services Related to the Utilities.

The tenant has the burden of proving decreased housing services by a preponderance of the evidence and must establish she has given owner notice of the problems and the opportunity to fix the problems before she is entitled to relief.¹³

Ms. Diaz and Ms. Burnett have failed to carry their burden with respect to the utilities. The Decision is not supported by any evidence whatsoever that Ms. Diaz and/or Ms. Burnett provided notice to Ms. Joyce of any decrease in housing services related to splitting utilities. As stated at the hearing, the only notice Ms. Joyce received from Ms. Diaz and Ms. Burnett with respect to splitting utilities was when Ms. Joyce received the Petition, which more than two years into the tenancy. Ms. Diaz and Ms. Burnett did not introduce any evidence (or argument) that they provided notice to Ms. Joyce of any claim of decreased housing services based on splitting utilities nor did they provide her with the opportunity to fix the problem.

Accordingly, Ms. Diaz and Ms. Burnett have failed to meet their burden of proving a decrease in housing services by a preponderance of the evidence and are not entitled to the relief in the amount of \$5,001.92.

B. There is No Evidence to Support a Reduction in Rent in the Amount of \$5,001.92.

In accordance with the Rent Board Regulations, if a decrease in rent is granted, the "Hearing Officer shall state when the decrease commenced, the nature of the service decrease, the value of the decrease in services, and the amount to which the rent may be increased when the service is restored."¹⁴ Prior decisions of the Board reflect that careful analysis is involved in valuing a decrease in service (in one Board decision, a value of a fraction of one percent was assigned)¹⁵.

¹² Hearing Decision T10-0080 (*Cortez v. Wang*)

¹³ Hearing Decision T11-0191 (*Howard v. Smith*)

¹⁴ Oakland Municipal Code section 8.22.110(f)(3)

¹⁵ Hearing Decision T13-0093

Such careful analysis is absent here. There is no indication in the Decision that consideration was given to the value of any decrease in services, which decrease Appellant continues to dispute. Rather, the Decision, with little explanation, finds that the full amount of \$5,001.92 paid in utilities for the entirety of the tenancy leading up the filing of the Petition constitutes the decrease in services.

Accordingly, Appellant respectfully requests that if the Board finds a decrease in housing services occurred, it remand the Decision for a determination of the value of the services.

III. Other (Paragraph 2(h) on Appeal Form).

A. The Petition Exceeds the Relief Sought by the Petition Without Support Justifying the Relief

The portion of the Decision awarding Ms. Diaz and Ms. Burnett \$5,001.92 in the form of reduced rent to cover a decrease in housing services is not only contrary to applicable law and unsupported by the evidence, but it also exceeds the relief sought by the Petition, which result is only permissible when based on findings of fact and conclusions of law justifying the relief.¹⁶

The Petition claims a “decrease or inadequate services” based upon shared utility bills, but it fails to allege any decrease in housing services related thereto. The Petition is utterly silent as to the garbage (other than to mention that the cost is shared) and notes that the costs of PG&E rose in November 2018 due to an electrical issue in the garage¹⁷, as well as due to an alleged six month increase in the landlord’s use of water and electricity for what they describe as “unnecessary yard work.”¹⁸ Assuming those circumstances would cause a decrease in housing services, which Appellant disputes, the Decision awarded the tenants an amount comprised of all utilities (garbage, water and PG&E) paid by the tenants from the outset of tenancy to the date of filing the Petition, which exceeds the relief sought in the Petition and is unsupported by findings of fact and conclusions of law.

The presumably unintended result of the Decision is that Ms. Diaz and Ms. Burnett have now received a windfall insofar as they are essentially receiving more than two years’ worth of free utilities, which they consumed during that timeframe without any notice to Ms. Joyce of an issue. We presume the Board will see this result as unjust and respectfully request that the Board reverse the Decision, finding that no decrease in housing services occurred as a result of the shared utilities.

¹⁶ Hearing Decision T05-0130 (*Wright v. Christian-Miller*)

¹⁷ Ms. Joyce is willing to compensate Ms. Diaz and Ms. Burnett for the increased energy costs caused for a few months by the issue in garage. However, since she has not been provided with the PG&E bills, she cannot ascertain what that amount is.

¹⁸ The Lease permits Ms. Joyce to perform yardwork at her discretion.

B. The Decision Did Not Carefully Consider Its Consequences, Which Are Manifestly Unjust.

The other tenant of the single family home has lived there for many years and she and Ms. Joyce enjoy a harmonious landlord-tenant relationship. On the other hand, Ms. Diaz and Ms. Burnett's Petition is only the latest example of their efforts to harass Ms. Joyce, a 73 year old immigrant who is unemployed and relies on the rental income derived from the Property.¹⁹

The Board should sincerely think about the practical, unjust consequences of the Decision. That is, if the Decision is permitted to stand, not only do Ms. Diaz and Ms. Burnett receive two years of free utilities, they will be awarded free utilities for as long as they remain at the Property, all while an elderly immigrant misses income she relies on.

As the Decision states, Ms. Joyce's legal options are to have PG&E install a second meter or put the utility accounts in her name²⁰ and charge enough in rent to compensate her for the utility bills for the Property. However, the Officer conceded that PG&E will not install a second meter at the Property²¹ while also tying Ms. Joyce's hands as far as how much she can raise the rent due to rent control. Even if Ms. Joyce puts the utility accounts in her name and then raises the rent, which is impermissible for at least six months per the Decision, pursuant to the consumer price index allowance, the increased rent will never catch up and capture the cost of the utilities, which also increase every year due to inflation.

The end result of the Decision, if allowed to stand, is that Ms. Diaz and Ms. Burnett get to live at the Property in perpetuity without paying for the cost of utilities they consume while Ms. Joyce, a 73 year old immigrant and long-time resident of Oakland, loses a critical source of income and is not permitted to raise the rent of her single family home for years. All in one fell swoop. That result cannot be what the citizens of Oakland and the Oakland City Council intended when it passed laws to protect tenants. While Appellant does not dispute that tenants deserve protection, in this case it is the landlord, Ms. Joyce, who is being taken advantage of. She deserves better than this. We hope the Board does what is right. Thank you.

¹⁹ It is worth noting that Ms. Joyce was unable to attend the hearing to represent herself due to Ms. Diaz and Ms. Burnett's refusal to agree to hold the RAP hearing on a date that Appellant was available.

²⁰ Presently, the other tenant has been advising Ms. Diaz and Ms. Burnett what they owe pursuant to their respective leases as the PG&E account is in the other tenant's name.

²¹ Even if a second meter could be installed, doing so and making Ms. Diaz and Ms. Burnett have a PG&E account in their names would be a rent increase pursuant to the rationale of the Decision.

ARBITRATION
2025 FEB 25 PM 2:38

PROOF OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I declare that:

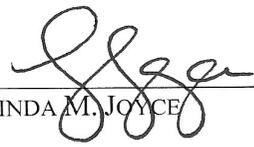
I am over the age of eighteen years.

On February 25, 2020, I served the **APPEAL AND ATTACHMENT TO APPEAL CASE No. T19-0301** on the named parties in said action as follows:

City of Oakland Rent Adjustment Program *via hand delivery 2/25/2020*
250 Frank Ogawa Plaza Suite 250
Oakland, CA 94612

Diane Burnett *via USPS Mail*
Maria Diaz
13033 Broadway Terrace
Oakland, CA 94611

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 25, 2020 at San Francisco, California.


LINDA M. JOYCE

CHRONOLOGICAL CASE REPORT

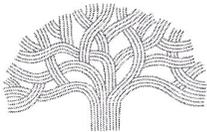
Case No.: T19-0294
Case Name: Schlageter v. Mael
Property Address: 852 Isabella Street, Oakland, CA 94607
Parties: Abbey Schlageter (Tenant)
Tesfa Mael (Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 16, 2019
No Owner Response filed	-----
Hearing Decision mailed	February 21, 2020
Owner Appeal filed	March 3, 2020

T19-0294 km/MA

RECEIVED

 CITY OF OAKLAND	CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Ste. 5313 Oakland, CA 94612-0243 (510) 238-3721	For date stamp. MAY 16 2019 RENT ADJUSTMENT PROGRAM OAKLAND TENANT PETITION
--	---	---

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

Please print legibly

Your Name <i>Abbey Schlageter</i>	Rental Address (with zip code) <i>852 Newton Carey Jr. Way Oakland, CA 94607</i>	Telephone: <i>267-407-5340</i>
Your Representative's Name	Mailing Address (with zip code)	E-mail: <i>auroraborealispod@hotmail.com</i>
Property Owner(s) name(s) <i>Tesfa Mael</i>	Mailing Address (with zip code) <i>812 34th St. Emeryville, CA 94608</i>	Telephone: Email: tesfa.mael@gmail.com
Property Manager or Management Co. (if applicable)	Mailing Address (with zip code)	Telephone: Email:

Number of units on the property: 2

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

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

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

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

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

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

Date you moved into the Unit: September 2015 Initial Rent: \$ 1000 /month

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

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

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

Date you received the notice (mo/day/year)	Date increase goes into effect (mo/day/year)	Monthly rent increase		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
<u>4/24/19</u>	<u>6/1/19</u>	\$	\$ <u>1092</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<u>3/29/19</u>	<u>5/1/19</u>	\$ <u>1000</u>	\$ <u>1034</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

Have you ever filed a petition for this rental unit?

- Yes
- No

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

T17-0527

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

Please attach documentary evidence if available.

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

IV. VERIFICATION: The tenant must sign:

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

Abbey Schlogeter
Tenant's Signature

5/10/19
Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

Time to File

This form must be **received** at the offices of the Rent Adjustment Program ("RAP") within the time limit for filing a petition set out in the Rent Adjustment Ordinance (Oakland Municipal Code, Chapter 8.22). RAP staff cannot grant an extension of time by phone to file your petition. **Ways to Submit.** **Mail to:** Oakland Rent Adjustment Program, 250 Frank H. Ogawa Plaza, Ste. 5313, Oakland, CA 94612; **In person:** Date stamp and deposit in Rent Adjustment Drop-Box, Housing Assistance Center, Dalziel Building, 250 Frank H. Ogawa Plaza, 6th Floor, Oakland; or through the **RAP Online Petitioning System:** <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. For more information, call: (510) 238-3721.

File Review

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

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

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

Repairs

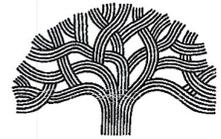
- Water damage and deterioration to multiple walls in the kitchen (inner wall, back wall, and back outside wall). Multiple complaints made to the original owner since shortly after move in date with no repairs made. New owner was notified upon initial meeting April 6, 2019.
- Partial wall missing/ partially repaired (2017) due to water damage, back kitchen wall. Multiple complaints made to original owner, partial repair made with promise to finish it (never completed). New owner notified upon initial meeting April 6, 2019.
- Bedroom wall deteriorating and repeatedly growing mold due to water damage. Tenant made repairs to bedroom within a year after moving in with own money, and wall has deteriorated since (cracks, holes, mold) due to unaddressed leak. Notified prior landlord of issue 1-2 years prior, no repairs made. New owner was notified upon initial meeting April 6, 2019.
- Possible toilet seal leak. New owner was notified upon initial meeting April 6, 2019.

