

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

**February 27, 2025**

**6:00 P.M.**

**CITY HALL, HEARING ROOM # 1  
ONE FRANK H. OGAWA PLAZA  
OAKLAND, CA 94612**

**AGENDA**

**PUBLIC PARTICIPATION**

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

**OBSERVE:**

• To observe the meeting by video conference, please click on the link below:

When: **February 27, 2025 06:00 PM Pacific Time (US and Canada)**

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87805764414>

One tap mobile:

+16694449171,87805764414# US, +16699009128,87805764414# US (San Jose)

Or by telephone:

+1 669 444 9171 US, +1 669 900 9128 US (San Jose), +1 346 248 7799 US (Houston), +1 719 359 4580 US, +1 253 205 0468 US, +1 253 215 8782 US (Tacoma), +1 507 473 4847 US, +1 564 217 2000 US, +1 646 558 8656 US (New York), +1 646 931 3860 US, +1 689 278 1000 US, +1 301 715 8592 US (Washington DC), +1 305 224 1968 US, +1 309 205 3325 US, +1 312 626 6799 US (Chicago), +1 360 209 5623 US, +1 386 347 5053 US

Webinar ID: 878 0576 4414

Find your local number: <https://us02web.zoom.us/j/87805764414>

**The Zoom link is to view/listen to the meeting only, not for participation.**

**PARTICIPATION/COMMENT:**

There is one way to submit public comments:

• To participate/comment during the meeting, you must attend in-person. Comments on all agenda items will be taken during public comment at the beginning of the meeting. Comments for items not on the agenda will be taken during open forum towards the end of the meeting.

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

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

### **1. CALL TO ORDER**

### **2. ROLL CALL**

### **3. PUBLIC COMMENT**

- a. Comments on all agenda items will be taken at this time. Comments for items not on the agenda will be taken during open forum.

### **4. ELECTION OF CHAIR & VICE CHAIR**

### **5. CONSENT ITEMS**

- a. Approval of Board Minutes, 02/13/2025 (pp.4-6)

### **6. APPEALS\***

- a. T24-0072, Mitchell v. VA7 Merritt, LLC (pp.7-52)
- b. T24-0092, Gold v. Mill Creek Residential (pp.53-112)

### **7. INFORMATION AND ANNOUNCEMENTS**

### **8. NEW BOARD BUSINESS**

### **9. SCHEDULING AND REPORTS**

- a. Presentation of RAP Annual Report (pp.113-130)
- b. Discussion of strategies to ensure quorum (including, but not limited to shifting to one Board meeting a month and invoking the new teleconference rules)

### **10. OPEN FORUM**

- a. Comments from the public on all items will be taken at this time.

### **11. ADJOURNMENT**

*\*Staff appeal summaries will be available to review at the end of the packet. The Rent Adjustment Program and the Clerk's office has at least 72 hours prior to the meeting to post all meeting materials pursuant to O.M.C. 2.20.080.C and 2.20.090*

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

**Accessibility:** Contact us to request disability-related accommodations, American Sign Language (ASL), Spanish, Cantonese, Mandarin, or another language interpreter at

least five (5) business days before the event. Rent Adjustment Program (RAP) staff can be contacted via email at [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov) or via phone at (510) 238-3721. California relay service at 711 can also be used for disability-related accommodations.

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

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

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

**February 13, 2025**

**6:00 P.M.**

**CITY HALL**

**1 FRANK H. OGAWA PLAZA, HEARING ROOM #1  
OAKLAND, CA 94612**

**MINUTES**

**1. CALL TO ORDER**

- a. The Board meeting was administered in-person by Nyila Webb from the Rent Adjustment Program (RAP), Housing and Community Development Department. Nyila Webb explained the procedure for conducting the meeting. The HRRRB meeting was called to order by Interim Chair C. Oshingua at 6:15 p.m.

**2. ROLL CALL**

<b>MEMBER</b>	<b>STATUS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
D. INGRAM	Tenant	X		
C. MUNOZ RAMOS	Tenant	X		
Vacant	Tenant Alt.			
M. GOOLSBY	Tenant Alt.		X	
C. OSHINUGA	Undesignated	X		
M. CUCULLU LIM	Undesignated	X		
Vacant	Undesignated Alt.			
K. BRODFUEHRER	Landlord			X
C. JACKSON	Landlord	X		
Vacant	Landlord Alt.			

*\*Member C. Munoz Ramos arrived to meeting at 6:25pm.*

**Staff Present**

Kent Qian

Marguerita Fa-Kaji

Nyila Webb

Deputy City Attorney

Senior Hearing Officer (RAP)

Administrative Assistant II (RAP)

**3. PUBLIC COMMENT**

- a. No speaker cards were submitted.

**000004**



#### **4. CONSENT ITEMS**

##### **a. Approval of Board Minutes, 01/09/2025:**

**Member C. Jackson made a motion to approve the Board Minutes from 01/09/2025. Member M. Cucullu Lim seconded the motion.**

The Board voted as follows:

**Aye:** C. Jackson, M. Cucullu Lim, C. Oshinuga  
**Nay:** None  
**Abstain:** D. Ingram

**The motion was approved.**

#### **5. APPEALS\***

##### **a. T23-0075, Willis v. Godwin Property**

**Member D. Ingram made a motion to affirm the Hearing Examiners finding that the owner failed to file a response with RAP. The motion is to adopt the City Attorney's recommendation: (1) reverse the finding that the owner failed the required response requirement of providing evidence of compliance with the rent registry, since this requirement did not apply in June of 2023; (2) revise the decreased housing service awards to (a) begin on February 26, 2023, and end on August 22, 2023 (the date of the original hearing), except for the heat, mold, and kitchen breaker, which had different specific end dates, and (b) pro-rate the amount of the award for partial months (February and August 2023); (3) reconsider whether amortization longer than 12 months is appropriate under Regulation 8.22.110.F.4, given the reduction in the decreased housing service awards. Member Cucullu Lim seconded the motion.**

The Board voted as follows:

**Aye:** C. Munoz Ramos, M. Cucullu Lim, D. Ingram, C. Oshinuga  
**Nay:** None  
**Abstain:** C. Jackson

**The motion was approved.**

#### **6. INFORMATION AND ANNOUNCEMENTS**

##### **a. Board Training Session- Rules of Evidence & Appeals**

## **7. NEW BOARD BUSINESS**

- a. Member D. Ingram explained the purpose of the New Board Business agenda item, stating that it serves as an opportunity for Board members to bring forward topics, suggestions, or questions they would like to discuss. However, it is not tied to any specific requirement or merit-based criteria.
- b. Member C. Munoz Ramos informed public of resources City of Oakland offer.

## **8. SCHEDULING AND REPORTS**

- a. Next meeting: February 27. Officer Elections

## **9. OPEN FORUM**

- a. One speaker card was submitted.

## **10. ADJOURNMENT**

- a. Meeting adjourned at 7:51pm.

## CHRONOLOGICAL CASE REPORT

Case No.: T24-0072

Case Name: Mitchell v. VA7 Merritt, LLC

Property Address: 1130 3rd Avenue Oakland, CA 94606

Parties: VA7 Merritt, LLC (Owner)  
Mike Murillo, (Owner-Manager)  
Sammie Mitchel, (Tenant)

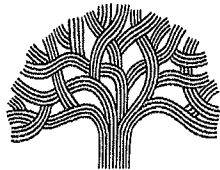
### OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	May 30, 2024
Tenant Exhibits Submitted	May 30, 2024
NO Owner Response filed	
Notice of Remote Settlement/Conference	August 14, 2024
No Owner response received, and owner missed Hearing	
Hearing Decision Mailed	September 24, 2024
Owner Appeal Submitted	October 10, 2024
Tenant Appeal Submitted	October 11, 2024

000007

Deficiency Notice sent in Response to Tenant Appeal	October 15, 2024
Appeal Acknowledgment Sent to Owner	October 17, 2024
Administrative Appeal Decision Mailed	November 19, 2024

T24-0072 LM/RC



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**RECEIVED**

MAY 30 2024

OAKLAND RENT  
ADJUSTMENT PROGRAM

8/14

**TENANT PETITION**

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

**Rental Unit Information**

1130 37<sup>th</sup> Ave 1809 Oakland, CA 94606  
Street Number Street Name Unit Number Zip Code

Move-in Date: 02/01/96 Initial Rent at Move-In: \$ 700.00 Current Rent: \$ 989.22

Is your rent subsidized or controlled by a government agency (such as HUD or Section 8), other than Oakland Rent Adjustment Program? (See page 5 "Jurisdiction" for more information) ☐ Yes ☒ No ☐ Not sure

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

If not current on rent, explain why: Manager refuse to accept!! starting 03/2024

When (if ever) did the property owner first provide you with the City form, NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")? ☒ I first received the RAP Notice on: 06/01/2023  
☐ I was never provided with the RAP Notice  
☐ I do not remember if I ever received the RAP Notice

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

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

Sammie Miteko \_\_\_\_\_  
First Name Last Name  
Mailing Address (if different from above): \_\_\_\_\_  
Primary Telephone: 510-272-9696 Other Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

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

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

\_\_\_\_\_  
First Name Last Name Firm/Organization (if any)  
Mailing Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Property Owner Information**

Property Owner

First Name

Last Name

Company/LLC/LP (if applicable): VAT Morris LLCMailing Address: 412: 12/11/11 on North 333 E. 12th St Oakland CA 94606Phone Number: 510-894-6319 Email: C/O: Cabove @ 2082 Michigan Dr. 4th Fl Irvine CA 92618

Property Manager (if applicable)

First Name MikeLast Name Murillo

Name of Management Company

Mailing Address: 430 3rd Ave Oakland CA 94606Phone Number: 510-894-6319 Email:**GROUND'S FOR PETITION**

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

A.	<b>Unlawful Rent Increase(s)</b> <i>(Complete section A on page 3)</i>	<input type="checkbox"/> (A1) I received a rent increase above the allowable amount.
		<input checked="" type="checkbox"/> (A2) I received a rent increase that I believe is unlawful because I was not given proper notice, was not properly served, and/or was not provided with the required RAP Notice ("Notice to Tenants of the Residential Rent Adjustment Program").
		<input type="checkbox"/> (A3) I received a rent increase and do not believe I should be required to pay it because a government agency has cited my unit for serious health, safety, fire, or building code violations. <b>(You must attach a copy of the citation to your petition.)</b>
		<input type="checkbox"/> (A4) Before serving the rent increase notice, the property owner failed to substantially comply with the annual registration and reporting obligations as required under Oakland Municipal Code, Section 8.22.510.
B.	<b>Decreased Housing Services</b> <i>(Complete section B on page 3)</i>	<input checked="" type="checkbox"/> (B1) The property owner is providing me with fewer housing services than I previously received and/or I am being charged for services originally paid for by the owner. <b>(Check this box for petitions based on bad conditions/failure to repair.)</b>
		<input type="checkbox"/> (B2) I am being unlawfully charged for utilities.
C.	<b>Other</b>	<input type="checkbox"/> (C1) My rent was not reduced after a prior rent increase period for capital improvements or after an additional tenant for whom the owner was allowed an increase, vacated from the premises.