Rent Increases

- March 2019, Rent Increase by \$34 notification via email by John Peterson, no R.A.P. paperwork included.
- April 2019, Notification by real estate agent that new owner, Tesfa Mael, would not be paying the alarm system, which was in the lease and the prior landlord paid for. Alarm company said this typically is roughly \$50 per month, plus \$25 activation. Upon email questioning this and stating that it constituted a decrease in housing services under current law, further refusal to pay or compensate via rent.
- April 2019, Rent increase notification by \$92 from original rent, which exceeds rent control allowable amount via email by new owner Tesfa Mael. No R.A.P. paperwork included, and was in response to prior questioning regarding notifying not paying for the alarm in future.

Harassment

- Original owner was made aware of recurring, documented harassment from other tenants, and did not effectively intervene as required by the law. Original owner responded by documented harassment of tenant, including illegally threatening to evict.
- Original owner sold property in early April 2019. New owner was made aware of documented, ongoing harassment from other tenants.
- New owner sent demanding emails insisting access to property urgently, and disregarded tenants schedule availability and the fact that she had a stress related disability and is protected under ADA fair housing laws. Issue at hand was not an emergency. Demanded access twice on one week.



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T19-0294 Schlageter v. Mael
PROPERTY ADDRESS: 852 Isabella Street, Oakland, CA
DATE OF HEARING: December 11, 2019
DATE OF DECISION: February 20, 2020
APPEARANCES: Abbey Schlageter, Tenant
Tesfa Mael, Owner

SUMMARY OF DECISION

The tenant's petition is granted.

CONTENTIONS OF THE PARTIES

On May 16, 2019, tenant Abbey Schlageter filed a petition contesting the following rent increases and claiming that her housing services have decreased:

- From \$1,000.00 to \$1,034.00 effective May 1, 2019; and
- From \$1,000.00 to \$1,092.00 effective June 1, 2019.

The basis for the tenant's petition includes the following:

- The increases exceed the CPI Adjustment and are unjustified or are greater than 10%;
- No written notice of Rent Program was given to me together with the notice of increases I am contesting;
- The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increases;
- The rent increase notices were not given to me in compliance with State law;
- The increase I am contesting is the second increase in my rent in a 12-month period;

- There is a current health, safety, fire, or building code violation in my unit, or there are serious problems with the conditions in the unit because the owner failed to do requested repair and maintenance; and
- The owner is providing me with fewer housing services than I received previously or is charging me for services originally paid by the owner.

The owner did not file a response to the petition. The owner appeared for the hearing.

THE ISSUES

- (1) When, if ever, did the tenant receive the form Notice to Tenants (RAP Notice)?
- (2) Are the contested rent increases valid?
- (3) Have the tenant's housing services been decreased and, if so, by what percentage of the total housing services that are provided by the owner?

EVIDENCE

Failure to File an Owner Response

At the hearing, the owner testified that he did not file a response to the petition because he is a new owner and he believed he could just appear for the hearing and resolve this matter.

Rent History

The tenant initially moved into the subject property in September of 2015 at an initial rent of \$1,000.00. The tenant testified at the hearing that in March of 2019, she received an email from the prior owner notifying her that her rent was being increased from \$1,000.00 to \$1,034.00 effective May 1, 2019. Shortly thereafter, the subject property was sold to the current owner, Tesfa Mael. On April 24, 2019, the tenant received another rent increase notice from the current owner, proposing to increase her rent from \$1,000.00 to \$1,092.00 effective June 1, 2019. Copies of the rent increase notices were received into evidence.¹

At the hearing, the tenant testified that she is currently paying \$1,000.00 in rent monthly and confirmed that she has not paid either of the rent increases.

The current owner testified that he was not aware of the first rent increase issued by the prior owner at the time he issued the second rent increase.

RAP Notice

The tenant testified at the hearing that she received a copy of the RAP Notice in September of 2015, at the time she moved into the subject property. She further

¹ Exhibit I

testified that she did not receive the RAP Notice with either of the contested rent increases. This testimony was undisputed.

Decreased Housing Services

With her petition, the tenant submitted the following list of decreased housing services.

Moisture Intrusion in Kitchen Walls: The tenant testified that there is water damage and deterioration of multiple walls in the kitchen. She testified that the walls are disintegrating into powder. She tried to spackle the walls herself but the spackle won't hold because there is moisture in the walls. She further testified that one kitchen wall has completely disintegrated. The prior owner partially repaired it by putting up drywall back in 2017 and he promised to complete the repair but never did so. The tenant submitted photographs of the damage to the walls.² She notified the prior owner of the water intrusion issue many times but other than the partial repair of one wall, no repairs were made. She also notified the current owner of the water intrusion during a walkthrough in April of 2019. To date, no repairs have been made.

Mold in Bedroom: The tenant testified that the back bedroom wall is deteriorating and repeatedly growing mold due to water damage. She first noticed the mold approximately two years ago and notified the prior owner at that time. She has tried to clean the mold herself with oxyclean but it keeps returning.

Alarm System: The tenant testified that an alarm system for her unit was included in her rent at the time she moved into the unit. She submitted a copy of her original lease, which lists an alarm system as a utility to be paid for by the owner.³ The tenant testified that in April of 2019, the new owner notified her that he would no longer pay for the alarm system, and if the tenant wished to continue having use of the alarm, she would have to transfer the account into her own name.⁴ The current owner has stopped paying for the alarm system and the tenant has not had a working alarm system since May of 2019. Finally, the tenant testified that the approximate cost of the alarm system is \$53.00 monthly, according to the alarm company.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Failure to File an Owner Response

The Rent Adjustment Ordinance⁵ requires an owner to file a response to a tenant petition within thirty (35) days after service of a notice by the Rent Adjustment Program that a tenant petition was filed. "If a tenant files a petition and if the owner wishes to

² Exhibit 4

³ Exhibit 3

⁴ Exhibit 2

⁵ O.M.C. Section 8.22.090(B)

contest the petition, the owner must respond...⁶. The reason given by the owner for not filing a response is not legally sufficient. Therefore, the owner's participation in the Hearing was limited to cross-examination and presenting a summation⁷.

RAP Notice and Rent Increases

Notice and Filing Requirements: The Rent Adjustment Ordinance requires an owner to serve notice of the existence and scope of the Rent Adjustment Program (RAP Notice) at the start of a tenancy⁸ and together with any notice of rent increase.⁹

It is undisputed that the tenant did not receive a RAP Notice with the contested rent increases. Therefore, the rent increases are invalid and the tenant's base rent remains \$1,000.00. The issue of a second rent increase within a 12-month period is moot.

Timeliness of Decreased Housing Service Claims

The Oakland Rent Ordinance provides that for a petition claiming decreased housing services:

- a. If the decreased housing is the result of a noticed or discrete change in services provided to the tenant, the petition must be filed within ninety days of whichever of the following is later:
 - i. The date the tenant is noticed or first becomes aware of the decreased housing service; or
 - ii. The date the tenant first receives the RAP Notice.
- b. If the decreased housing is ongoing, the tenant may file a petition at any point but is limited in restitution for 90 days before the petition is filed and to the period of time when the owner knew or should have known about the decreased housing service.¹⁰

Therefore, the tenant's restitution for any decreased housing services shall be limited to February of 2019, 90 days before the petition filing date of May 16, 2019.

Decreased Housing Services

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹¹ and may be corrected by a rent adjustment.¹² However, in order to justify a decrease in rent, a decrease in housing services must be either the elimination or reduction of a service that existed at the start of the tenancy, or one that is required to be provided in a contract between the parties, or a violation of the housing or building code which seriously affects the habitability of the tenant's unit.

⁶ O.M.C. Section 8.22.070(C)

⁷ Santiago v. Vega, Case No. T02-0404

⁸ O.M.C. Section 8.22.060(A)

⁹ O.M.C. Section 8.22.070(H)(1)(A)

¹⁰ O.M.C. Section 8.22.090(A)(3)

¹¹ O.M.C. Section 8.22.070(F)

¹² O.M.C. Section 8.22.110(E)

Further, an owner must be given notice of a problem, and a reasonable opportunity to make repairs, before a claim of decreased housing services will be granted.

Additionally, the tenants have the burden of proof with respect to each claim.

Moisture Intrusion in Kitchen Walls: The tenant testified credibly that the kitchen walls are deteriorating due to water damage and moisture intrusion. This claim affects the habitability of the unit and the tenant is entitled to a 5% rent reduction until the kitchen walls are repaired. The tenant is also entitled to past decreased housing services from February 2019, (90 days prior to the filing of the petition) to December 11, 2019, (date of hearing). (See chart below).

Mold in Bedroom: The tenant testified that there is mold in the back bedroom. This claim affects the habitability of the unit and the tenant is entitled to a 2% rent reduction until the mold is remediated. The tenant is also entitled to past decreased housing services from February 2019, (90 days prior to the filing of the petition) to December 11, 2019, (date of hearing). (See chart below).

Alarm System: The tenant testified credibly that the prior owner paid for the alarm system since the inception of the tenancy, pursuant to the original lease agreement. The current owner stopped paying for the alarm system and the tenant has not had a working alarm system since May of 2019. This constitutes a decrease in housing services and the tenant is entitled to a 5% rent reduction until the alarm system is restored. The tenant is also entitled to past decreased housing services from May 2019, (when she lost use of the alarm system) to December 11, 2019, (date of hearing). (See chart below).

VALUE OF LOST SERVICES

Service Lost	From	To	Rent	% Rent Decrease	Decrease /month	No. Months	Overpaid
Kitchen Walls	1-Feb-19	1-Dec-19	\$1,000	5%	\$ 50.00	11	\$ 550.00
Mold	1-Feb-19	1-Dec-19	\$1,000	2%	\$ 20.00	11	\$ 220.00
Alarm	1-May-19	1-Dec-19	\$1,000	5%	\$ 50.00	8	\$ 400.00
TOTAL LOST SERVICES							\$ 1,170.00

RESTITUTION

MONTHLY RENT	\$ 1,000.00
TOTAL TO BE REPAYED TO TENANT	\$ 1,170.00
TOTAL AS PERCENT OF MONTHLY RENT	117%
AMORTIZED OVER 12 MO. BY REG. IS	\$ 97.50
OR OVER MONTHS BY HRG. OFFICER IS	

ORDER

1. Petition T19-0294 is granted.
2. The rent increases are invalid. The tenant's base rent remains \$1,000.00
3. Due to ongoing decreases in housing services, the tenant's rent is reduced by 12% (\$120.00). The tenant's current legal rent, before consideration of restitution, is \$880.00 a month. The tenant may begin paying the reduced rent of \$880.00 once this Hearing Decision is final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to all parties
4. Due to past decreased services, the tenant is owed restitution in the amount of \$1,170.00. This overpayment is adjusted by a rent decrease for 12 months in the amount of \$97.50 a month.
5. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final.
6. If the owner wishes to, he can repay the restitution owed to the tenant at any time. If he does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.
7. If the owner repairs the moisture intrusion in the kitchen walls, the owner can increase the rent by 5% (\$50.00 a month), if he remediates the mold in the back bedroom, he can increase the rent by 2% (\$20.00), and if he restores the alarm system, he can increase the rent by 5% (\$50.00). In order to increase the rent after the owner completes repairs, the owner must provide the necessary notice pursuant to Civil Code § 827 and the Rent Adjustment Ordinance.