	<input type="checkbox"/> (C2) I wish to contest an exemption from the Rent Adjustment Ordinance because the exemption was based on fraud or mistake.
	<input type="checkbox"/> (C3) The initial rent amount when I first moved in was unlawful because the property owner was not permitted to set the initial rent without limitation. O.M.C. § 8.22.080 (C).

A.	<b>Unlawful Rent Increase(s)</b>
	(Complete this section if any of the grounds for petition fall under category A, above)

**List all rent increases you wish to contest.** Begin with the most recent increase and work backwards. If you never received the RAP Notice, you can contest all past increases. See the "Important Information" page at the end of this petition packet for more information on time limits for contesting rent increases. If you need additional space, attach a separate sheet or an additional copy of this form.

- For petitions contesting a rent increase on the grounds that the unit has been cited by a government agency for serious health, safety, fire, or building code violations, **you must attach a copy of the citation** to your petition. Failure to attach a copy of the citation may result in your petition being dismissed.

Date received rent increase notice: (Month/Day/Year)	Date rent increase went into effect: (Month/Day/Year)	Amount of increase:		Received RAP Notice with notice of rent increase?	
		FROM	TO	YES	NO
02/28/24 (Verbal)	05-07/2023	\$ 989.22	\$ 1618.9-1619.0	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(See Attachment # 2)		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>
		\$	\$	<input type="checkbox"/>	<input type="checkbox"/>

B.	<b>Decreased Housing Services</b>
	(Complete this section if any of the grounds for petition fall under category B, above)

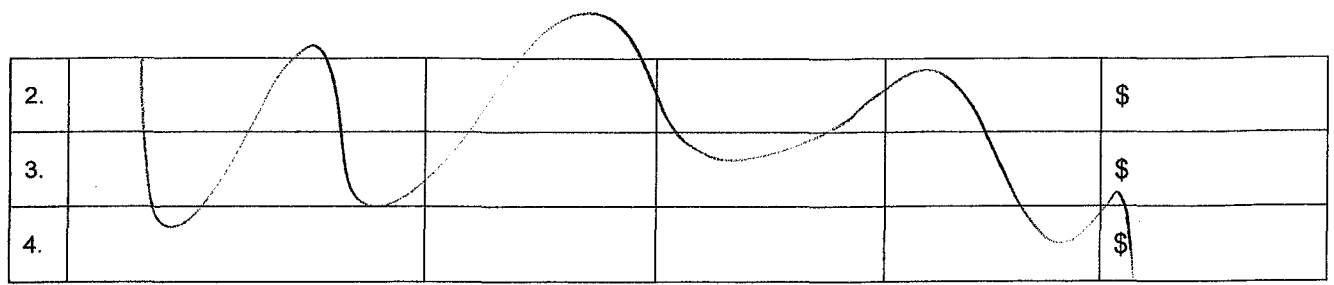
**List all the conditions that you believe entitle you to a rent decrease.** If your petition is based on problems related to your unit, or because the owner has taken away service(s) or is charging for services originally provided by the owner, you must complete this section. If you need more space, attach a separate sheet or an additional copy of this form.

- You are strongly encouraged to submit documentary evidence** (photographs, inspection reports, correspondence with your landlord, etc.) together with your petition. Evidence may be submitted up to seven calendar days prior to your hearing.
- You may wish to have a City inspector come inspect your unit** for possible code violations in advance of your hearing. Copies of any inspection report(s) may be submitted in support of your petition. To schedule an inspection, contact the City of Oakland Code Enforcement Unit at (510) 238-3381, or file a complaint online at <https://www.oaklandca.gov/services/file-a-complaint-with-code-enforcement>. Note: if additional items are cited in an inspection report that were not included in your original petition (below), you must file an additional petition listing those items in order for RAP staff to consider them as a part of your claim.

Report # 2305989  
(Attachment # 3) 2 pgs

	Description of problem or decreased housing service (list separately):	Date problem or decreased service started: (Month/Day/Year)	Date first notified owner or manager of problem: (Month/Day/Year)	Date problem or service was fixed, if ever: (Month/Day/Year)	What is the dollar value of your claimed loss?
1.	See Attachments 1, 2 & 3 (3 pages)				\$

3 pgs 2 pgs





## TENANT VERIFICATION

(Required)

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

Tenant 1 Signature

Date

Tenant 2 Signature

Date

## CONSENT TO ELECTRONIC SERVICE

(Highly Recommended)

Check the box below if you agree to have RAP staff and the OTHER PARTY/PARTIES send you documents related to your case electronically. If you agree to electronic service, the RAP and other parties may send certain documents (except a response to petition) only electronically and not by first class mail.

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

## MEDIATION PROGRAM

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

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

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

Tenant Signature

Date

## INTERPRETATION SERVICES

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

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

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

-END OF PETITION-



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

## NOTICE TO PROPERTY OWNER OF TENANT PETITION

### **ATTENTION: IMMEDIATE ACTION REQUIRED**

If you are receiving this NOTICE together with a completed TENANT PETITION form, it means that a tenant has filed a case against you with the Oakland Rent Adjustment Program ("RAP") (commonly referred to as the "Rent Board").

- **YOU MUST FILE A RESPONSE WITHIN 35 CALENDAR DAYS AFTER THE PETITION WAS MAILED TO YOU (30 DAYS IF DELIVERED IN-PERSON).**

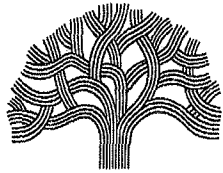
- **TO RESPOND:**

- 1) Complete and sign a **PROPERTY OWNER RESPONSE** form found on the RAP website. (<https://www.oaklandca.gov/services/respond-to-a-tenant-petition-for-the-rent-adjustment-program>)
- 2) Complete a **PROOF OF SERVICE (POS)** form (which is attached to the Response form and also available on the website) and provide an unsigned copy of the **POS** to the tenant (or tenant's representative) together with a copy of your signed **PROPERTY OWNER RESPONSE** form.
- 3) Submit your signed **PROPERTY OWNER RESPONSE** form and completed and signed **PROOF OF SERVICE\*** form to RAP through RAP's online portal, via email, or by mail.

**\*Note: The Response will not be considered complete until a PROOF OF SERVICE is filed indicating that the tenant has been served with a copy.**

**DOCUMENT REVIEW:** The tenant is required to serve on you all documents the tenant filed in this case in addition to the petition. Additionally, all documents are available for review at RAP.

**FOR ASSISTANCE:** Contact a RAP Housing Counselor at (510) 238-3721 or by email at [RAP@oaklandca.gov](mailto:RAP@oaklandca.gov). Additional information is also available on the RAP website and on the **PROPERTY OWNER RESPONSE** form.



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**RECEIVED**

**MAY 30 2024**

OAKLAND RENT  
ADJUSTMENT PROGRAM

## PROOF OF SERVICE

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

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

On the following date: 05/13/2024 served a copy of (check all that apply):

☐ **TENANT PETITION** plus 10 attached pages (number of pages attached to Petition not counting the Petition form, NOTICE TO PROPERTY OWNER OF TENANT PETITION, or PROOF OF SERVICE)

☒ **NOTICE TO PROPERTY OWNER OF TENANT PETITION**

☐ Other: \_\_\_\_\_

by the following means (check one):

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

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

///

///

///

**PERSON(S) SERVED:**

Name	Mike Aville Mgr
Address	1135 5th Ave
City, State, Zip	Oakland CA 94600

Name	
Address	
City, State, Zip	

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

Sammi Mitchell

PRINTED NAME

[Signature]

SIGNATURE

4 RAP only!

25/3/2024

DATE SIGNED

re/NEW Property Management  
+ VAT Merritt, LLC  
CA: re/NEW & Merritt  
1130 3<sup>rd</sup> Ave  
Oakland CA 94606-2201

05/21/2024

11 ~ 02:00 PM gr review & accept  
(ie. make copy)  
05/22/24 ~ 02:15 PM sheet, My copy

Re: 3-Day Pay or 30-Day Quit Notice

Per Notice (dated 05/07/24) unpaid amount (alleged), please  
provide the components which make up the \$3,846.63  
asap (to include effective date, amount, how often, etc).  
Also, when are you going to respond to 2022 & 2023  
work/fix-it request??

Thank you.

Sam Mitchell  
Samuel Mitchell  
1130 3<sup>rd</sup> Ave #1804  
Oakland CA 94606-2201

Attachment (1083pgs)

→ (12/2pgs) →  
→ Central! →

000017

inspect forthwith and make necessary repairs. Of course, if we do not receive any written repair requests, we will continue to assume that there are no items that need to be corrected at this time.

**YOU MAY DEFEND** this action in Court. You have the opportunity to respond to the Owner.

**YOU MAY DISCUSS THIS NOTICE** and your proposed eviction with the landlord within ten (10) days of the date of service of this notice upon you. You have the right to request reasonable accommodations of any disability (if applicable) to participate in the discussion.

**GRIEVANCE AND APPEAL PROCEDURE.** If your landlord has adopted a procedure complying with all potential program regulations which govern the occupancy of Your apartment for the resolution of disputes arising out of this Lease or your occupancy of the Premises, then that procedure establishes Your right to a hearing on grievances related to Your occupancy and appeal of most of your landlord's decisions regarding your occupancy, including notices of termination and eviction, but not for those grounds for those notices excepted in the grievance and appeals procedures.

**INFORMATION FOR TENANTS: THE U.S. DEPARTMENT OF TREASURY'S ("TREASURY") EMERGENCY RENTAL ASSISTANCE (ERA)** program makes funding available to assist households that are unable to pay rent or utilities. The funds were provided directly to states, U.S. territories, local governments, and (in the case of the first program, ERA1) to Indian tribes or Tribally Designated Housing Entities, as applicable, and the Department of Hawaiian Home Lands. Grantees use the funds to assist eligible households through existing or newly created rental assistance programs.

In guidance and FAQs, Treasury advised that participants in HUD-assisted rental programs (including the Housing Choice Voucher (HCV), Public Housing, or Project-Based Rental Assistance programs) are eligible for the ERA program and may receive assistance for the tenant-owed portion of rent or utilities that is not subsidized. In FAQs for PHAs and HCV landlords, PIH clarified that this assistance can include rent arrearages and utilities owed over the utility allowance. The FAQs include additional guidance on interim reexaminations, income calculations, and additional considerations for private landlords participating in the HCV program.