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

Dated: February 20, 2020



Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program

000059⁶

PROOF OF SERVICE

Case Number T19-0294

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

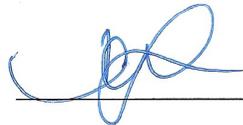
Tesfa Mael
812 34th Street
Emeryville, CA 94608

Tenant

Abbey Schlageter
852 Isabella Street
Oakland, CA 94607

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **February 21, 2020** in Oakland, CA.



Raven Smith

Oakland Rent Adjustment Program

000060



RECEIVED
CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM

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

For date stamp.
2020 MAR -3 PM 4:04

APPEAL

Appellant's Name <i>Tesfa Mael</i>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) <i>852 Isabella St</i>			
Appellant's Mailing Address (For receipt of notices) <i>812 34th St</i> <i>Oakland, CA 94608</i>		Case Number <i>T19-0294</i>	
		Date of Decision appealed <i>Feb 20, 2020</i>	
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 March 3rd, 2020 I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Abbey Schlageter
Address	852 Isabella St, Oakland, CA
City, State Zip	Oakland, CA 94608
Name	
Address	
City, State Zip	

<u>Teresa Mael</u>	<u>03/03/2020</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

For more information phone (510) 238-3721.

2020 MAR -3 PM 4: 04

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.

2020 MAR -3 PM 4:05

I would like to file an appeal. I disagree with decision of the RAP staff order T19-0294 dated Feb 20, 2020.

ORDER

1. I disagree with the decision of Petition T19-0294.
 2. I don't believe an adequate or explicit reason is given about the validity of the rent increase to \$1092. RAP notice was provided after the rent increase notice with more than three 30 days of notice.
 3. I don't agree with the decrease in housing service calculation and timeline because the Moisture intrusion and Mold in Bedroom had been fixed within 4 days after I became aware of the issue.
 4. The restitution amount of \$1170.00 is way overestimated. I was not even an official owner until April 8th.
- If any, restitution for the issues should not exceed 4 days.
 It's previous owner and real estate agent fault and they didn't have an explicit agreement in place and they told me it was something John paid after close of escrow. In any case, service should be restored on Feb 28, 2020 for \$29.99 per month. Please consider recalculating the restitutions?

Date	Notes	Evidence
4/8/2019	I became an official owner of 852 Isabella St and we did a walk through soon after. Abbey presented lots of verbal complaint about the neighbors upstairs and previous owner. I let her know that I'll address any new issues that come up. I learned later that Abbey ex boyfriend is a friend of upstairs and has long history of fights with them trying to get them evicted. I've also learned that Abbey had tried taking her Ex boyfriend, neighbor Katie, and previous owner John to court for different cases in different occasions..	See public record
04/17/2019	Sent a notice to Abbey introducing myself as the new owner and she can continue renting with the same terms at \$1000 per month month-to-month and she can start sending her checks to my address. Learned about Alarm after close of escrow.	See 20200417
4/24/2019	Sent a rent increase (9.2%) notice effective for June 1, 2019. New rent \$1092. banking for three years and it is less than 10%.	See 20190604
5/1/2019	Officially started receiving rent money from Abbey	
6/4/2019	Abbey told me in an email she disagrees about the rent increase. I also sent her the PDF RAP notice since it was missing from the rent increase notice. I let her now that I was banking for 3 years and I can correct it if I missed something but never heard back from her on this issue until I received her petition from the city.	See 20190604
12/11/2019	<p>Attended the hearing. First time seeing Abbey face-to-face after the last walkthrough. She was unwilling to talk about any of her concerns before the hearing.</p> <p>Abbey had three concerns:</p> <ol style="list-style-type: none"> 1. Moisture intrusion in Kitchen walls 2. Mold in Bedroom 3. Alarm System - Became aware after close of escrow on April 24, 2019 but there was no documentation to show the agreements. <p>First time hearing #1 and #2.</p>	
12/11/2019	After the hearing, I let her know that I'll fix issues #1 and #2 soon. We also discussed nuisance issues that were raised against the neighbors. Neighbors corrected the issues.	
12/12/2019	Connected Abbey with a handyman Adrian to coordinate and do the repair. Adrian fixed what every she needed the same week.	See 20201212
12/15/2019	All issues except for the alarm were resolved.	
2/28/2019	Called ADT to restore Alarm System and paid \$124 reactivation fee and \$29.99 monthly service	See 20200228
2/29/2019	Abbey rescheduled the appointment for Thursday March 5th.	See 20200228
3/6/2019	ADT plan to activate the alarm	



Tesfa Mael <tesfa.mael@gmail.com>

2020 MAR -3 PM 4:05

Isabella alarm

Sunny Kim <sunny@winklerreg.com>
To: Abbey Schlageter <auroraborealisprod@hotmail.com>
Cc: John Peterson <barstow9@gmail.com>, tesfa.mael@gmail.com

Mon, Apr 15, 2019 at 5:51 PM

Hi Abbey,

I hope you had a nice weekend. I'm reaching out to you as it was brought to our attention after closing that you have an alarm and John was paying for it. however, the new buyer is not going to be paying for the alarm. You are definitely more than welcome to keep using it, but you will have to set up the account into your name and pay for it. sorry about that.

Thanks,

Sunny Kim

Winkler Real Estate Group

1215 Solano Avenue

Albany, CA 94706

DRE #01842534

Phone: 510-528-2200

Fax: 510-528-2100

000065



RECEIVED
CITY OF OAKLAND
RENT ADJUDICATOR (RCA)
Tesfa Mael <tesfa.mael@gmail.com>

2020 MAR -3 PM 4:05

Follow up - Rent Increases effective June 1, 2019

1 message

Tesfa Mael <tesfa.mael@gmail.com>

Tue, Jun 4, 2019 at 1:56 PM

To: Abbey Schlageter <auroraborealisprod@hotmail.com>

Hi Abbey,

Hope all is well with you.

I just received your notes disagreeing the rent increase that was sent on Wed, Apr 24, 12:03 AM.

You are saying that the "banking" 9.2% rent increase is not abiding by current Oakland Housing and Rent Control Laws and it was not given in compliance with the state law.

Would you mind elaborating why and how much it is supposed to be?

According to <https://www.oaklandca.gov/resources/learn-more-about-allowable-rent-increases>, the Consumer Price Index (CPI) Increases as follows

- ...
- July 1, 2019: 3.5%
- July 1, 2018: 3.4%
- July 1, 2017: 2.3%
- ...

Since you haven't had a rent increase since your lease expired three years ago, we are allowed to bank or combine the increase and it comes up to \$1092.

$$(1 + (3.5+3.4+2.3)/100) * 1000 = \$1092$$

Please let me know if I missed something so I can stand corrected?

Thanks,
Tesfa

000066



NEW YORK COUNTY OF ALBANY
CITY OF ALBANY
RENT ARBITRATION PROGRAM
Tesfa Mael <tesfa.mael@gmail.com>

2020 MAR -3 PM 4:05

Moisture intrusion, Mold in Bedroom and System Alarm

1 message

Tesfa Mael <tesfa.mael@gmail.com>

Tue, Mar 3, 2020 at 10:38 AM

To: Abbey Schlageter <auroraborealisprod@hotmail.com>

Hi Abbey,

This notice is to let you know that the decreases in housing services have been remedied. The rent is restored to the original amount as of the end of February.

I wrote to you on Dec 14th, 2019 asking for you to confirm issues in your unit have been fixed.

Additionally, fixes were made to the water heater upstairs and inspection of the roof was done as well.

Moreover, I have already paid for the alarm system with an activation fee and a monthly service charge of \$29.99 per month on Feb 28th, 2020.

Thanks for letting me know on Feb 29th that you have (re) scheduled the Alarm technician visit to activate the alarm from Monday, March 3rd to Thursday, March 5th.

Thank you for your kind attention to these matters.

Please let me know if you have any questions or concerns.

Sincerely,
Tesfa Mael



RECEIVED
CITY OF PEAKLAND
RENT ARBITRATION BOARD
Tesfa Mael <tesfa.mael@gmail.com>

2020 MAR -3 PM 4: 05

852 Repairs

5 messages

Tesfa Mael <tesfa.mael@gmail.com>

Thu, Dec 12, 2019 at 10:54 AM

To: Abbey Schlageter <auroraborealisprod@hotmail.com>

Hi Abbey,

It was nice seeing you face-to-face for the first time yesterday.

Again, I was quite surprised by the issues you raised yesterday but I can assure you that we'll get them fixed.

I believe you have already connected with Adrian this morning around 9:30 am.

He'll start working on the repairs starting tomorrow when you are available.

He confirmed with the upstairs that there was a water leak coming from the water heater. Unfortunately, they never notified me. The moisture is likely related to it.

I think he has also recommended you to open your windows to let some air in.

Adrian's number is 707.843.8050.

Please let me know if you have any questions or concerns.

Thanks,
Tesfa

Tesfa Mael <tesfa.mael@gmail.com>

Sat, Dec 14, 2019 at 5:10 PM

To: Abbey Schlageter <auroraborealisprod@hotmail.com>, zemog.a@icloud.com

Hi Abbey,

My current understanding is that Adrian and you have coordinated a good time that work for you.

He and his team have been working in your unit for a couple of days.

Adrian at 707.843.8050 just called me to let me know that he and his team has completed the work.

I tried calling your phone to confirm since I can't come and see it at the moment.

Please let me know if you are happy with his work?

Thanks,
Tesfa

[Quoted text hidden]

Abbey Schlageter <auroraborealisprod@hotmail.com>

Mon, Dec 16, 2019 at 12:07 AM

To: Tesfa Mael <tesfa.mael@gmail.com>

Tesfa,

While I am glad some repairs were made, I am quite confused at these emails you are sending me. As I stated to you at the rent board hearing, I have no interest in further engaging in a debate over what happened. The rent board was most certainly not the first time I met you, and as I stated before you were made aware of these issues a long time ago. Please cease and desist with this behavior, as it is further aggravating my disability and is creating unwarranted stress.

000069

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

2020 MAR -3 PM 4:05

Annual Rent Increase Letter

Date: 04 / 06 / 2019

RE: Change in Rent Notice

Tenant's Name: Abbey Schlageter

Please be advised that effective 06 / 01 / 2019 the monthly rent for the premises located at 852 Isabella St, Oakland, CA, where you are currently a tenant, will be increased to \$ 1092 per month payable in advance on/or before the 1 of each month.

This is a change from your previous rent of \$ 1000 per month. All other terms of your tenancy as outlined in your lease, and any addendums will remain in effect. I appreciate your consideration in this matter. Feel free to contact me with any questions or concerns.

Sincerely,

Landlord/Property manager: Tesfa Mael

Signature: 

000071



RESIDENTIAL SERVICES CONTRACT (CA) (FLEXFI)

STATE OF CALIFORNIA
 COUNTY OF ALameda
 NEW ADMINISTRATIVE REPORT

2020 MAR -3 PM 4:05

Section 1. Customer Info

ADT LLC dba ADT Security Services ("ADT") Office Address www.MyADT.com 800.ADT.ASAP (800.238.2727)	Customer Name ("Customer" or "I" or "me" or "my") Tesfa Mael
	Premises Address 852 Isabella St
	City Oakland State CA ZIP 94607
	Tax Exempt No. Tax Expire Date
	Protected Premises Telephone (408) 505-7461

IF FAMILIARIZATION PERIOD IS REJECTED INITIAL HERE _____ (see Paragraph 15 of the Important Terms and Conditions for explanation)

EMAIL **tesfa.mael@gmail.com**

If I have provided or do provide ADT with a phone number, including but not limited to a cell phone number, a number that I later convert to a cell phone number, or any number that I subsequently provide for billing and other non-solicitation purposes, I agree that ADT may contact me at this/these number(s). I also agree to receive calls and messages such as pre-recorded messages, calls and text messages from automated dialing systems at the number(s) provided. I confirm that I am the registered owner of all telephone number(s) that I have or will provide to ADT to contact me. If I have provided or do provide ADT with an email address, I agree that ADT may send me emails regarding my ADT Services or new ADT or third-party products and services. I may unsubscribe or opt out by emailing DNCComplaint@adt.com or by calling (877) 377-7343.

OWNERSHIP AND PAYMENT OBLIGATION. All equipment installed by ADT pursuant to this Contract shall be owned by the Customer except as otherwise agreed in writing. I agree to purchase the equipment and pay the installation costs described in Section 2. I UNDERSTAND THAT FINANCING MAY BE AVAILABLE AND AGREE THAT (A) I MAY NOT BE APPROVED FOR ANY FINANCING FOR EQUIPMENT AND INSTALLATION COSTS AND (B) I WILL NOT BE NOTIFIED OF WHETHER FINANCING HAS BEEN APPROVED UNTIL THE DATE THE EQUIPMENT IS INSTALLED. UNLESS I AM LATER APPROVED FOR FINANCING FROM ADT, I WILL BE REQUIRED TO PAY THE FULL AMOUNT OF THE TOTAL INSTALLATION CHARGE IN A SINGLE INSTALLMENT ON THE DATE THE EQUIPMENT IS INSTALLED. I acknowledge that the repayment term for equipment and installation costs may be different from the initial term for ADT services.

I acknowledge and agree to each of the following: (A) This Contract consists of nine (9) pages. Before signing this Contract, I have read, understand and agree to each and every term of this Contract, including but not limited to Paragraphs 5, 7 and 19 of the Terms and Conditions. (B) The initial term of this Contract for ADT services is two (2) years. (C) ADT is not a security consultant and cannot address all of my potential security needs. ADT has explained to me the full range of equipment and services that ADT can provide me. Additional equipment and services over those identified in this Contract are available and may be purchased from ADT at an additional cost to me. I have selected and purchased only the equipment and services identified in this Contract. (D) No alarm system can provide complete protection or guarantee prevention of loss or injury. Fires, floods, burglaries, robberies, medical problems and other incidents are unpredictable and cannot always be detected or prevented by an alarm system. Human error is always possible, and the response time of police, fire and medical emergency personnel is outside the control of ADT. ADT may not receive alarm signals if communications or power is interrupted for any reason. (E) ADT recommends that I manually test the alarm system monthly and any time I change telephone service, by calling 800.ADT.ASAP or by logging in to www.MyADT.com. (F) This Contract requires final approval by an ADT authorized manager before ADT may provide any equipment or services, and if approval is denied, then this Contract will be terminated, and ADT's only obligation will be to notify me of such termination and refund any amounts I paid in advance.

I understand and agree that I am required to be present at the installation of the equipment purchased under this Contract and to sign the additional contract documents necessary to complete any financing arrangements. If I am not present at the installation of the equipment purchased under this Contract, I authorize any adult 18 years of age or older who has access to my premises and is present at the installation to authorize the completion of the installation of any equipment purchased under this Contract and to make any changes to the choice of equipment or services purchased. I authorize payment for any changes approved at the installation pursuant to the payment instructions at the end of "Section 2. Services to be Provided" on page 2 of this Contract.

ADT Representative
Kenneth Morrell (NSC) Rep. License No. (if Required) Rep. ID No. **TMK**

Customer Signature: Original Signature Required (Must match Customer Name in Section 1 above)
 X Tesfa Mael _____ **2/28/2020**
ECC03AA4E855A09

NOTICE OF CANCELLATION
 I, THE CUSTOMER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT. I ACKNOWLEDGE BEING VERBALLY INFORMED OF MY RIGHT TO CANCEL AT THE TIME OF EXECUTION OF THIS CONTRACT AND RECEIPT OF THIS NOTICE.

000072



RESIDENTIAL SERVICES CONTRACT (CA) (FLEXFI)

Section 2. Services to be Provided			
FINANCIAL DISCLOSURE STATEMENT			
THERE IS NO FINANCE CHARGE OR COST OF CREDIT (0% APR) ASSOCIATED WITH THIS CONTRACT.			
A. NUMBER OF PAYMENTS FOR SERVICES FOR THE INITIAL TERM IS 24.	B. AMOUNT OF EACH PAYMENT FOR SERVICES IS \$38.99 (TOTAL MONTHLY SERVICE CHARGE FROM BELOW)	TOTAL OF PAYMENTS FOR SERVICES FOR THE INITIAL TERM IS \$935.76 (A. TIMES B.) (EXCLUSIVE OF EQUIPMENT AND UP FRONT CHARGES AND ANY APPLICABLE TAXES, FEES, FINES AND RATE INCREASES), ADDITIONAL SERVICE CHARGE DISCOUNTS MAY APPLY, SEE NOTES BELOW.	
LATE CHARGE - PAYMENT IS DUE PURSUANT TO MY SELECTED BILLING FREQUENCY, PRIOR TO THE START OF SERVICE. MY FIRST BILL/CHARGE WILL BE SENT/MADE SHORTLY AFTER MY SERVICE BEGINS. ADT MAY IMPOSE A ONE-TIME LATE CHARGE ON EACH PAYMENT THAT IS MORE THAN TEN (10) DAYS PAST DUE, UP TO THE MAXIMUM AMOUNT PERMITTED BY LAW, BUT IN NO EVENT WILL THIS AMOUNT EXCEED \$5.00.		PREPAYMENT - IF I PREPAY THE TOTAL OF PAYMENTS PRIOR TO THE END OF THE INITIAL TERM OF THIS CONTRACT, THERE IS NO PENALTY OR REFUND.	
		SEE PARAGRAPHS 1, 2, 4, 16 AND 20 OF THIS CONTRACT FOR ADDITIONAL INFORMATION ABOUT NONPAYMENT, DEFAULT AND ACCELERATION.	
	Monthly Service Charge		
Standard Monthly Service, Burglary Service includes: Customer Monitoring Center Signal Receiving and Notification Service for Burglary, Manual Fire and Manual Police Emergency	\$38.99	Customer to obtain and pay for alarm permit. Failure to obtain and provide ADT with required alarm permit registration could result in no fire/police response to an alarm from the premises and/or a fine.	Y
Standard Monthly Service, Fire/Smoke Detection Service includes: Customer Monitoring Center Signal Receiving and Notification Service for Fire, Manual Fire and Manual Police Emergency	Included	One Time Alarm System Registration Fee	\$25.00
		Municipal Electrical/Installation Permit	
		Admin Fee	
___ Carbon Monoxide ___ Flood ___ Low Temp	Included	Equipment Price (including installation)	\$99.00
Medical Alert		Taxable Amount	
Safewatch Cellguard®	Included	Non-Taxable Amount	
SecurityLink Two-Way Voice	Included	Connection/Activation Fee	\$0.00
Extended Limited Warranty/Quality Service Plan (QSP)		Sales Tax on Equipment and Installation*	
Guard Response Service		Total Equipment Price (including installation)	\$124.00
Monthly Recurring Municipal Alarm Permit Fee		Trip Charge Received	
Other _____		Equipment Down Payment Received	\$124.00
		Amount Due for Equipment at Installation*	\$0.00
Total Monthly Service Charge	\$38.99	Balance Due for Equipment (including installation)*	
		Security Deposit (see paragraph 1.B of the Terms and Conditions)	

*Amounts shown above for Taxable Amount, Sales Tax on Installation, Amount Due at Installation and Balance Due are estimates; final amounts will be calculated and detailed on your bill.

By signing this Contract, I authorize ADT to withdraw from my bank account and/or charge my credit/debit card provided to ADT through an Automated Clearing House ("ACH") for (i) Service Charges and Installation Charges as indicated below, (ii) Contract Termination Charges (see Paragraph 2, Early Termination of this Contract) and (iii) all other charges and amounts for which I am liable under this Contract.

- (X) Service Charges (if no billing period oval is filled, my recurring service charges will be charged monthly)
- () Annually () Semi-Annually () Quarterly (X) Monthly
- (X) Installation Charges
- () 3 monthly credit/debit card payments of equal amounts (available only for telephone orders with an installation price over \$400 or field sales with an installation price over \$1,500)

This authorization to withdraw from my bank account and/or charge my credit/debit card will remain in effect until the termination date of this Contract or until I cancel this Contract, whichever occurs first. I may revoke this authorization only by notifying ADT and my bank or credit card company at least 10 business days before the scheduled debit or charge. I agree to notify ADT of any other changes in my account information at least 15 days prior to the next billing date. If the date or amount of the withdrawal changes, or if Contract Termination Charges or other charges (other than regular recurring charges) apply, ADT will notify me at least 15 days prior to the payment being collected. If a payment date falls on a weekend or holiday, payment may be executed on the next business day. Charges may be applied to my account each month as early as the transaction date. If an ACH transaction is rejected for non-sufficient funds (NSF), ADT may attempt to process the charge again within 30 days, and an NSF charge may apply. The origination of ACH transactions to my account must comply with the provisions of U.S. law. I am an authorized user of the bank account or credit card account provided to ADT for payment of charges under this Contract, and I will not dispute payments under this Contract from this account with my credit card company or bank so long as the amount corresponds to the terms of this Contract.



RESIDENTIAL SERVICES CONTRACT (CA) (FLEXFI)

NOTES

The Service Charges shown above do not include the following promotion(s): a Monthly Service Charge of \$29.99 per month for the first 12 month(s) of Service after commencement of the Services described above, after which time your Monthly Service Charge will revert to the standard Monthly Service Charge shown above.

IMPORTANT TERMS AND CONDITIONS

1. A. PAYMENTS; TERM; CONSUMER REPORT. All charges are payable in advance. The initial term of this Contract for ADT services is two (2) years. ADT's alarm monitoring and notification services will begin when the equipment is installed, operational and communicating with ADT's Customer Monitoring Center ("CMC"). This Contract will automatically renew for successive thirty (30)-day terms unless terminated by either party at least thirty (30) days before the end of the current term. If terminated, this Contract ends on the last day of the then-current term. I may terminate my service by calling ADT at 800.327.4348. I authorize ADT to obtain a non-investigative consumer report, commonly referred to as a credit check or credit report, about me from a consumer reporting agency at any time during the term.

B. SECURITY DEPOSIT. ADT may require me to pay a refundable security deposit (i) before installation of the equipment and commencement of services or (ii) at any time to continue services if I fail to pay any amounts when they are due. If my ADT services are terminated or ADT is otherwise required by law to refund my security deposit, ADT shall within forty-five (45) days or as otherwise specified by applicable law return my security deposit (without interest) minus any amounts owed by me to ADT under this Contract (including without limitation, any Unreturned Equipment Fees, Contract Termination Charges, false alarm fines or unpaid Service or Installation Charges). ADT may, in its discretion, return all or a portion of my security deposit to me prior to termination of my ADT service (without interest).