To learn more about how to apply for ERA go to <http://housingiskey.com>.

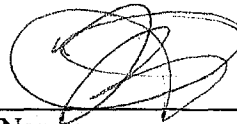
State and local ERA grantees can also be accessed from Treasury's website using the link "Find rental assistance in your area."

Leases may not be terminated due to nonpayment of rent until at least 30 days have passed after a tenant receives this notice.

Dated:

5/7/24

By:



Name:

Owner/ Agent for Landlord

Attachment 1: VAWA forms

Attachment 2: City forms, if applicable

Attachment #1  
(3 of 3 pgs)

re /NEW Property Management  
2023  
& VA7 Merritt, LLC  
c/o: re/NEW On Merritt  
1130 3rd Ave  
Oakland, CA 94606-2201

Nov. 03,

Re: Unit 1804 Repairs, Rent & Concerns *w/ Rent*

Items to be 'fixed' and/or replaced, in addition to my (still outstanding) 11/04/2022 notice for repairs:

- Replaced entry door (result of Wellness Check Team breach 10/20/23) on 11/02/23. *Carpet tile, paint life span?*
- Complete painting of entry door. *Weather stripping - Door within limits*
- Replace kitchen broken faucet knob.
- Replace light bulb in bathroom. *Electric outlets*
- Replace Smoke Detector in 2nd bedroom.
- Reset my Call Box ID & No. (per change by Mr James in maintenance 08/11/23).
- Ventilation unit above Living room can be heard running & shifting operating modes, intermittently (05/13-16/23, in addition to those cited in 11/04/22 doc.).
- Entry door locks were changed on 07/20/23 by Mr James. Also received a fire extinguisher (apparently they were passed out weeks earlier). Also Mr James indicated, that he didnt have my 11/04/22 work request.
- Items not fixed, within 2 weeks of this date, are subject to Repair Remedy (CA Civ. Code AS 1942).

Management issues, in addition to my (still outstanding) 11/04/22 notice for response:

- Your failure to provide valid documentation (per my request documents dated 07/25/22, 08/02/22, 09/08/22 & 11/02/22, in response to your documents of 06/22/22, 07/12/22 & 09/14/22 respectively) to support the 'unpaid balance', I allegedly owe, is hereby closed.
- Your failure to provide valid documentation specifying the occasion(s) when the alleged "'previous failed or refused to allow access" (per 'Notice To Cease'/'Notice To Enter' dated 10/31/22) to my unit occurred. Is hereby closed.
- No prior notice - water & electric shut-off, 'key FOB' changes, owner name change, call box ID & no. changes, parking tag required, buildings/grounds work (ie office move, flooring, painting), staff changes. Some 'general' notices are posted (w/o being dated) in elevator(s) after the fact (ie after tenants w/ portal access). I need prior notice.
- Relative to the alleged complaints, concerning 'smoke being seen, coming from my unit' ... You have written statements, Id need to see. Per the most recent (4 copies) doc. (as I suggested in my 11/04/22 doc.) I not aware of 'CP V JLS, LLC - Landlord'; nor a 01/01/2010 lease. - Cease these written & verbal, harassing & intimidating actions (CA Civ. Code AS 1942.5, OMC at 8.22.600, et seq., my 09/06/2017 doc.).


Please response in writing to this, as well as my 11/04/2022 document.

*Attachment 1a (pg 1/2)*

000019

NOTE - As Usual: You Do Not have permission to enter my Unit unless my representative (or I) is present. Best time for appointment is Tuesday-Thursday (not before 09:00am), so work will be completed by 12:00pm. Anyone involved (before, during or after) in this effort needing entry to my Unit should have valid and verifiable ID. - Any e-mail address(es) (not monitored daily or may not belong to me) here-in are for limited & temporary use only; not to be used in place of legal post/routing and not for distribution. Photos of my personal property not allowed, without written consent.

Thank you,

  
Sammie Mitchell Jr.  
1130 3rd Ave Unit 1804  
Oakland, CA 94606-2201  
510-272-9698  
cc: homefix8+-- , DDM

Attachment 1a (pg 2/2)

000020



Re/New Property Management  
2022  
& Trinity Property Consultants  
c/o: Re/New On Merritt  
1130 3rd Ave  
Oakland, CA 94606-2201

Nov. 04,

Re: Unit 1804 Repairs, Rent & Concerns

Items to be 'fixed' and/or replaced:

- Entry door allows significant air inflow from dead-bolt to floor.
- Entry door locks need to be changed, per Master Key(s) security breach (about 06/11/22).
- Living room blinds opening lever malfunctioning.
- Toilet doesn't flush completely (since installing replacement tank 09/21/22).
- Ventilation unit above kitchen causes wall to rattle/vibrate, intermittently (haven't noticed since ~ 11/02/22).
- Identify mail room re-open (w/ USPS approved in-coming & out-going boxes) date; I found it bolted locked 10/11/22.

Management issues:

- Respond to my '(alleged) unpaid balance' inquiries via documents dated 07/25/22, 08/02/22 & 09/08/22 (plus telephone requests); in response to management documents of 06/22/22, 07/12/22 & 09/14/22, respectively).
- Management office & staff availability unknown, nor do they return telephone calls; causing delay in rent payment for 10/2022 (eventually Facilities' Supervisor Mr Chris Hernandez was sent to collect it 10/19/22). Again for 11/2022. Check enclosed. Please forward my receipt.
- Current management deposit rent checks before rent due date. - Also identify the maximum number of advance rent payments (while holding each until their respective due date) will be accepted.
- Management posts 'entry notices' or verbally make appointments, but do not show-up or call to reschedule (e.g. rodent/pest abatement, 're-keying', toilet repair).
- Identify your policy, when employees may share their ID badge. As was the case on 09/20/22.
- Identify the official spelling of "re/New"; I've received documents w/ different spellings (as well as telephone #'s).
- Identify the current manager (and their manager) for the property.
- Identify the mailing address for the property owner.
- Per your single document 'Notice To Cease'/'Notice To Enter' dated 10/31/22 found on my door 11/03/22:
  1. Specify the occasion(s) when the alleged 'previous failed or refused to allow access' to my unit occurred.
  2. Unit locks have only been worked on or changed by management.
  3. Schedule my rodent abatement (follow-up to 10/20/22 treatment) to a narrower window or call to setup.
  4. Refer to the standard 'Notice To Enter', for 'reasonable notice' during 'normal business hours' & 'written evidence of entry'.

Attachment 1b (pg 1/2)

000021

5. As to the specifics of my lease. Perhaps you referred to a different copy.

Please response in writing.

NOTE - As Usual: You Do Not have permission to enter my Unit unless I or my representative is present. Best time for appointment is Tuesday-Thursday (not before 09:00am), so work will be completed by 12:00pm. Anyone involved (before, during or after) in this effort needing entry to my Unit should have valid and verifiable ID. - Any e-mail address(es) (not monitored daily or may not belong to me) here-in are for limited & temporary use only; not to be used in place of legal post/routing and not for distribution. Photos of my personal property not allowed, without written consent.

Thank you,



Sammie Mitchell  
1130 3rd Ave Unit 1804  
Oakland, CA 94606-2201  
510-272-9698  
cc: homefix8++, DDM

Attachment 1b (pg 2/2)

000022

Offer For: Sammie Mitchell  
Unit: 1-#1804  
Your Lease Is Currently Month-to-Month

Renewal Lease Start:  
Offer Generated:  
Offer Expires:

07/01/2023  
05/16/2023  
07/01/2023

Dear Sammie Mitchell,

As you know, your lease has expired or will expire soon. You have been a great resident and your care of the property and prompt rental payments are greatly appreciated. For your convenience, complete renewal information is presented below. There is limited availability for each term so renew early to secure the term that is right for you. However, if your plans are to vacate the apartment home, an official written notice is required per the terms of your lease.

Lease Term	Base Rent	Total
Current	\$989.22	\$989.22/Mo
12 Months	\$1,019.00	\$1,019.00/Mo

\*These prices do not reflect resident utility responsibilities.

This offer will expire on or before 07/01/2023. At that time these prices may no longer be offered.

A new rental agreement must be signed and counter signed by management before the end of business on the last day of your current lease in order to avoid month-to-month fees. All other terms of the Lease Agreement will continue to be enforced, including monthly pet fees and utilities. As a condition of our lease, we require all residents to carry legal liability insurance (\$100,000) for damage to the landlord's property during the term of their lease. Rental increases are never a pleasant topic, however, we hope you understand that they are necessary to maintain fiscal responsibility for the management and care of this community. It is our hope that you will continue to enjoy calling our community home!

The current permitted CPI increase is 3.0%, and no banking increases are included in this Notice.

As required by Section 8.22.070H of Oakland's Municipal Code, you are hereby notified that Oakland has a Rent Adjustment Program ("RAP") that limits rent increases (Chapter 8.22 of the Oakland Municipal Code) and you have the right to petition against any rent increase in excess of the CPI Rent Adjustment.

**PROOF OF SERVICE**

I, the undersigned, being at least 18 years of age, declare under penalty of perjury that I served this Notice on the above-mentioned Resident(s) as follows:

- ( ) On \_\_\_\_\_, 20\_\_ I handed the Notice to the resident(s) personally at the above premises.  
( ) On \_\_\_\_\_, 20\_\_ I handed the Notice to a person of suitable age and discretion at the above premises and mailed a copy to the Resident by first-class mail on

✓ On 5/17, 2023, I posted the notice in a conspicuous place on the above premises and mailed a copy to the Resident by first-class mail on 5/17, 2023.

Dated:

5/17/23

(Signature of Server)

Attachment # 2 (info page)

000023

(1)▼

Reports (1)▼ Login

**Trouble logging in? Clear your browser cache!** Clear your browser cache if you having trouble logging in! Use MS Edge best user experience.

\*\*\*\*\*

**Home Building Pl**

Mark

**File a Complaint/R**

**Record 2305989:  
Housing Habitability  
Complaint  
Record Status: OP-1stInsp-  
ViolVer**

Record Info▼ Conditions Custom  
Component

A notice was added to this record on 11/05/2019.  
Condition: Special paving restoration Severity: Notice  
detail for existing  
rubberized asphalt

Total Conditions: 1 (Notice: 1)

**View Condi**

## Property Address

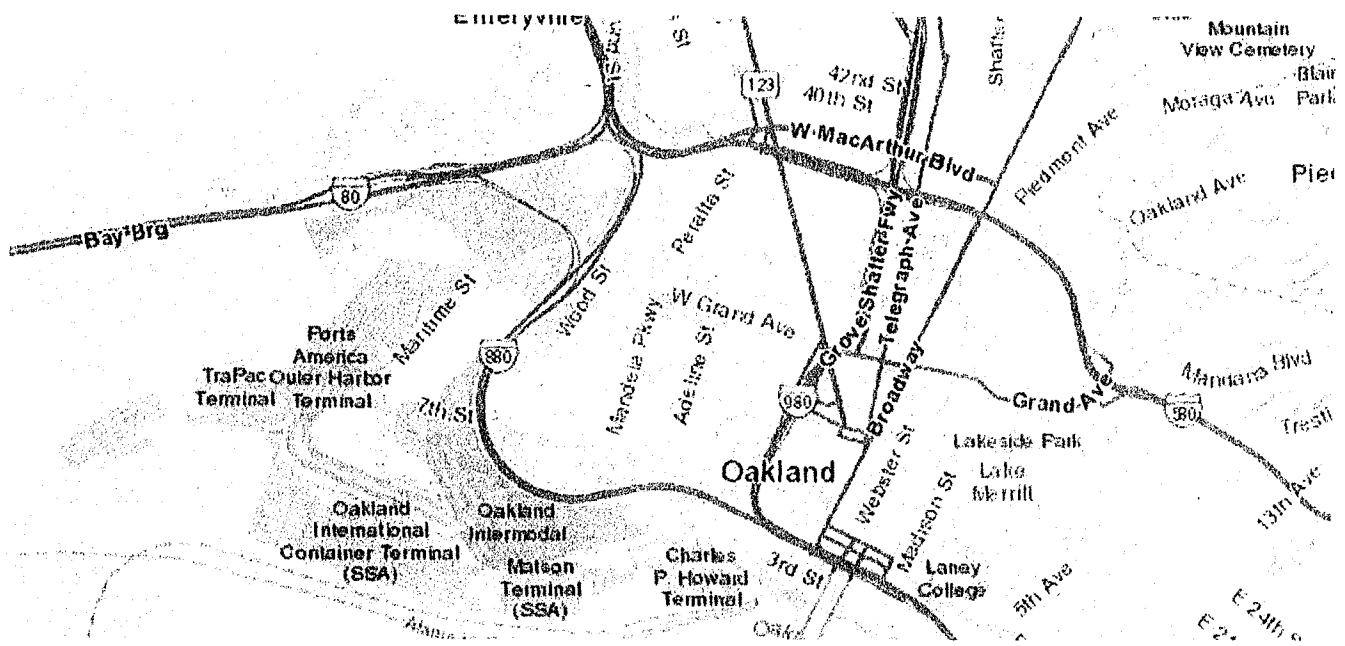
**1130 3RD AVE \***

94607

—|+

*Attachment # 3 (of 2 pgs)*

000024



## Record Details

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### Case Description:

Tenant Complaint #1804: Toilet does not flush properly, faucet in the kitchen sink is broken, broken smoke detector, lighting issues

### ▼ More Details

#### ▣ Parcel Information

**Parcel Number: 019 002901502 \***

**Block: 29**

**Lot: --**

**Subdivision: --**

**BUILDING CLASS: B55X**

**USE CODE: Multiple residential building of 5 or more ur**

**CITY NUMBER OF BUILDINGS: 0**

**COUNTY NUMBER OF BATHROOMS: 178**

**COUNTY NUMBER OF BEDROOMS: 322**

**COUNTY NUMBER OF BUILDINGS: 1**

**COUNTY NUMBER OF ROOMS: 678**

*Attached #3 (2 of 3 pgs)*

**000025**



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

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

### **NOTICE OF REMOTE SETTLEMENT CONFERENCE AND HEARING**

File Name: Mitchell v. VA7 Merritt, LLC  
Property Address: 1130 3rd Avenue, Oakland, CA 94606  
Case Number: T24-0072

**The Settlement Conference and Hearing will be held remotely, on Zoom, a free application for audio/video conferences.**

The Hearing Officer will conduct a Settlement Conference to attempt to resolve this matter unless the owner is seeking an exemption. If the Settlement Conference is not successful, the Hearing will begin immediately after the Settlement Conference. The Settlement Conference or Hearing (if there is no settlement conference) will begin on.

Date: August 14, 2024  
Time: 10:00 AM  
Place: REMOTELY via Zoom

**You will receive the Zoom invite prior to the hearing date. Please make sure the Case Analyst assigned to your case has your updated email address to assure timely communication as the Rent Adjustment Program office remains closed and staff is working remotely. If you do not have an email address, please contact the Case Analyst by phone to discuss best ways to contact you.**

#### **Submitting Evidence**

If you wish to submit other documents in addition to those submitted with the Petition or Response form, you may do so by emailing the documents to the assigned Case Analyst and serving a copy of the documents on the other party. Documents must be received not less than seven (7) days prior to the scheduled Settlement Conference and Hearing date and must be submitted together with a proof of service indicating that the documents were served on the other party. There is a proof of service form on the RAP website that you can use for any documents you serve. See Blank Proof of Service Form. Documents submitted later (or without a proof of service) may be excluded from consideration.

We request that all documents you submit be numbered sequentially, but submissions of more than 15 pages must be numbered. Please black out all sensitive information, such as bank or credit card account numbers and Social Security numbers. The Hearing Officer can also use the official records of the City of Oakland and Alameda County Tax Assessor as evidence if provided by the parties for consideration. If you do not have access to email, the documents may be submitted to the Case Analyst by mail.

#### **Request to Change Date**

A request for a change in the date or time of the Settlement Conference and Hearing ("continuance") must be made on a form provided by the Rent Adjustment Program, which can be found at the Rent Adjustment Program website: Request for Continuance. A continuance will be granted only for good cause and the Hearing Officer will issue an Order granting or denying the continuance.

#### **Hearing Record**

The Rent Adjustment Program makes an audio recording of the Hearing. Either party may bring a court reporter to record the hearing at their own expense. The Settlement Conference is not recorded. If a settlement is reached, the Hearing Officer will draft a Settlement Agreement to be signed by the parties.

#### **Representatives**

Any party to a Hearing may designate a representative in writing prior to the Settlement Conference or on the record at the Hearing.

#### **Interpreter**

The Hearing must be conducted in English. The Rent Adjustment Program will provide interpreters if it is requested on the petition or response forms or in writing in advance of the Hearing. Any party may also bring a person to the Hearing to interpret for them. The interpreter will be required to take an oath that they are fluent in both English and the relevant other language and they will fully interpret the proceeding to the best of their ability.

#### **Failure to Appear for Hearing**

If a petitioner fails to appear at a properly noticed hearing, the Hearing Officer may, in the Hearing Officer's discretion, dismiss the case, subject to the petitioner showing good cause for the failure to appear. If the respondent fails to appear at the Hearing as scheduled, the Hearing Officer may either issue an administrative decision without a Hearing or conduct the Hearing and render a decision without the respondent's participation.



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

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

**6/11/2024**

**Petitioner**

(Tenant)

Sammie Mitchell  
1130 3rd Avenue Unit 1804  
Oakland, CA 94606

**Respondent**

(Owner)

VA7 Merritt, LLC  
333 East 12th Street  
Oakland, CA 94612

VA7 Merritt, LLC  
2082 Michelson Drive 4<sup>th</sup> Flr.  
Irvine, CA 92612

**Manager**

Mike Murillo  
1130 3<sup>rd</sup> Avenue  
Oakland, CA 94606

RE: Notice to Parties of Petition Filed

Dear Parties:

The Rent Adjustment Program has received a Petition filed by the **Petitioner** listed above. The Proof of Service filed with the Petition states that the Petition was served on the **Respondent(s)** listed above. If you are a Respondent, and you did not receive the Petition, please contact the case analyst (listed below).

As instructed on the Petition, the Respondent(s) have 30 days from the date of service (if served personally) and 35 days (if served by mail) to file a Response to the Petition. To file a Response, the Respondent(s) must serve a Response on the Petitioner and file the Response (along with a Proof of Service) with the Rent Adjustment Program.

Both the Tenant and Property Owner Response forms can be found at <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. Each response form contains additional filing

**000028**



instructions.

If you do not file a timely Response, the Petition may be granted without a Hearing, or, if a Hearing does occur, you may not be permitted to produce testimony or evidence.

The case has been assigned Case No. **T24-0072**

The case title is **Mitchell v. VA7 Merritt, LLC**

The analyst assigned to your case is **Robert Costa**, who can be contacted either by telephone at **(510) 238-2079** or by email at **RCosta@oaklandca.gov**

Please note that you are required to serve a copy of any documents filed with the Rent Adjustment Program on the other party (or parties). You must file a Proof of Service with the Rent Adjustment Program together with the document(s) being filed indicating that the document(s) have been served.

Property Owner Petitions that include more than 25 pages of additional documents with the petition are exempt from this requirement, and the owner may choose to not serve all tenants with those documents. If the Owner Petition indicates that additional documents exist that are not being served pursuant to this exception, a tenant may request a copy of the documents in their Tenant Response form or view the documents by scheduling a file review with RAP. If the Tenant Response form indicates that the tenant wishes to receive copies of all filed documents, the owner must provide them within 10 days.

All documents filed by either party are available for review at the Rent Adjustment Program Office **by appointment only**. If you wish to review the case file, call (510) 238-3721 to schedule an appointment.

If you have questions or need additional information, please contact your assigned analyst.

Thank you.

Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number: T24-0072**

**Case Name: Mitchell v. VA7 Merritt, LLC**

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

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

**Documents Included:**

Notice of Remote Settlement Conference and Hearing  
Notice to Parties  
Copy of Tenant Petition  
Landlord Response Form

**Manager**

Mike Murillo  
1130 3rd Avenue  
Oakland, CA 94606

**Owner**

VA7 Merritt  
LLC  
333 East 12th Street  
Oakland, CA 94612

**Owner**

VA7 Merritt  
LLC  
2082 Michelson Drive 4th Flr.  
Irvine, CA 92612

**Tenant**

Sammie Mitchell  
1130 3rd Avenue Unit 1804  
Oakland, CA 94606

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 mail with the U.S. Postal Service on that same day with first class postage thereon fully prepaid in the ordinary course of business.

**000030**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.  
Executed on **Tuesday, June 11, 2024** in Oakland, California.

*Deborah Griffin*

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Deborah Griffin  
Oakland Rent Adjustment Program

**000031**

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 711

**HEARING DECISION**

**CASE NUMBER/NAME:** T24-0072, Mitchell v. VA7 Merritt, LLC  
**PROPERTY ADDRESS:** 1130 3<sup>rd</sup> Ave., Unit #1804, Oakland, CA  
**DATE OF HEARING:** August 14, 2024  
**DATE OF DECISION:** September 23, 2024  
**APPEARANCES:** Sammie Mitchell, Jr., Tenant

**SUMMARY OF DECISION**

The tenant's petition is partially granted.

**CONTENTIONS OF THE PARTIES**

On May 30, 2024, Tenant Sammie Mitchell filed a petition contesting a single rent increase, and alleging decreased housing services relating to several items.