2. EARLY TERMINATION OF THIS CONTRACT. I AGREE THAT THE CHARGES DUE UNDER THIS CONTRACT ARE BASED ON MY AGREEMENT TO RECEIVE AND PAY FOR THE SERVICES FOR TWO (2) FULL YEARS AND THAT ADT HAS RELIED UPON MY AGREEMENT AND HAS INCURRED COSTS IN DECIDING TO ENTER INTO THIS CONTRACT. IF I CANCEL SERVICE OR OTHERWISE TERMINATE THIS CONTRACT DURING ITS INITIAL TERM, OR IF ADT CANCELS THIS CONTRACT DURING ITS INITIAL TERM FOR A REASON SET FORTH IN PARAGRAPH 20(B) BELOW, I WILL PAY ADT 75% OF THE TOTAL REMAINING MONTHLY CHARGES AS AN ALTERNATIVE TO ME HAVING TO PAY THE FULL REMAINING CHARGES. THIS AMOUNT IS A CONTRACT TERMINATION CHARGE AND IS NOT A PENALTY. THE AMOUNT IS PAYABLE IMMEDIATELY IN FULL. NO CONTRACT TERMINATION CHARGES ARE DUE IF I TERMINATE, OR IF ADT CANCELS, DURING THE THIRTY (30)-DAY RENEWAL PERIOD(S).

3. INCREASES IN CHARGES. ADT has the right to increase the annual service charge at any time after the initial two (2)-year term. If I object in writing to the increase within thirty (30) days of receiving notice of the increase, and if ADT does not waive the increase, then I may terminate this Contract effective thirty (30) days after ADT's receipt of my written notice of termination.

4. ALARM PERMITS; ADDITIONAL CHARGES AND OFFSET RIGHTS. Certain government agencies require me to pay for and maintain alarm use permits to receive ADT services. I agree to pay all installation and alarm use permit fees; all directly or indirectly imposed false alarm fines, fees or charges; all telephone or signal transmission company charges; and all other assessments, fees and charges related to the alarm system. I agree to pay a service charge if an ADT representative responds to a service call or alarm at my premises because I improperly followed operating instructions; failed to properly lock or close a window, door or other protected point; or improperly adjusted CCTV cameras, monitors or accessories. If ADT owes me money when this Contract ends, ADT has the right to deduct from any refund owed me (A) service charges for thirty (30) days, if I fail to give the required written termination notice set forth in Paragraph 1 above (B) any contract termination charges that I may owe as set forth in Paragraph 2 above, and (C) any other additional charges, amounts or deposits that I owe ADT. If the amount of the deduction equals or exceeds the amount that ADT owes me or if ADT owes me a credit of five dollars (\$5.00) or less, ADT will not be obligated to refund any amounts to me.

5. LIMITATION OF LIABILITY. This paragraph 5 does not apply to liability, lawsuits or claims for personal injury or property damage caused by ADT's negligence during the installation of ADT equipment.

A. INSURANCE; WAIVER OF SUBROGATION. I AGREE THAT ADT IS NOT AN INSURER AND THAT ADT IS NOT PROVIDING ME WITH INSURANCE OF ANY TYPE. THE AMOUNTS I PAY ADT ARE NOT INSURANCE PREMIUMS AND ARE NOT RELATED TO THE VALUE OF MY PROPERTY, ANYONE ELSE'S PROPERTY LOCATED IN MY PREMISES OR ANY RISK OF LOSS AT MY PREMISES. INSTEAD, THE AMOUNTS ADT CHARGES ME ARE BASED SOLELY UPON THE VALUE OF THE EQUIPMENT AND SERVICES ADT PROVIDES AND UPON THE LIMITED LIABILITY ADT ASSUMES UNDER THIS CONTRACT. IF I WANT INSURANCE TO PROTECT AGAINST ANY RISK OF LOSS AT MY PREMISES, I WILL PURCHASE IT. IN THE EVENT OF ANY LOSS, DAMAGE OR INJURY, I WILL LOOK EXCLUSIVELY TO MY INSURER AND NOT TO ADT TO COMPENSATE ME OR ANYONE ELSE. I RELEASE AND WAIVE FOR MYSELF AND MY INSURER ALL SUBROGATION AND OTHER RIGHTS TO RECOVER AGAINST ADT ARISING AS A RESULT OF THE PAYMENT OF ANY CLAIM FOR LOSS, DAMAGE OR INJURY.

B. NO GUARANTEE; NO LIABILITY. ADT'S EQUIPMENT AND SERVICES DO NOT CAUSE AND CANNOT ELIMINATE OCCURRENCES OF THE EVENTS THEY ARE INTENDED TO DETECT OR AVERT, INCLUDING, BUT NOT LIMITED TO, FIRES, FLOODS, BURGLARIES, ROBBERIES AND MEDICAL PROBLEMS. OTHER THAN THE LIMITED WARRANTY AND/OR QUALITY SERVICE PLAN SET FORTH IN PARAGRAPHS 10, 11 AND 12 BELOW, ADT MAKES NO GUARANTY OR WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, THAT THE EQUIPMENT AND SERVICES PROVIDED WILL DETECT OR AVERT SUCH INCIDENTS OR THEIR CONSEQUENCES. ADT DOES NOT UNDERTAKE ANY RISK THAT I OR MY PROPERTY, OR THE PERSON OR PROPERTY OF OTHERS, MAY BE SUBJECT TO INJURY OR LOSS IF SUCH AN EVENT OCCURS. THE ALLOCATION OF SUCH RISK REMAINS WITH ME, NOT ADT. I RELEASE, WAIVE, DISCHARGE AND PROMISE NOT TO SUE OR BRING ANY CLAIM OF ANY TYPE AGAINST ADT FOR LOSS, DAMAGE OR INJURY RELATING IN ANY WAY TO THE EQUIPMENT OR SERVICES PROVIDED BY ADT.

C. EXCLUSIVE REMEDY. IT IS IMPRACTICAL AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGES, IF ANY, THAT MAY RESULT FROM A FAILURE BY ADT TO PERFORM ANY OF ITS OBLIGATIONS. UNDER NO CIRCUMSTANCES WILL I ATTEMPT TO HOLD ADT LIABLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR PERSONAL INJURY OR DAMAGES TO PROPERTY. IF, NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH 5, ADT IS FOUND LIABLE FOR LOSS, DAMAGE OR INJURY UNDER ANY LEGAL THEORY RELATING IN ANY WAY TO THE SERVICES AND/OR EQUIPMENT PROVIDED BY ADT, ADT'S LIABILITY TO ME SHALL BE LIMITED TO A SUM EQUAL TO 10% OF THE ANNUAL SERVICE CHARGE OR \$500, WHICHEVER IS GREATER. THIS AGREED-UPON AMOUNT IS NOT A PENALTY. RATHER, IT IS MY SOLE REMEDY. UPON MY REQUEST, ADT MAY AGREE TO ASSUME LIABILITY BEYOND WHAT IS PROVIDED FOR IN THIS PARAGRAPH 5 BY ATTACHING AN AMENDMENT TO THIS CONTRACT SETTING FORTH THE EXTENT OF ADT'S LIABILITY AND THE ADDITIONAL CHARGES TO ME.

D. APPLICATION. THE PROVISIONS OF THIS PARAGRAPH 5 APPLY NO MATTER HOW THE LOSS, DAMAGE, INJURY OR OTHER CONSEQUENCE OCCURS, EVEN IF DUE TO THE PERFORMANCE OR NONPERFORMANCE BY ADT OF ITS OBLIGATIONS UNDER THIS CONTRACT OR FROM NEGLIGENCE (ACTIVE OR OTHERWISE), STRICT LIABILITY, VIOLATION OF ANY APPLICABLE CONSUMER PROTECTION LAW OR ANY OTHER THEORY OF LIABILITY OR ALLEGED FAULT ON THE PART OF ADT, ITS AGENTS OR ITS EMPLOYEES.

E. INDEMNITY. IF ANY OTHER PERSON, INCLUDING MY SUBROGATING INSURER, MAKES ANY CLAIM OR FILES ANY LAWSUIT AGAINST ADT IN ANY WAY RELATED TO (1) THE EQUIPMENT OR SERVICES PROVIDED BY ADT TO ME OR (2) ANY INACCURACIES IN ANY PERSONAL INFORMATION, INCLUDING ANY CONTACT INFORMATION, PROVIDED BY ME TO ADT IN ORDER FOR ADT OR ITS REPRESENTATIVES TO COMMUNICATE WITH ME FOR ANY REASON, INCLUDING TELEPHONE CALLS, TEXT MESSAGES OR EMAILS REGARDING MY ADT SERVICES OR NEW ADT OR THIRD-PARTY PRODUCTS AND SERVICES, THEN I AGREE TO INDEMNIFY, DEFEND AND HOLD ADT HARMLESS FROM ANY AND ALL SUCH CLAIMS AND LAWSUITS, INCLUDING THE PAYMENT OF ALL DAMAGES, EXPENSES, COSTS AND ATTORNEYS' FEES. MY DUTY TO DEFEND IS SEPARATE AND DISTINCT FROM MY DUTY TO INDEMNIFY AND HOLD HARMLESS AND ARISES UPON THE ASSERTION OF A CLAIM OR DEMAND AGAINST ADT AND REGARDLESS WHETHER ADT HAS BEEN FOUND LIABLE OR WHETHER ADT HAS INCURRED ANY EXPENSE.

F. TIME TO BRING CLAIM OR SUIT. NO SUIT OR ACTION SHALL BE BROUGHT AGAINST ADT AFTER THE SHORTER OF (1) ONE YEAR AFTER THE DATE OF LOSS OR (2) THE TIME ALLOWED BY LAW.

G. BENEFIT TO OTHERS. THE PROVISIONS OF THIS PARAGRAPH 5 SHALL APPLY TO AND BENEFIT ADT AND ITS AGENTS, EMPLOYEES, CONTRACTORS, SUBSIDIARIES, DEALERS, AFFILIATES, PARENTS (BOTH DIRECT AND INDIRECT), AFFINITY MARKETERS AND OTHER PARTNERS.

6. OTHER PARTY'S LIMITATION. If I purchased equipment or services from ADT through another business or person, or from ADT through a referral from another business or person, I agree that such other business or person acts solely as an independent contractor and has no responsibility or liability to me for the performance or nonperformance of the equipment or services provided by ADT. I also agree that any such business or person is entitled to the same rights as ADT under this Contract, including Paragraph 6.