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

**THE ISSUES**

1. Is the contested rent increase timely contested and, if so, is it valid?
2. Have the tenant's housing services decreased and, if so, by what amount?

**EVIDENCE**

**No Response by Owner**

On June 11, 2024, the Rent Adjustment Program (RAP) mailed several notices with a proof of service to the parties identified in the Tenant Petition: a Notice of Remote

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Settlement Conference and Hearing, setting the hearing date for August 14, 2024, at 10:00 a.m., a Notice of Tenant Petition with a copy of the Tenant Petition, and a copy of the Owner Response form.

On July 31, 2024, the RAP mailed a Zoom link for the remote hearing to the parties with a proof of service, again specifying the hearing date as August 14, 2024, at 10:00 a.m.

No mail was returned as not delivered. The owner did not file a response and did not appear for the hearing. The owner also did not contact the RAP and did not request to postpone the hearing date.

### Background

The tenant testified at the hearing that he moved into the subject unit on February 1, 1996, at an initial rent of \$700.00 per month. The tenant's current rent is \$989.22 per month. He testified that since March 2024, the manager has refused to accept rent from the tenant and he has not been able to pay his rent. The last time the tenant paid rent was in February 2024. The tenant testified that, according to the property manager, there is now an outstanding balance for unpaid rent in the amount of approximately \$3,000.00.

### Proposed Rent Increase and the RAP Notice

With his petition, the tenant submitted a copy of the notice of rent increase in the form of a new lease, which notified the tenant that his rent would increase from \$989.22 to \$1,019.00 per month, effective July 1, 2023. The notice stated that the rent was increased by the amount of the permitted CPI, which was then 3%, and also included information about the RAP and the right to file a petition to contest the proposed rent increase. The proof of service on the notice was dated May 17, 2023.<sup>1</sup>

The tenant testified that he received the notice of the existence of the Rent Adjustment Program (RAP Notice) a long time ago, then again with each change of ownership of the subject property, and then again on June 1, 2023.

### Decreased Housing Services

In his petition, the tenant identified several items as decreased housing services. However, at the hearing, the tenant testified that most items were taken care of by the owner and that the repairs had been made. He testified specifically about the call box, kitchen faucet, smoke detectors, light bulb, window blinds and entry door.

The tenant testified that, at this time at the hearing, he wished to address only those items that were still outstanding and were not taken care of. These items are as follows:

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<sup>1</sup> Tenant's Attachment #2, documents submitted by tenant, page 7 of 9

Ventilation Unit: The tenant testified that the ventilation unit above his kitchen does not work properly and has been working on and off. When it is on, the entire wall rattles and vibrates. He notified the owner in a letter, dated November 4, 2022, where he requested several different items to be repaired.<sup>2</sup> To date, this item has not been addressed.

Toilet: The tenant testified that that his toilet has not been flushing completely since the replacement tank was installed. He notified the manager on November 4, 2022, via letter. He testified that the manager checked the toilet and determined that it should be replaced. However, due to space constraints, a standard toilet would not fit and the tenant's toilet had to be specially-ordered to fit the dimensions of the space. The tenant testified that the toilet was ordered on August 1, 2024.

Finally, the tenant testified that since the new (current) owners took over the property in 2022, they addressed all items except the two items described above. He testified that a City of Oakland inspector inspected his unit on November 9, 2023, and that no Notice of Violation was issued.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### **2023 Rent Increase Untimely Contested**

The Rent Adjustment Ordinance provides that for a petition contesting a rent increase, the petition must be filed within one hundred twenty (120) days of the date the owner serves the rent increase notice if the owner did not provide the *RAP Notice* with the rent increase but provided it at the inception of tenancy and/or pursuant to Section 8.22.060.<sup>3</sup>

The tenant testified that he received the RAP Notice a 'long time ago' and with each change of ownership, which was at least two or three times between 1996 and 2023. The tenant petition states that he also received the RAP Notice on June 1, 2023. The tenant submitted the rent increase notice, which was dated May 16, 2023, and served to the tenant on May 17, 2023. Because the tenant received several RAP Notices prior to this rent increase, the tenant had 120 days from May 17, 2023, which would have been September 14, 2023, to file a petition to contest this rent increase. The petition, filed on May 30, 2024, is untimely because it was filed more than eight (8) months after the deadline to contest the 2023 rent increase. Therefore, this claim is denied.

#### **Decreased Housing Services**

Under the Oakland Rent Ordinance, a decrease in housing services is considered an increase in rent<sup>4</sup> and may be corrected by a rent adjustment.<sup>5</sup> To justify a rent reduction, a decrease in housing services must be the loss of a service that seriously affects the

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<sup>2</sup> Tenant's Attachment 1B, documents submitted by tenant, page 5 of 9

<sup>3</sup> O.M.C. §8.22.090(A)(2).

<sup>4</sup> Oakland Municipal Code (O.M.C.) §8.22.070(F)

<sup>5</sup> O.M.C. §8.22.110(E)

habitability<sup>6</sup> of a unit or one that was provided at the beginning of the tenancy and is no longer being provided,<sup>7</sup> or one that was contracted between the parties.

The tenant has the burden of proving decreased housing services by a preponderance of the evidence, and must establish that he has given the owner notice of the problem and the opportunity to correct the problem before he is entitled to relief.<sup>8</sup>

If the decreased housing is ongoing, the tenant may file a petition at any point but is limited in restitution to ninety (90) days before the petition is filed.<sup>9</sup>

Ventilation Unit: The tenant notified the owner of this issue in November 2023. A broken and/or malfunctioning ventilation unit represents a decreased housing service. Therefore, this claim is granted and the tenant is entitled to restitution of 1% of his rent (\$10.19) per month for six (6) months (March through August 2024), totaling \$61.14.

In addition to restitution, the tenant's base rent of \$1,019.00 per month will continue to be decreased by 1% (\$10.19) per month until the ventilation unit is repaired or replaced.

Toilet: The tenant notified the owner of this issue in November 2023. While the manager responded and checked the toilet, it took unreasonably long to order it (from November 2023 to August 1, 2024). A properly flushing toilet is an essential service that seriously affects habitability of the unit. Therefore, this claim is granted. The tenant is entitled to restitution for this decreased housing service of 5% of his rent (\$50.95) per month for six (6) months (March through August 2024), totaling \$305.70.

In addition to restitution, the tenant's base rent of \$1,019.00 per month will continue to be decreased by 5% (\$50.95) per month until the toilet is repaired or replaced.

#### Calculation of Restitution

The tenants' base rent is \$1,019.00 per month. The tenant is entitled to a monthly rent decrease of 6% (1% for the ventilation unit and 5% for the toilet). Currently, \$61.14 per month is subtracted from the tenant's base rent of \$1,019.00. Accordingly, the tenant's current rent is \$957.86 per month.

The tenant is also entitled to restitution due to past decreased services for ventilation unit and the toilet. As stated above, the total restitution amount is \$366.84 (\$61.14 + \$305.70), and it will be applied as a one-time rent reduction next month.<sup>10</sup> The tenant is entitled to deduct the restitution owed from the rent after this Hearing Decision becomes final as stated in the Order below.

<sup>6</sup> Green v. Superior Court (1974) 10 Cal.3d 616, 637

<sup>7</sup> Ocean Park Associates v. Santa Monica Rent Control Bd (2004) 114 Cal.App.4th 1050, 1069 (loss of existing amenities justifies reduction in rent)

<sup>8</sup> Hearing Decision T11-0191, Howard v. Smith (2012)

<sup>9</sup> O.M.C. §8.22.090(A)3.b.

<sup>10</sup> Regulations, Section 8.22.110(F)(4)

**However**, should the owner repair/replace ventilation unit and the toilet, the owner can increase the rent by 6% per month, by \$61.14 (1% for the ventilation and 5% for the toilet). **In order to increase the rent, the owner must provide the necessary notice pursuant to Civil Code § 827.**

### ORDER

1. Tenant Petition T24-0072 is granted in part and denied in part.
2. The tenant's claim contesting the rent increase is denied as untimely. The tenant's monthly rent is \$1,019.00, effective July 1, 2023. If there are any rent underpayments, the parties are instructed to calculate the underpayment and deduct it from the restitution granted to the tenant in this Order.
3. The claims for decreased housing services relating to the ventilation unit and toilet are granted.
4. The tenant's monthly base rent of \$1,019.00 is temporarily decreased. Due to on-going conditions, the tenant is entitled to a rent decrease in the amount of \$61.14 per month (\$50.95 + \$10.19). The tenants' current legal rent, before consideration of restitution is \$957.86 per month.
5. Due to past decreased services, the tenant is owed restitution of \$366.84. It will be applied as a one-time rent decrease. Any rent owed due to the valid rent increase will be applied against this restitution.
6. The tenant is entitled to reduce the rent per this Order after this Hearing Decision becomes final. The decision is final if no party has filed an appeal within 20 days of the date the Hearing Decision is mailed to the parties.
7. If the owner repairs/replaces the ventilation unit, the owner can increase the rent by 1% (\$10.19) per month. If the owner repairs/replaces the toilet, the owner can increase the rent by 5% (\$50.95) per month. In order to increase the rent, the owner must provide the necessary notice pursuant to the Rent Adjustment Ordinance and Civil Code §827.

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

Dated: September 23, 2024

*Linda Moroz*

---

Linda M. Moroz, Hearing Officer  
Rent Adjustment Program



**PROOF OF SERVICE**

**Case Number: T24-0072**

**Case Name: Mitchell v. VA7 Merritt, LLC**

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

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

**Documents Included**

Hearing Decision

**Manager**

Mike Murillo  
1130 3rd Avenue  
Oakland, CA 94606

**Owner**

VA7 Merritt  
LLC  
333 East 12th Street  
Oakland, CA 94612

**Owner**

VA7 Merritt  
LLC  
2082 Michelson Drive 4th Floor  
Irvine, CA 92612

**Tenant**

Sammie Mitchell  
1130 3rd Avenue Unit 1804  
Oakland, CA 94606

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **September 24, 2024** in Oakland, California.



Teresa Brown-Morris  
Oakland Rent Adjustment Program

**000037**



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

For Rent Adjustment Program date stamp.