7. ARBITRATION. ADT AND I AGREE THAT ANY AND ALL DISPUTES BETWEEN US SHALL BE GOVERNED BY THIS BINDING ARBITRATION AGREEMENT. Arbitration is a dispute-resolution process that does not involve a judge or jury. Instead, Disputes are decided by a neutral third-party

IMPORTANT TERMS AND CONDITIONS

arbitrator in a process that is less formal than court. As used herein, the term "Dispute" means any claim or controversy, including, but not limited to, initial claims, counterclaims, cross-claims and third-party claims, whether based in contract, tort, fraud, intentional acts, violation of any statute, code or regulation; or other legal theory. The term "Dispute" shall be given the broadest possible meaning and will apply to, without limitation, all claims and controversies arising from this Agreement; sales activities, goods and services; advertisements, promotions and other statements; billing and collection practices; privacy; and any other dispute arising from my interaction or relationship with ADT. ADT agrees not to elect arbitration if I file a Dispute in a small claims court in my state of residency so long as the Dispute is individual and non-representative in nature and remains exclusively as such in small claims court. **Pre-Arbitration Notice Requirement.** Before initiating an arbitration or a small claims matter, ADT and I agree to first provide to the other a written "Notice of Dispute" that will contain: (a) a written description of the issue and the supporting documents and information, and (b) a specific request for money or other relief. A Notice of Dispute to ADT should be sent to: Litigation Department, ADT Security Services, 1501 Yamato Dr., Boca Raton, FL 33431. ADT will mail a Notice of Dispute to my protected Premises address. ADT and I agree to make attempts to resolve the Dispute prior to commencing an arbitration or small claims action. If an agreement cannot be reached within forty-five (45) days of receipt of the Notice of Dispute, ADT or I may commence an arbitration proceeding or small claims action. **Initiation of Arbitration Proceeding.** If either party elects to arbitrate a Dispute, the Dispute shall be resolved by arbitration pursuant to this Arbitration Agreement and the then-current code of proceedings of the national arbitration organization to which the Dispute is referred. A party may refer a Dispute to either the American Arbitration Association ("AAA") or the Judicial Arbitration and Mediation Services ("JAMS"). If ADT elects arbitration and chooses one of the organizations to administer, I may object and automatically have the other organization administer the proceedings simply by notifying ADT of my objection in writing within 30 days of my receipt of ADT's initial selection. To obtain a copy of the procedures, or to file a Dispute, I may contact the organizations at the following: (1) AAA, 335 Madison Avenue, New York, NY 10017, www.adr.org, and (2) JAMS, 1920 Main Street, Suite 300, Los Angeles, CA 92814, www.jamsadr.com. IF EITHER PARTY ELECTS TO ARBITRATE A DISPUTE, ADT AND I WAIVE THE RIGHT TO A JURY TRIAL AND TO OTHERWISE LITIGATE THE DISPUTE IN COURT. BY AGREEING TO ARBITRATE, THE PARTIES MAY ALSO WAIVE OTHER RIGHTS THAT WOULD OTHERWISE BE AVAILABLE IN COURT. FURTHER, IF EITHER PARTY ELECTS TO ARBITRATE A DISPUTE, I WAIVE MY RIGHT TO PARTICIPATE IN A REPRESENTATIVE CAPACITY OR TO PARTICIPATE AS A MEMBER OF ANY CLASS ACTION RELATING TO THE DISPUTE. This means that all Disputes selected for arbitration will be arbitrated on an individual basis, between ADT and the only, without exception. A Dispute cannot be joined or consolidated with any other claim or action. Arbitration Proceedings. Because my transaction(s) with ADT involves interstate commerce, this Arbitration Agreement and any Dispute arbitrated hereunder shall be governed by the Federal Arbitration Act ("FAA"). The JAMS or AAA code of procedures, as chosen, will govern the arbitration, but if there is a conflict between the applicable code of procedures and this Arbitration Agreement, this Arbitration Agreement shall control to the fullest extent permitted by the FAA. Unless otherwise agreed to by the parties, the arbitration will be conducted by a single, neutral arbitrator at a location within the federal judicial district in which I reside. Upon my request, ADT will reimburse me for all filing and administrative fees required for initiating the arbitration. Otherwise, each party is responsible for its own respective costs and fees, including, but not limited to, attorney and expert fees. The arbitrator shall apply applicable substantive law and, upon the request of either party, issue a written explanation of the basis for the decision. Judgment on the arbitration award may be entered in any court having proper jurisdiction. EXCEPT AS FOLLOWS, THE ARBITRATOR'S DECISION WILL BE FINAL AND BINDING. A party may appeal the arbitrator's initial award to a three-arbitrator panel administered by the same arbitration organization upon written notice within 30 days of the initial award. The arbitration organization will notify the other party of the appeal. The panel shall consider any aspect of the initial award objected to by the appealing party and issue a decision within 120 days of the date of the notice of appeal. The majority decision by the three-member panel shall be final and binding. Any dispute regarding the applicability, enforcement or interpretation of Paragraph 5 or this paragraph 7, shall be resolved by a court having proper jurisdiction. This Arbitration Agreement will not prevent me from bringing a Dispute to the attention of any federal, state or local government agency. This Arbitration Agreement shall survive termination of this Agreement.

8. OWNERSHIP AND PAYMENT OBLIGATION. All equipment installed by ADT pursuant to this Contract shall be owned by the Customer except as otherwise agreed in writing. I agree to purchase the equipment and pay the installation costs described in Section 2. I UNDERSTAND THAT FINANCING MAY BE AVAILABLE AND AGREE THAT (A) I MAY NOT BE APPROVED FOR ANY FINANCING FOR EQUIPMENT AND INSTALLATION COSTS AND (B) I WILL NOT BE NOTIFIED OF WHETHER FINANCING HAS BEEN APPROVED UNTIL THE DATE THE EQUIPMENT IS INSTALLED. UNLESS I AM LATER APPROVED FOR FINANCING FROM ADT, I WILL BE REQUIRED TO PAY THE FULL AMOUNT OF THE TOTAL INSTALLATION CHARGE IN A SINGLE INSTALLMENT ON THE DATE THE EQUIPMENT IS INSTALLED.

9. INSTALLATION. The equipment that ADT installs under this contract may be new or refurbished. In order for ADT to install and service the equipment listed on this Contract, I agree that: (A) I own the premises or have authority to authorize ADT to install the alarm equipment at the premises; (B) I will make the premises available without interruption during ADT's normal working hours and will maintain the premises in a safe and sanitary condition suitable for work to be performed by ADT's representatives without jeopardizing their health or safety; (C) the installation will require drilling into various walls and other parts of the premises; (D) I will provide ADT with 110 AC electrical outlets for power equipment in locations designated by ADT; (E) I will pay for and provide compatible Internet connectivity, if applicable; (F) I will make arrangements for lifting and replacing carpeting, if required, for ADT's installation of floor mats or wiring; (G) ADT may not be able to correct any or all equipment or wiring; (H) ADT will not be liable for property damage, personal injury, illness or other loss due to water intrusion, mold, fungi, wet or dry rot or bacteria that may result from the installation services; and (I) my premises complies with all applicable codes, regulations and laws and will continue to comply with all applicable codes, regulations and laws during the initial term and any renewal terms of this Contract. If applicable, ADT will attempt to connect the existing, previously-installed alarm system to ADT's monitoring center. Prior to connection, ADT has the right to inspect my system and my premises to determine eligibility for Extended Limited Warranty/ QSP coverage and may notify me of any required repair/replacement costs related to the existing alarm system, device(s) or connection. If I decline to pay such repair/replacement costs, ADT is not obligated to connect to the existing alarm system and may terminate this Contract without liability to ADT. If the existing alarm system is connected to ADT's monitoring center, ADT will have no liability for the maintenance, operation, non-operation, actuation, non-actuation or erroneous actuation of the existing alarm system, connection or device(s), and any repairs will be performed on a time and material basis by ADT, subject to available parts, except for repairs/replacements covered by Extended Limited Warranty/QSP coverage if such coverage is provided under this Contract.

10. LIMITED WARRANTY. During the first 90 days after installation, ADT will repair or, at its option, replace any defective part of the alarm system, including wiring, and will make required mechanical adjustments, all at no charge to me. ADT will use new or functionally operative parts for replacements. This limited warranty is for my benefit only and may not be enforced by any other person. This limited warranty gives me specific legal rights. The laws of the state where this Contract was signed may also give me additional rights. To order service, call 800.ADT.ASAP (800.236.2727).

11. EXTENDED LIMITED WARRANTY/QUALITY SERVICE PLAN (QSP). If I purchase ADT's Extended Limited Warranty, which is called the Quality Service Plan or QSP, ADT will repair or, at its option, replace any part of the alarm system installed by ADT that requires repair or replacement due to ordinary wear and tear or malfunction, excluding batteries. After the initial term of this Contract, I will be charged a non-refundable trip fee in the amount of \$25 for each service call booking for an ADT technician to attend my premises for QSP service. No trip fees will be charged if this Contract has been renewed for a term greater than 1 month. ADT has the right to increase the QSP trip fee at any time upon notice to me. ADT will use new or functionally operative parts for replacements. If I require services excluded from the QSP (see Paragraph 12 below for exclusions), then ADT will provide the services at its current labor rate for each service call. The QSP and the billing for it will commence on the date the alarm system is installed, operational and communicating with ADT's CMC and will continue for the term of this Contract. The QSP will automatically renew for successive thirty (30)-day terms at ADT's then-current QSP rate unless terminated by either party's written notice at least thirty (30) days before the end of the then-current term. If I purchase the QSP after the initial system installation, the alarm system must be in good working condition at the time I purchase the QSP. To purchase the QSP, call 800.236.7065.

12. WARRANTY EXCLUSIONS. ADT performs warranty services only during normal working hours. If I request ADT to perform warranty services outside normal working hours, I will pay for the services at ADT's then-current rates for labor and parts. The limited warranty provided under this Contract and, if purchased, the QSP do not apply if ADT determines upon inspection that any of the following conditions caused the need for service: (A) damage resulting from accidents, theft, Acts of God, natural disasters, labor disputes, war, terrorism, civil strife, electrical surge, alterations or misuse; (B) I fail to properly close or secure a door, window or other point protected by an alarm device; (C) I fail to properly follow the operating instructions; (D) trouble in a telephone line, use of non-traditional telephone line or service (including but not limited to DSL, ADSL, VoIP, digital phone, internet-based phone, cellular, radio, etc.) or due to interruption of power; (E) loss or disruption of Internet connectivity; (F) repairs needed to window foil, security screens, exterior mounted devices (except for outdoor cameras installed by ADT) or PROM (Programmable Read Only Memory); (G) ordinary maintenance or wear and tear (not excluded from QSP); (H) alterations to my premises or failure of my premises to comply with any applicable codes, regulations or laws; or (I) alterations or damage to the alarm system caused by me or by a cause beyond ADT's control. The limited warranty provided under this Contract and, if purchased, the QSP do not apply to household systems or devices connected to my alarm system for automation, alert or similar purposes, including but not limited to, thermostats, heating/air conditioning systems, lighting systems, doors, locks, garage doors, fans, blinds, shutters or appliances. ADT will not perform warranty services on any device not installed by ADT. Battery replacement is excluded from all warranties. THE EQUIPMENT I PURCHASED FROM ADT UNDER THIS CONTRACT OR OTHERWISE MAY NOT BE COMPATIBLE WITH AND MAY NOT OPERATE IF I USE THE SERVICES OF ANOTHER ALARM OR HOME AUTOMATION SERVICES PROVIDER.