## APPEAL

<b>Appellant's Name</b> VA7 Merritt LLC	<input checked="" type="checkbox"/> <b>Owner</b> <input type="checkbox"/> <b>Tenant</b>
<b>Property Address (Include Unit Number)</b> 1130 3rd Ave, Unit 1804, Oakland, CA	
<b>Appellant's Mailing Address (For receipt of notices)</b> 333 East 12th Street Oakland, CA 94612	<b>Case Number</b> P24-0072  <b>Date of Decision appealed</b> September 24, 2024
<b>Name of Representative (if any)</b> Mike Murillo	<b>Representative's Mailing Address (For notices)</b> 1130 3rd Avenue Oakland, CA 94606

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

1) There are math/clerical errors that require the Hearing Decision to be updated. *(Please clearly explain the math/clerical errors.)*

2) Appealing the decision for one of the grounds below (required):

- a) ☒ **The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations, or prior decisions of the Board.** *(In your explanation, you must identify the Ordinance section, Regulation or prior Board decision(s) and describe how the description is inconsistent.)*
- b) ☐ **The decision is inconsistent with decisions issued by other Hearing Officers.** *(In your explanation, you must identify the prior inconsistent decision and explain how the decision is inconsistent.)*
- c) ☐ **The decision raises a new policy issue that has not been decided by the Board.** *(In your explanation, you must provide a detailed statement of the issue and why the issue should be decided in your favor.)*
- d) ☐ **The decision violates federal, state, or local law.** *(In your explanation, you must provide a detailed statement as to what law is violated.)*
- e) ☐ **The decision is not supported by substantial evidence.** *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

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

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

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

I served a copy of: the present appeal including the attached explanation (insert name of document served)  
☐ And Additional Documents

and (write number of attached pages) 1 attached pages (not counting the Appeal Form or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- ☒ a. First-Class Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- ☐ c. Electronic Service. I electronically sent the document(s) to the person(s) at the address(es) listed below who have previously given written consent to receiving notices and documents in this matter from the RAP and from the OTHER PARTY/IES electronically at the email address(es) they provided.

<b><u>Name</u></b>	Sammie Mitchell
<b><u>Address</u></b>	1130 3rd Ave, Unit 1804
<b><u>City, State Zip</u></b>	Oakland, CA 94606
<b><u>Email Address</u></b>	
<b><u>Name</u></b>	
<b><u>Address</u></b>	
<b><u>City, State Zip</u></b>	



<u>Email Address</u>	
----------------------	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and the documents were served on 10/10/24 (insert date served).  
mailed by first class mail on 10/10/24

Andrew VanSlyke

PRINT YOUR NAME



SIGNATURE

10/10/2024

DATE

**IMPORTANT INFORMATION:**

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

- Appeals filed late without good cause will be dismissed.
- You must provide all the information required, or your appeal cannot be processed and may be dismissed.
- **Any response to the appeal by the responding party must be received by the Rent Adjustment Program, along with a proof of service on appealing party, within 30 days of service of the service of the appeal if the party was personally served. If the responding party was served the appeal by mail, the party must file the response within 35 days of the date the appeal was mailed to them.**
- There is no form for the response, but the entire response is limited to 25 pages or less.
- The Board will not consider new claims. All claims, except jurisdictional issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The case record is available to the Board, but sections of audio recordings that you want the Board to review must be pre-designated to Rent Adjustment Staff.

## **Supporting Documents**

### **Appeal to P24-0072**

As noted herein, Respondents appeal the decision reached in the above referenced case as it is inconsistent with the requirements of the Rent Board Regulations and denied Respondents the opportunity to present their claims.

Specifically, Respondents VA7 Merrit, LLC was never provided notice of the August 14, 2024, hearing and a decision was reached in their absence. Pursuant to Oakland Municipal Code Section 8.22.110(C) the Rent Adjustment Program staff shall notify the owner and tenant in writing of the time and place set for hearing. By failing to provide notice of the hearing Respondents were denied the opportunity to respond to Petitioners claim.

Respondents received a copy of the petition from the Complainant, which was hand delivered, at approximately the time it was filed. No further information was provided to Respondents until the September 24, 2024, decision was received from the Property in the mail. At no point did the Rent Adjustment Program inform Respondents of their ability to respond, or of any hearings, and Respondents did not have any direct communications with the Rent Adjustment Program, or any associated entity.

This lack of adequate notice, and lack of confirmation that the Rent Adjustment Program had even accepted Complainant's petition, materially prevented Respondents from providing a defense.

Respondents request that they be provided the opportunity to submit a defense and documentation responding to Respondents petition and be given the opportunity to present a defense in a hearing.



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

**RECEIVED**

OCT 11 2024

OAKLAND RENT  
ADJUSTMENT PROGRAM

**APPEAL**

<b>Appellant's Name</b> Sammie Mitchell		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
<b>Property Address (Include Unit Number)</b> 1130 3 <sup>rd</sup> Ave #1804 Oakland CA 94606			
<b>Appellant's Mailing Address (For receipt of notices)</b> 1130 3 <sup>rd</sup> Ave #1804 Oakland CA 94606		<b>Case Number</b> T24-0072	
		<b>Date of Decision appealed</b> 09/23/2024	
<b>Name of Representative (if any)</b> _____		<b>Representative's Mailing Address (For notices)</b> _____	

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.)

**000042**



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

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

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

I served a copy of: T24-0072 Mitchell v. VA7 Merritt LLC - Appeal (insert name of document served)

☐ And Additional Documents

and (write number of attached pages) 1 attached pages (not counting the Appeal Form or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

*This is in process*

- ☐ a. First-Class Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- ☐ c. Electronic Service. I electronically sent the document(s) to the person(s) at the address(es) listed below who have previously given written consent to receiving notices and documents in this matter from the RAP and from the OTHER PARTY/IES electronically at the email address(es) they provided.

<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	
<b>Email Address</b>	
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

000043

**Email Address**

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

PRINT YOUR NAME

SIGNATURE

DATE

**IMPORTANT INFORMATION:**

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

- Appeals filed late without good cause will be dismissed.
- You must provide all the information required, or your appeal cannot be processed and may be dismissed.
- **Any response to the appeal by the responding party must be received by the Rent Adjustment Program, along with a proof of service on appealing party, within 30 days of service of the service of the appeal if the party was personally served. If the responding party was served the appeal by mail, the party must file the response within 35 days of the date the appeal was mailed to them.**
- There is no form for the response, but the entire response is limited to 25 pages or less.
- The Board will not consider new claims. All claims, except jurisdictional issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The case record is available to the Board, but sections of audio recordings that you want the Board to review must be pre-designated to Rent Adjustment Staff.



Oct. 07,

2024

re/NEW Property Management  
& VA7 Merritt, LLC  
c/o: re/NEW On Merritt  
1130 3rd Ave  
Oakland, CA 94606-2201

Rent Adjustment Program (RAP)  
250 Frank H. Ogawa Plaza, Suite 5313  
Oakland, CA 94612

Re: RAP Case T24-0072 Mitchell v. VA7 Merritt, LLC

This is my explanation, in support of my request to appeal the decision(dated 09/23/24.

Background:

- Per attachments #1, 1a & 1b, request for components of the alleged \$3,546.63, is still outstanding.

Proposed Rent Increase & RAP Notice:

- 'in the form of a new lease' - should include Offer. - My last lease was 02/2000.  
- 'July 1, 2023' - should include upon acceptance (as it specified).  
- The expired, 1 time only offer (attachment #2) to switch from 'month-to-month' to 'lease' tendency wasnt accepted. Per the verbal notice on 02/28/24, from manager, of a rent increase after refusing my payment for 03/2024 (w/o any prior documentation). And was given to me, per my request for the official notice to me for a rent increase. - Per my petition, the verbal rent increase notice is being contested.

Decreased Housing Services/Ventilation Unit:

- It/they work. At times (almost daily, at different times of the day/night), it causes the kitchen wall, closet & cabinets to rattle/vibrate; and can be heard operating at different levels above living room.

Decreased Housing Services/Toilet:

- Tank was replaced 09/21/22.  
- Maintenance checked it 08/01/24 and determined to replace it; its on order.  
- Management/Maintenance hadnt addressed any items within my unit between 09/22/22-07/30/24.

Finding of Fact & Conclusions of Law:

- The percentages (%) seem low; identify the source(s).  
- The base rent is incorrect, since the 1 time only offer (attachment #2) to switch from 'month-to-month' to 'lease' tendency wasnt accepted nor being contested.

Finding of Fact & Conclusions of Law/2023 Rent Increase Untimely Contested:

- Per my petition, the verbal (02/28/24) rent increase notice is being contested.  
- The 2023, a 1 time only offer (attachment #2) to switch from 'month-to-month' to 'lease' tendency wasnt accepted and that rent increase was just 1 requirement of the expired offer.

Finding of Fact & Conclusions of Law/Decreased Housing Services/Ventilation Unit & Toilet:

- Management was notified of the issues 11/2022 & 11/2023.

Finding of Fact & Conclusions of Law/Decreased Housing Services/Calculation of Restitution:

- 'tenant is entitled to deduct the restitution owed from the rent' is in conflict w/ Order #5, 'Any rent owed due to the valid rent increase will be applied against this restitution.'

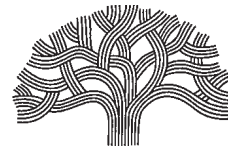
Order:

- It would be safer, simpler and easier to, allow me (the tenant) to deduct the restitution from my rent. As the components of the alleged \$3,546.63, is still outstanding.  
- Order #5, 'Any rent owed due to the valid rent increase will be applied against this restitution.' is in conflict w/ Calculation of Restitution 'tenant is entitled to deduct the restitution owed from the rent'.

Thank you,

  
Sammie Mitchell  
1130 3rd Ave Unit 1804  
Oakland, CA 94606-2201  
510-272-9698  
cc: RAP T240074 Appeal, DDM

000045



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

Housing and Community Development Department  
Rent Adjustment Program

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

## NOTICE OF INCOMPLETE APPEAL FORM

**CASE NAME/NUMBER: T24-0072**

**PROPERTY ADDRESS: Mitchell v. VA7 Merritt, LLC**

The Rent Adjustment Program received an *Appeal* from you on **October 11, 2024**.


The *Appeal* that you attempted to file was incomplete. The chart below indicates what is missing from your filing:

Grounds for Appeal:	Needed
Math/clerical errors – <b>Explanation required</b>	<input type="checkbox"/>
Inconsistent with ordinance, regulations, or prior Board decisions – <b>Explanation required</b>	<input type="checkbox"/>
Inconsistent with prior hearing decisions – <b>Explanation required</b>	<input type="checkbox"/>
New policy issue – <b>Explanation required</b>	<input type="checkbox"/>
Violates federal, state or local law – <b>Explanation required</b>	<input type="checkbox"/>
Not supported by substantial evidence – <b>Explanation required</b>	<input type="checkbox"/>
Denied sufficient opportunity to present/respond – <b>Explanation required</b>	<input type="checkbox"/>
Denies Owner fair return – <b>Explanation + calculations required</b>	<input type="checkbox"/>
Other – <b>Explanation required</b>	<input type="checkbox"/>
Please submit a CORRECTED Proof of Service (POS). The POS must have all applicable fields completed, including the number of attached pages served on the Respondent. As well as the box field indicating the Appeal was served.	<input checked="" type="checkbox"/>
PROOF OF SERVICE ON OPPOSING PARTY	<input checked="" type="checkbox"/>
Dated Signature of Appellant or Representative	<input checked="" type="checkbox"/>

You have 30 days from the date of the mailing of this letter to submit the required information as noted above, or your Appeal may be administratively dismissed.