IMPORTANT TERMS AND CONDITIONS

13. NO OTHER WARRANTIES, OTHER THAN THE LIMITED WARRANTY PROVIDED UNDER THIS CONTRACT AND, IF PURCHASED, THE QSP. I AGREE THAT ADT MAKES NO GUARANTEE OR WARRANTY OF ANY KIND, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES ADT PERFORMS OR THE EQUIPMENT IT PROVIDES. MY EXCLUSIVE WARRANTY REMEDY IS SET FORTH IN PARAGRAPHS 10, 11 AND 12 ABOVE. SOME STATES MAY NOT ALLOW THE PARTIES TO A CONTRACT TO LIMIT THE LENGTH OF AN IMPLIED WARRANTY. THE LAWS OF THE STATE WHERE THIS CONTRACT WAS SIGNED WILL DETERMINE WHETHER THESE LIMITATIONS AND EXCLUSIONS APPLY.

14. ALARM MONITORING AND NOTIFICATION SERVICE. If I purchase service that includes response by police, fire department, guard, medical emergency notification or two-way voice monitoring services and such an alarm is received at ADT's CMC, ADT may, at its sole discretion, attempt to contact me and/or anyone on my Emergency Contact List to confirm that the alarm is not false. If ADT does not contact me and/or someone on my Emergency Contact List, or if ADT questions the response it receives upon such contact, then (A) ADT will attempt to notify the appropriate police department or fire department or, (B) if guard response service is provided and an alarm requires police response, ADT will attempt to dispatch a representative to make an investigation of the exterior of the premises from his or her vehicle and, upon evidence of a crime, ADT will attempt to notify the appropriate police department. If ADT provides supervisory alarm or trouble alarm monitoring services (or if such services are actively programmed into the alarm system) and ADT's CMC receives an alarm, then ADT may attempt to notify my premises and/or the representative I designate. ADT may use an automated calling device to deliver such notification. If medical emergency notification services are provided, I agree that the very nature of such services, regardless of any delay, involves uncertainty, risk and possible serious injury, disability or death, for which I will not attempt to hold ADT responsible or liable; that the equipment furnished for medical emergency notification services is not foolproof and may experience signal transmission failures or delays for any number of reasons; and that the actual time required for medical emergency providers to arrive at my premises and/or to transport any person requiring medical attention is unpredictable with many contributing factors, including telephone network operation, distance, weather, road and traffic conditions, alarm equipment function and human factors both within and outside of ADT's control. The person(s) identified on my Emergency Contact List are authorized to act on my behalf. Local laws, ordinances or policies may restrict ADT's ability to provide the alarm monitoring and notification services described in this Contract and/or necessitate modified or additional services with additional charges to me. ADT employs a number of industry-recognized measures to help reduce occurrences of false alarms. These measures include, but are not limited to, implementation of default settings on alarm panels and various procedures at ADT's CMC to determine when and how to respond. If at all, to certain alarm events. I consent to ADT's use of these measures and agree that the alarm system has not been designed, programmed or installed pursuant to any law, code or rule that may be applicable to my particular premises, including, but not limited to, any code provisions of the National Fire Protection Association or the International Residential Code. Upon receiving notification that an alarm signal has been received by ADT, the police department, fire department or other responding authority may forcibly enter my premises. ADT will never arrest or detain any person for any reason. If my service includes cameras, I will comply with all federal, state and local laws governing the placement, presence, operation and use of such cameras and shall fully and conspicuously notify persons in or around the premises, whether by use of legible signs or other approved communications, that their activities may be recorded. I agree that the equipment installed by ADT, including any outdoor camera, is not to be used to monitor activity in or near any swimming pool or other body of water and that I alone am responsible for supervising the well being of any person in or near any swimming pool or other bodies of water on the premises.

15. FAMILIARIZATION PERIOD. UNLESS I HAVE REJECTED THE FAMILIARIZATION PERIOD BY INITIALING THE APPROPRIATE LINE ON THE FIRST PAGE OF THIS CONTRACT (EXCEPT WHERE FAMILIARIZATION IS REQUIRED BY LAW) I AGREE THAT, DURING A SEVEN (7)-DAY FAMILIARIZATION PERIOD, OR LONGER PERIOD IF REQUIRED BY LAW, THAT FOLLOWS COMPLETION OF THE INSTALLATION AND THE COMMUNICATIONS CONNECTION TO ADT'S CMC (AND DURING ANY APPLICABLE EXTENSIONS), ADT HAS NO OBLIGATION TO, AND WILL NOT, RESPOND TO ANY ALARM SIGNAL FROM MY PREMISES. I ALSO AGREE THAT DURING SUCH PERIOD ADT HAS NO OBLIGATION TO, AND WILL NOT, NOTIFY ANY AUTHORITIES, ME OR MY DESIGNATED REPRESENTATIVE OR TAKE ANY OTHER ACTION WITH REGARD TO ANY ALARM SIGNAL ADT RECEIVES, EVEN IF DUE TO AN ACTUAL EMERGENCY.

16. FAILURE TO PAY CHARGES OR HONOR CONTRACT. If I fail to make any payment when due or to honor any other term or condition of this Contract, ADT may terminate this contract and/or stop providing the alarm monitoring and notification services and repossess or disable the equipment. If ADT terminates this Contract due to my failure to honor any term of this Contract and ADT has incurred costs before payment in full is received for all Installation Charges, ADT may deduct its costs from any deposit I provide to ADT, in addition to any other legal remedy available. ADT is not required to redecorate or repair my premises as a result of repossessing or disabling the equipment. In addition to these remedies, ADT does not waive, and retains the right to exercise, any other legal remedy, including the right to charge me a late fee for each month that a payment is not received and/or interest on the unpaid amount and the right to report me to one or more consumer reporting agencies if I become delinquent on my account (more than 90 days without a payment).

17. SMOKE AND CARBON MONOXIDE DETECTORS. IF THE ALARM SYSTEM INCLUDES SMOKE AND/OR CARBON MONOXIDE DETECTORS, I AGREE THAT: (A) THE NUMBER AND PLACEMENT OF SUCH DETECTORS MAY NOT FULFILL THE REQUIREMENTS OR RECOMMENDATIONS IN CODES, LAWS OR STANDARDS THAT APPLY IN MY JURISDICTION, INCLUDING THE CODE PROVISIONS OF THE NATIONAL FIRE PROTECTION ASSOCIATION AND THE INTERNATIONAL RESIDENTIAL CODE; (B) I HAVE SOLE RESPONSIBILITY FOR COMPLYING WITH ANY AND ALL CODES, LAWS AND STANDARDS THAT MAY APPLY TO THE INSTALLATION, PLACEMENT AND MAINTENANCE OF THE ALARM SYSTEM; AND (C) ANY SMOKE AND/OR CARBON MONOXIDE DETECTORS DESCRIBED IN THIS CONTRACT ARE SUPPLEMENTAL DEVICES ONLY AND ARE NOT INTENDED TO BE PART OF A PRIMARY FIRE ALARM OR CARBON MONOXIDE DETECTION SYSTEM. I understand that ADT's electrical smoke and carbon monoxide detectors, if installed in my premises, are designed to be connected to an electrical power source. THESE DETECTORS WILL NOT OPERATE, THE ALARM WILL NOT SOUND AND THE ALARM SIGNAL WILL NOT BE TRANSMITTED WHEN THE ELECTRICITY IS CUT OFF; THE BACK-UP BATTERY, IF INCLUDED AS PART OF THE SYSTEM, IS LOW OR DEAD; OR FIRE CUTS OFF THE ELECTRICITY BEFORE THE ALARM IS ACTIVATED. SOUNDS AND IS TRANSMITTED. Connecting these detectors to a separate dedicated electrical circuit may increase their reliability, but even dedicated circuits can fail. I understand that these detectors all have limited useful lives, after which time they will not function. It is my sole responsibility to monitor and replace all detectors before or at the end of their useful lives.

18. BATTERY-POWERED DEVICES; WIRELESS DEVICES. I understand that all battery-powered motion detectors, smoke detectors, door and window contact transmitters and other detection sensors installed under this Contract are not connected to the electrical system of my premises and require batteries to operate. THESE BATTERY-POWERED DETECTION SENSORS WILL NOT OPERATE, AND THE ALARM WILL NOT SOUND, IF THE BATTERIES ARE LOW OR DEAD. It is my sole responsibility to maintain and replace these batteries. ADT recommends that I regularly inspect the sensors for dirt and dust buildup and test the sensors weekly to help maintain continued operation. ADT also recommends that I carefully read and follow the owner's manual, instructions and warnings for all equipment. I understand that wireless devices, including but not limited to wireless motion detectors, door and window contacts, smoke detectors and other wireless devices installed by ADT will not communicate with the alarm system and THE ALARM SYSTEM WILL NOT FUNCTION IF WIRELESS COMMUNICATION FOR THE DEVICES IS IMPAIRED. THESE WIRELESS DEVICES MAY OR MAY NOT USE ENCRYPTION AND/OR AUTHENTICATION TECHNOLOGY AND ARE VULNERABLE TO INTENTIONAL OR UNINTENTIONAL INTERRUPTION, INTERCEPTION, CORRUPTION AND TAMPERING. It is possible for persons with criminal intent to reduce the effectiveness of my alarm system, including intercepting or hacking the wireless signals of my ADT equipment.

19. ALARM SYSTEM COMMUNICATION. I authorize ADT to request service from a telephone, wireless or other communication carrier under this Contract (referred to as "Telephone Company") to transmit signals between my alarm system and ADT's CMC. The Telephone Company's liability is limited to the same extent as ADT's liability in Paragraph 5 of this Contract. ADT will not receive alarm signals when the communication mode is not operating or has been cut, interfered with or is otherwise damaged, or if the alarm system is unable to acquire, transmit or maintain an alarm signal over my communication mode for any reason. If ADT determines in its sole discretion that my communication mode is or later becomes non-compatible, or if I change to another communication mode that is not compatible, then ADT requires that I use an alternate mode of communication acceptable to ADT as the method to connect the alarm system to ADT's CMC. Transmission of fire alarm signals by means other than a traditional telephone line may not be in compliance with applicable fire alarm or other standards or codes, and it is solely my obligation to comply with such standards and codes. If the alarm system has a line-cut feature, it may not always be able to detect if my communication line is cut or interrupted. ADT recommends that I test the alarm system monthly, even though a successful test of the alarm system does not guarantee that ADT will receive alarm signals from the system in the future. If my service includes ADT's interactive solutions and/or automation features, ADT may directly or through third party service providers, transmit, record, store, provide and receive unencrypted data, images, and e-mails and text messages via the Internet in the course providing those interactive services. I will not be able to utilize those automation functions or receive e-mail or text alerts if my Internet connection is impaired, disrupted or unavailable for any reason. ADT does not warrant or guarantee the integrity, accuracy, confidentiality or security of any such transmission or from any unauthorized or unexpected use, disclosure, corruption, interception or other improper act.