If you have any questions or concerns, feel free to contact me. My email address is [NWebb@oaklandca.gov](mailto:NWebb@oaklandca.gov).

Dated: October 15, 2024

  
Nyila Webb  
Administrative Assistant II  
City of Oakland  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number: T24-0072**

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**

Notice of Incomplete Appeal Form

**Tenant**

Sammie Mitchell  
1130 3rd Avenue  
Oakland, CA 94606

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 **October 15, 2024** in Oakland, CA.

  
Nyila Webb

**000048**

# CITY OF OAKLAND

250 FRANK OGAWA PLAZA, OAKLAND, CA 94612-2043



Department of Housing and Community Development  
Rent Adjustment Program

(510) 238-3721

FAX (510) 238-6181

TDD (510) 238-3254

October 17, 2024

VA7 Merritt LLC  
1130 3<sup>rd</sup> Avenue  
Oakland, CA 94606

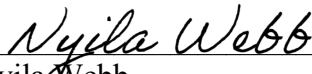
Re: Acknowledgement of Appeal in Rent Adjustment Case Number: **T24-0072**

Dear Appellant:

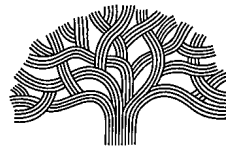
The Rent Adjustment Program received your above-referenced appeal on **October 10, 2024**. Your appeal will be scheduled for an Appeal Hearing at a meeting of the Residential Rent and Relocation Board (“Rent Board”). Regular meetings of the Rent Board are held on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday evenings of the month. You will receive a notice of your appeal hearing approximately three weeks prior to the date of the Rent Board meeting.

If you have further questions or concerns, you are welcome to contact the Rent Adjustment Program office at (510) 238-3721. You can also send an email to the Rent Adjustment Program at [hearingsunit@oaklandca.gov](mailto:hearingsunit@oaklandca.gov).

Sincerely,

  
\_\_\_\_\_  
Nyila Webb  
Administrative Assistant II

**000049**



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

Housing and Community Development Department  
Rent Adjustment Program

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

## **ADMINISTRATIVE APPEAL DECISION**

**CASE NUMBER/NAME:** T24-0072/Mitchell v. VA7 Merritt, LLC

**PROPERTY ADDRESS:** 1130 3rd Avenue, Unit 1804, Oakland, CA

A Hearing Decision in this case was issued on September 23, 2024, and mailed to the parties on September 24, 2024. Owner VA7 Merritt, LLC submitted an Appeal Form that was received by the Rent Adjustment Program on October 10, 2024. Tenant Sammie Mitchell submitted an Appeal Form that was received by the Rent Adjustment Program on October 11, 2024.

On October 15, 2024, a Notice of Incomplete Appeal Form was mailed to Tenant Mitchell informing him that his appeal, as submitted, was incomplete. The letter notified Tenant Mitchell that he needed to submit a CORRECTED Proof of Service (POS). It stated: "The POS must have all applicable fields completed, including the number of attached pages served on the Respondent. As well as the box field indicating the Appeal was served."

The letter also notified the tenant that he needed to provide a dated signature on the Appeal Form.

The Tenant Appellant was given thirty (30) days from the date of the mailing of the letter to submit the required information and informed that the appeal "may be administratively dismissed" should he fail to do so. Thirty days from October 15, 2024, was November 14, 2024.

As of November 14, 2024, no corrected Proof of Service or dated signature on the Appeal Form has been received from the Tenant Appellant.

Therefore, the Appeal filed by Tenant Mitchell is hereby dismissed with prejudice.

However, the Appeal filed by Owner VA7 Merrit, LLC will be set for an Appeal Hearing at a future date.

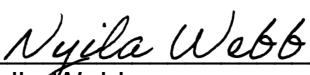
///

///

## NOTICE TO PARTIES

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

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

  
\_\_\_\_\_  
Nyila Webb  
Board Designee  
Residential Rent and Relocation Board

November 19, 2024  
Date

**PROOF OF SERVICE**  
**Case Number: T24-0072**

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

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

**Documents Included**

Administrative Appeal Decision

**Owner**

VA7 Merritt, LLC  
2082 Michelson Drive, 4<sup>th</sup> Floor.  
Irvine, CA 94612

**Manager**


Mike Murrillo  
1130 3<sup>rd</sup> Avenue  
Oakland, CA 94606

**Tenant**

Sammie Mitchell  
1130 3<sup>rd</sup> Avenue Unit 1804  
Oakland, CA 94606

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 **November 19, 2024** in Oakland, CA.

  
\_\_\_\_\_  
Nyila Webb

Oakland Rent Adjustment Program

**000052**



## CHRONOLOGICAL CASE REPORT

Case No.: T24-0092

Case Name: Gold v. Mill Creek Residential

Property Address: 600 William St. Apt. 546 Oakland, CA 94612

Parties: Ezra Gold, (Tenant)  
Uptown Housing Partners, LP, (Owner)  
Charles Alfonzo w/ Burnham Brown, (Owner Representative)

### TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	June 24, 2024
Notice of Remote Hearing Scheduled	July 9, 2024
Administrative Decision Mailed	August 13, 2024
Owner Response to Tenant Petition	August 16, 2024
Tenant Appeal Submitted	September 3, 2024
Deficiency Notice Sent to Tenant	November 12, 2024
Tenant Resubmitted Correct Appeal	November 26, 2024



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

T24-0092 MA/RE

**TENANT PETITION**

**RECEIVED**

JUN 24 2024

8/27

**Property Address:** 600 WILLIAM ST  
**Case:** Petition: 16724  
**Date Filed:** 06-24-2024

RENT ADJUSTMENT PROGRAM  
**OAKLAND**

Party	Name	Address	Mailing Address
Owner	Mill Creek Residential	5910 N Central Expy Suite 1100 Dallas, TX 75206	5910 N Central Expy Suite 1100 Dallas, 75206
Manager	Patty Hernandez Mill Creek Residential	500 William St. Oakland, CA 94612	500 William St. Oakland, 94612 phernandez@millcreekplaces
Tenant	Ezra Gold	600 William St 546 Oakland, CA 94610	6026 S Highlands Ave (510) 499-5959 Madison, Wisconsin ezragold@comcast.net 53705

**Number of units on the property** 665  
**Type of unit you rent** Apartment, Room or Live-work  
**Are you current on your rent?** Yes

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

**Grounds for Petition**

**For all of the grounds for a petition see OMC 8.22.070 and OMC 8.22.090. I (We) contest one or more rent increases on one or more of the following grounds:**

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

**Rental History**

**Date you moved into the Unit** 7/7/2023  
**Initial Rent** \$ 3,202.00 /month  
**Current Rent** \$ 3,202.00 /month  
**Is your rent subsidized or controlled by any government agency, including HUD (Section 8)?** No

**When, if ever, did the property owner first provide you the City form, NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM ('RAP Notice')?** I was never provided with the RAP Notice.

**000054**



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

**TENANT PETITION**

**List the case numbers of any relevant prior Rent Adjustment case(s):**

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

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

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



**TENANT PETITION**

**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.

**Loss of Service**

**Date Loss Began** 07-07-2023

**Date Owner Was Notified of Loss** 07-07-2023

**Estimated Loss** 14057.53

**Reduced Service Description**

Persistent failure to adequately manage property including failure to notify of construction and initial failure to fix leaky roof to code - unreasonably held hostage for exorbitant lease break penalties when tried to break lease for cause

**Mediation**

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

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

**I/We agree to have my/our case mediated by a Rent Adjustment Program staff mediator.** Yes

**Consent to Electronic Service**

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

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

**Interpretation Services**

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

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



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

**TENANT PETITION**

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

**Ezra Gold**

**6/24/2024**

**Signature**

**Date**

**000057**



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

## PROOF OF SERVICE

TENANT PETITION

✕ And additional documents uploaded with the Petition

Electronic Petition number: 16724

I declare under penalty of perjury under the laws of the State of California that on 6/28/24, Ezra Gold, served a copy of the following document(s), Tenant Petition, the Notice to Property Owner of Tenant Petition and all attached 1 pages, to each opposing party, whose names and addresses are listed below, by United States mail.

Names of Served Document(s)

164

Addressee(s) Information

Addressee: Patty Hernandez  
500 William St.  
Oakland CA 94612

Addressee: Christine Franz  
5910 N Central Expy Suite 1100  
Dallas TX 75206

  
Ezra Gold

6/28/24  
06-24-2024

City of Oakland Rent Adjust Program  
Date Printed: 06-24-2024



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

## PROOF OF SERVICE

TENANT PETITION

✕ And additional documents uploaded with the Petition

Electronic Petition number: 16724

City of Oakland Rent Adjust Program  
Date Printed: 06-24-2024

000058



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

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

### **NOTICE OF REMOTE SETTLEMENT CONFERENCE AND HEARING**

File Name: Gold v. Mill Creek Residential  
Property Address: 600 WILLIAM ST 546, Oakland, CA 94610  
Case Number: T24-0092

**The Settlement Conference and Hearing will be held remotely on Zoom, a free application for audio/video conferences.**

The Hearing Officer will conduct a Settlement Conference to attempt to resolve this matter unless the owner is seeking an exemption. If the Settlement Conference is not successful, the Hearing will begin immediately after the Settlement Conference. The Settlement Conference or Hearing (if there is no settlement conference) will begin on.

Date: August 27, 2024  
Time: 10:00 AM  
Place: REMOTELY via Zoom

**You will receive the Zoom invite prior to the hearing date. Please make sure the Case Analyst assigned to your case has your updated email address to assure timely communication as the Rent Adjustment Program office remains closed and staff is working remotely. If you do not have an email address, please contact the Case Analyst by phone to discuss best ways to contact you.**

#### **Submitting Evidence**

If you wish to submit other documents in addition to those submitted with the Petition or Response form, you may do so by emailing the documents to the assigned Case Analyst and serving a copy of the documents on the other party. Documents must be received not less than seven (7) days prior to the scheduled Settlement Conference and Hearing date and must be submitted together with a proof of service indicating that the documents were served on the other party. There is a proof of service form on the RAP website that you can use for any documents you serve. See Blank Proof of Service Form. Documents submitted later (or without a proof of service) may be excluded from consideration.

We request that all documents you submit be numbered sequentially, but submissions of more than 15 pages must be numbered. Please black out all sensitive information, such as bank or credit card account numbers and Social Security numbers. The Hearing Officer can also use the official records of the City of Oakland and Alameda County Tax Assessor as evidence if provided by the parties for consideration. If you do not have access to email, the documents may be submitted to the Case Analyst by mail.