20. CANCELLATION.

IMPORTANT TERMS AND CONDITIONS

- A.** ADT may, at any time, cancel this Contract at its option if: (1) ADT's CMC is destroyed or damaged so that it is impractical for ADT to continue service; (2) ADT cannot acquire or retain the transmission connections or authorization to transmit signals between my premises and its CMC or the applicable fire or police department or other agency, or between ADT's CMC and the applicable fire or police department or other agency; (3) I fail to follow ADT's recommendations to repair or replace any defective parts of the system not covered under the Limited Warranty or, if purchased, QSP; (4) I fail to follow ADT's operating instructions for the alarm system, or (5) ADT determines that it is impractical to continue service due to the modification or alteration of my premises after installation. If ADT cancels for any of the reasons stated immediately above, ADT will refund any advance payments made for services to be supplied after the date of such termination, less any amounts still due for the installation of the equipment, for services already rendered and for any other charges due. Additionally, ADT will not assess contract termination charges, if any, as described in Paragraph 2 above.
- B.** ADT may cancel this Contract upon written notice to me if: (1) I fail to pay any monies when due under this Contract; (2) I change to a telephone/communications service not suitable for alarm signal transmission or (3) I fail to comply with any other term or condition of this Contract. Upon receipt of written notice from ADT, I will have ten (10) days to correct the deficiency. If I do not correct the deficiency in a timely manner, and ADT does cancel this Contract, ADT may assess contract termination charges, if any, as described in Paragraph 2 above.
- 21. ASSIGNMENT.** I may not assign this Contract without prior written consent from ADT. ADT does have the right to assign this Contract or to subcontract any of its obligations under this Contract without my approval and without notice to me.
- 22. DELAYS.** ADT HAS NO RESPONSIBILITY OR LIABILITY TO ME OR ANY OTHER PERSON FOR DELAYS IN THE INSTALLATION OR REPAIR OF THE SYSTEM, REGARDLESS OF THE REASON. ADT HAS NO RESPONSIBILITY OR LIABILITY FOR INTERRUPTIONS OF SERVICE OR ANY RESULTING CONSEQUENCES, WHETHER DUE TO STRIKE, RIOT, FLOOD, FIRE, TERRORISM, ACT OF GOD OR ANY OTHER CAUSE WITHIN OR BEYOND ADT'S CONTROL. IF THERE ARE SERVICE INTERRUPTIONS, ADT HAS NO OBLIGATION TO SUPPLY ME WITH SUBSTITUTE SERVICES.
- 23. PERSONAL INFORMATION.** I consent to ADT's use of my personal information and that of third parties, provided by me for the purpose of monitoring, setting up and administering my ADT services (including credit approval, invoicing and collecting) and providing information on new equipment or services. I consent to ADT recording my telephone conversations with ADT representatives. I have obtained the consent of the third parties, whose personal information I provided to ADT, to use such personal information for the administration of my account with ADT. ADT may collect, use, disclose and transfer my personal information, and that of third parties provided by me, to ADT's parents, affiliates, subsidiaries and successor corporations, any subcontractor or assignee of this Contract or any applicable authority having jurisdiction that requests such information to administer alarm monitoring services or alarm system license, permit or similar programs.
- 24. PRIVACY POLICY.** ADT maintains a privacy policy at www.ADT.com/privacy that is applicable to the terms, conditions and obligations of the parties to this Contract.
- 25.** All software is proprietary to ADT and/or ADT's suppliers and is licensed or sublicensed to me on a non-exclusive basis. I will not (a) disclose the software or any source code for the software to any third parties; (b) duplicate, reproduce, reverse engineer, modify, create derivative works from or copy all or any part of the software; or (c) use the software on equipment other than the equipment covered by this Contract. ADT is not responsible or liable for any damages to or changes in the performance of my computer following installation of any software or provision of services under this Contract. I agree to receive any software updates and upgrades that ADT or its contractors send or remotely download.
- 26. ENTIRE AGREEMENT.** This Contract constitutes the entire agreement between the parties. I am not relying on ADT's advice or advertisements. ADT is not bound by any representation, promise, condition, inducement or warranty, express or implied, that is not included in writing in this contract. The terms and conditions of this contract apply as written without alteration or qualification, unless a change is approved in writing by an ADT authorized representative. The terms and conditions of this Contract shall control and govern even if there are other documents with inconsistent or additional terms and conditions. If a court determines that any provision of this Contract is invalid or unenforceable, that provision shall be deemed amended and enforced to the maximum extent permitted by law. Each and every other provision of this Contract shall continue to be valid and enforceable.
- 27. LICENSE INFORMATION: CA** AC07155, Public Works Contractor 1000046587, Alarm Company Operators are licensed and regulated by the Bureau of Security and Investigative Services, Dept. of Consumer Affairs, Sacramento, CA 95814, The ADT Security Corporation PPO120238, (310) 619-2250, 974443. Work shall commence on the Estimated Installation Start Date. In the event the Estimated Date cannot be met, ADT will at first acknowledge, then notify me of the revised Estimated Installation Start Date. Commencement of the work shall be defined as work performed on site, including but not limited to, installation of wire and devices and/or ordering of materials and telephone facilities. Failure to substantially commence work within twenty (20) days from the Estimated Installation Start Date, without legal excuse, is a violation of the Alarm Company Act. Upon completion of the installation of the alarm system, ADT shall thoroughly instruct me in the proper use of the alarm system. Contractors are required by law to be licensed and regulated by the Contractors' State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, CA 95826, 800.321.2752.



Order Details

Smart Home + Security Solution

Item	Install	Monthly
HERE'S YOUR SYSTEM		
1 [NOGEN] - Test & Inspect (RF) SWPro 3000 - No Panel Replacement	\$99.00	
System Plan Subtotal	\$99.00	
ACTIVATION + PERMIT FEES		
1 [APERMIT] - Municipal Police / Alarm Use Permit - Customer Responsibility		
1 [APERMIT] - One time Alarm System Registration Fee	\$25.00	
1 [CON] - Connection-Activation Fee		
Activation + Permit Fee Subtotal	\$25.00	
REAL PROTECTION SERVICES		
[L1 006] - Traditional + Life Safety + Cellguard + w/ 2-way Voice		\$38.99
[S0001] - 24/7 Intrusion Monitoring		Included
[S0002] - 24/7 Life Safety Monitoring (requires equipment)		Included
[S0013] - 2 Way Voice		Included
Real Protection Services Subtotal		\$38.99
Package Totals	\$124.00	\$38.99
YOUR PAY IN FULL AFTER DISCOUNTS TOTAL		
System & Added Tech	\$99.00	\$0.00
Real Protection Services		\$38.99
Activation + Permit Fees	\$25.00	\$0.00
(Less Discounts)	\$0.00	\$0.00
Total After Discounts	\$124.00	\$38.99
Estimated Taxes	\$0.00	\$0.00
Total After Estimated Taxes	\$124.00	\$38.99
Your Service Contract Term	24 Months	
Order Total	\$124.00	\$38.99

*The tax amounts shown are only estimates; the final amount will be calculated and detailed on your bill
 The Service Charges shown above do not include the following promotion(s):
 • A Monthly Service Charge of \$29.99 per month for the first 12 month(s) of Service after commencement of the Services described above, after which time your Monthly Service Charge will revert to the standard Monthly Service Charge shown above.



NOTICE OF CANCELLATION OF RESIDENTIAL SERVICES CONTRACT



DATE OF CUSTOMER APPROVAL

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN 3 BUSINESS DAYS FROM THE ABOVE DATE. IF THE TRANSACTION OCCURRED IN ALASKA, YOU HAVE 5 BUSINESS DAYS. IF THIS TRANSACTION OCCURRED IN CALIFORNIA OR NEW YORK AND INVOLVED THE SALE OF A PERSONAL EMERGENCY RESPONSE UNIT, YOU HAVE 7 BUSINESS DAYS.

IF THE TRANSACTION OCCURRED IN ALABAMA AND INVOLVED THE SALE OF AN ALARM SYSTEM OR LOCKING SYSTEM AT THE HOME OR PROPERTY OF A PERSON WHO IS AGE 75 OR OLDER, YOU HAVE 30 BUSINESS DAYS.

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 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

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, CALL 800.327.4348. YOU MAY ALSO CANCEL THIS TRANSACTION BY MAILING OR OTHERWISE DELIVERING THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE TO:

ADT LLC dba ADT SECURITY SERVICES

SELLER

AT
ATTN Sales Manager
3190 South Vaughn Way,
Aurora, CO, 80014

ADT OFFICE ADDRESS

NOT LATER THAN MIDNIGHT OF

3 BUSINESS DAYS AFTER THE DATE OF THE CUSTOMER APPROVAL; COMPLETED FORM WITH DATE SENT IN SEPARATE EMAIL TO CUSTOMER.

I HEREBY CANCEL THIS TRANSACTION.

MM / DD / YY
DATE

BUYER'S SIGNATURE

852 Isabella St,
Oakland, CA, 94607

ADDRESS OF EQUIPMENT

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 5313 • OAKLAND, CALIFORNIA

Housing and Community Development Department
Rent Adjustment Program

2020 MAR -3 PM 4:05

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

HEARING DECISION

CASE NUMBER: T19-0294 Schlageter v. Mael
PROPERTY ADDRESS: 852 Isabella Street, Oakland, CA
DATE OF HEARING: December 11, 2019
DATE OF DECISION: February 20, 2020
APPEARANCES: Abbey Schlageter, Tenant
Tesfa Mael, Owner

SUMMARY OF DECISION

The tenant's petition is granted.

CONTENTIONS OF THE PARTIES

On May 16, 2019, tenant Abbey Schlageter filed a petition contesting the following rent increases and claiming that her housing services have decreased:

- From \$1,000.00 to \$1,034.00 effective May 1, 2019; and
- From \$1,000.00 to \$1,092.00 effective June 1, 2019.

The basis for the tenant's petition includes the following:

- The increases exceed the CPI Adjustment and are unjustified or are greater than 10%;
- No written notice of Rent Program was given to me together with the notice of increases I am contesting;
- The property owner did not give me the required form "Notice of the Rent Adjustment Program" at least 6 months before the effective date of the rent increases;
- The rent increase notices were not given to me in compliance with State law;
- The increase I am contesting is the second increase in my rent in a 12-month period;

000081

ORDER

1. Petition T19-0294 is granted.
2. The rent increases are invalid. The tenant's base rent remains \$1,000.00
3. Due to ongoing decreases in housing services, the tenant's rent is reduced by 12% (\$120.00). The tenant's current legal rent, before consideration of restitution, is \$880.00 a month. The tenant may begin paying the reduced rent of \$880.00 once this Hearing Decision is final. The decision is final if no party has filed an Appeal within 20 days of the date the Hearing Decision is mailed to all parties
4. Due to past decreased services, the tenant is owed restitution in the amount of \$1,170.00. This overpayment is adjusted by a rent decrease for 12 months in the amount of \$97.50 a month.
5. The tenant is entitled to reduce the rent per the restitution order after the Hearing Decision becomes final.
6. If the owner wishes to, he can repay the restitution owed to the tenant at any time. If he does so, the monthly decrease for restitution ends at the time the tenant is provided restitution.
7. If the owner repairs the moisture intrusion in the kitchen walls, the owner can increase the rent by 5% (\$50.00 a month), if he remediates the mold in the back bedroom, he can increase the rent by 2% (\$20.00), and if he restores the alarm system, he can increase the rent by 5% (\$50.00). In order to increase the rent after the owner completes repairs, the owner must provide the necessary notice pursuant to Civil Code § 827 and the Rent Adjustment Ordinance.

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

Dated: February 20, 2020



Maimoona Sahi Ahmad
Hearing Officer
Rent Adjustment Program