#### **Request to Change Date**

A request for a change in the date or time of the Settlement Conference and Hearing (“continuance”) must be made on a form provided by the Rent Adjustment Program, which can be found at the Rent Adjustment Program website: Request for Continuance. A continuance will be granted only for good cause and the Hearing Officer will issue an Order granting or denying the continuance.

#### **Hearing Record**

The Rent Adjustment Program makes an audio recording of the Hearing. Either party may bring a court reporter to record the hearing at their own expense. The Settlement Conference is not recorded. If a settlement is reached, the Hearing Officer will draft a Settlement Agreement to be signed by the parties.

#### **Representatives**

Any party to a Hearing may designate a representative in writing prior to the Settlement Conference or on the record at the Hearing.

#### **Interpreter**

The Hearing must be conducted in English. The Rent Adjustment Program will provide interpreters if it is requested on the petition or response forms or in writing in advance of the Hearing. Any party may also bring a person to the Hearing to interpret for them. The interpreter will be required to take an oath that they are fluent in both English and the relevant other language and they will fully interpret the proceeding to the best of their ability.

#### **Failure to Appear for Hearing**

If a petitioner fails to appear at a properly noticed hearing, the Hearing Officer may, in the Hearing Officer’s discretion, dismiss the case, subject to the petitioner showing good cause for the failure to appear. If the respondent fails to appear at the Hearing as scheduled, the Hearing Officer may either issue an administrative decision without a Hearing or conduct the Hearing and render a decision without the respondent’s participation.





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

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

**7/9/2024**

**Manager**

Patty Hernandez  
Mill Creek Residential  
500 William St.  
Oakland, CA 94612

**Owner**

Mill Creek Residential  
5910 N Central Expy Suite 1100  
Dallas, TX 75206

**Tenant**

Ezra Gold  
600 William St Unit 546  
Oakland, CA 94610

**Tenant**

Ezra Gold  
6026 S Highlands Ave  
Madison, Wisconsin 53705

**000061**

RE: Notice to Parties of Petition Filed

Dear Parties:

The Rent Adjustment Program has received a Petition filed by the **Petitioner** listed above. The Proof of Service filed with the Petition states that the Petition was served on the **Respondent(s)** listed above. If you are a Respondent, and you did not receive the Petition, please contact the case analyst (listed below).

As instructed on the Petition, the Respondent(s) have 30 days from the date of service (if served personally) and 35 days (if served by mail) to file a Response to the Petition. To file a Response, the Respondent(s) must serve a Response on the Petitioner and file the Response (along with a Proof of Service) with the Rent Adjustment Program.

Both the Tenant and Property Owner Response forms can be found at <https://apps.oaklandca.gov/rappetitions/Petitions.aspx>. Each response form contains additional filing instructions.

If you do not file a timely Response, the Petition may be granted without a Hearing, or, if a Hearing does occur, you may not be permitted to produce testimony or evidence.

---

The case has been assigned Case No. **T24-0092**

The case title is **Gold v. Mill Creek Residential**

The analyst assigned to your case is **Robert Costa**, who can be contacted either by telephone at **(510) 238-2079** or by email at **RCosta@oaklandca.gov**

Please note that you are required to serve a copy of any documents filed with the Rent Adjustment Program on the other party (or parties). You must file a Proof of Service with the Rent Adjustment Program together with the document(s) being filed indicating that the document(s) have been served.

Property Owner Petitions that include more than 25 pages of additional documents with the petition are exempt from this requirement, and the owner may choose to not serve all tenants with those documents. If the Owner Petition indicates that additional documents exist that are not being served pursuant to this exception, a tenant may request a copy of the documents in their Tenant Response form or view the documents by scheduling a file review with RAP. If the Tenant Response form indicates that the tenant wishes to receive copies of all filed documents, the owner must provide them within 10 days.

All documents filed by either party are available for review at the Rent Adjustment Program Office **by appointment only**. If you wish to review the case file, call (510) 238-3721 to schedule an appointment.

If you have questions or need additional information, please contact your assigned analyst.

Thank you.

Rent Adjustment Program

**000062**

**PROOF OF SERVICE**

**Case Number: T24-0092**

**Case Name: Gold v. Mill Creek Residential**

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

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

**Documents Included:**

Notice of Remote Settlement Conference and Hearing  
Notice to Parties  
Copy of Tenant Petition  
Landlord Response Form

---

**Manager**

Patty Hernandez  
Mill Creek Residential  
500 William St.  
Oakland, CA 94612

**Owner**

Mill Creek Residential  
5910 N Central Expy Suite 1100  
Dallas, TX 75206

**Tenant**

Ezra Gold  
600 William St Unit 546  
Oakland, CA 94610

**Tenant**

Ezra Gold  
6026 S Highlands Ave  
Madison, Wisconsin 53705

**000063**

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 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 **Tuesday, July 9, 2024**, in Oakland, California.

*Deborah Griffin*

---

Deborah Griffin  
Oakland Rent Adjustment Program



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

## **ADMINISTRATIVE DECISION**

**CASE NUMBER:** T24-0092 Gold v. Mill Creek Residential  
**PROPERTY ADDRESS:** 600 William Street, Unit 546, Oakland, CA  
**PARTIES:** Ezra Gold, Tenant  
Patty Hernandez, Property Manager  
Mill Creek Residential, Owner  
**DATE OF DECISION:** August 1, 2024

### **SUMMARY OF DECISION**

The Tenant Petition is dismissed because the subject property is exempt from the Rent Adjustment Ordinance.

### **BACKGROUND**

The tenant filed a petition on June 24, 2024, alleging decreased housing services.

Official notice is taken of a prior Hearing Decision in Case Number L18-0084 entitled Uptown Housing Workforce, LLC v. Tenants, which granted an exemption from the Rent Adjustment Ordinance for the subject property on the grounds of new construction. The matter was adjudicated, the Hearing Decision was issued and became the final decision after the appeal period.

### **REASON FOR ADMINISTRATIVE DECISION**

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

Prior Hearing Decision in L18-0084

Pursuant to Case Number L18-0084 Uptown Housing Workforce, LLC v. Tenants, the subject property is exempt from the Rent Adjustment Ordinance on the grounds of new construction. The Rent Adjustment Program has no jurisdiction over the issues raised by the tenant in the current case, T24-0092. Therefore, the petition is dismissed.

**ORDER**

1. Petition T24-0092 is dismissed.
2. The Hearing scheduled for August 27, 2024, is cancelled.

**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: August 1, 2024

*Maimoona Ahmad*

**Maimoona Sahi Ahmad**

Hearing Officer

Rent Adjustment Program

**PROOF OF SERVICE**

**Case Number: T24-0092**

**Case Name: Gold v. Mill Creek Residential**

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

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

**Documents Included**  
Administrative Decision

**Manager**  
Patty Hernandez  
Mill Creek Residential  
500 William St.  
Oakland, CA 94612

**Owner**  
Mill Creek Residential  
5910 N Central Expy Suite 1100  
Dallas, TX 75206

**Tenant**  
Ezra Gold  
600 William St Unit 546  
Oakland, CA 94610

**Tenant**  
Ezra Gold  
6026 S Highlands Ave  
Madison, Wisconsin 53705

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

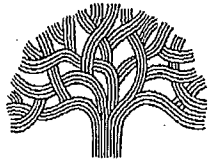
I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **August 13, 2024** in Oakland, California.



Teresa Brown-Morris  
Oakland Rent Adjustment Program

**000067**

RECEIVED



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

AUG 16 2024

OAKLAND RENT  
ADJUSTMENT PROGRAM

CASE NUMBER T - 24-0092

**PROPERTY OWNER RESPONSE  
TO TENANT PETITION**

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

Rental Unit Information			
600	William Street	546	Oakland, CA 94612
Street Number	Street Name	Unit Number	Zip Code
Is there more than one street address on the parcel?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of unit(s) (check one): <input type="checkbox"/> Single family home <input type="checkbox"/> Condominium <input checked="" type="checkbox"/> Apartment, room, or live-work		Number of units in property: 665 Date acquired property: 2009	
Case number(s) of any relevant prior Rent Adjustment case(s): Hearing Decision L18-0084 dated June 7, 2022			
Tenant Information			
Name of Tenant Petitioner(s): Ezra Gold (former tenant)			
Date tenant(s) moved into rental unit: 7/7/2023		Initial rent amount: \$ 3202.00	
		Is/are tenant(s) current on rent? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Property Owner Information			
First Name		Last Name	
Company/LLC/LP (if applicable): Uptown Housing Partners, LP			
Mailing address: 500 William Street, Oakland, CA 94612			
Primary Telephone: (510) 452-1355		Other Telephone: Email: phernandez@millcreekplaces.com	
Property Owner Representative (Check one) <input type="checkbox"/> No Representative <input checked="" type="checkbox"/> Attorney <input type="checkbox"/> Non-attorney			
Charles		Allfonzo	
First Name		Last Name	
Mailing Address: 2125 Oak Grove Road, Suite 105, Walnut Creek, CA 94598		Burnham   Brown	
Phone Number: (510) 835-6704		Email: calfonzo@burnhambrown.com	



## GENERAL FILING REQUIREMENTS

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

Requirement	Documentation
<input checked="" type="checkbox"/> Current Oakland business license	Attach proof of payment of your most recent Oakland business license.
<input checked="" type="checkbox"/> Payment of Rent Adjustment Program service fee ("RAP Fee")	Attach proof of payment of the current year's RAP Fee for the subject property. <i>Exempt from RAP</i>
<input checked="" type="checkbox"/> Service of the required City form entitled "NOTICE TO TENANTS OF THE RESIDENTIAL RENT ADJUSTMENT PROGRAM" ("RAP Notice") on all tenants	<p>Attach a signed and dated copy of the <u>first</u> RAP Notice provided to the petitioning tenant(s) or check the appropriate box below.</p> <p><input type="checkbox"/> I first provided tenant(s) with the RAP Notice on (date): _____  <i>"If RAP Notice was first provided <del>on</del> or after September 21, 2016, RAP Notice must be provided in English, Spanish, and Chinese.</i></p> <p><input type="checkbox"/> I have never provided a RAP Notice. <i>Exempt from RAP</i></p> <p><input type="checkbox"/> I do not know if a RAP Notice was ever provided.</p>
<p>Evidence of registration for all affected covered units (check one of the following boxes)</p> <p><input checked="" type="checkbox"/> On _____ I/we used all reasonable diligence in preparing my annual registration statement, reviewed it and submitted it to the Rent Adjustment Program, and, to the best of my knowledge, the information contained in the statement was true and complete. To the extent I was unable, despite the use of reasonable diligence, to ascertain the exact information to be reported, I provided the most accurate approximation possible based on information and belief where possible or, where such approximation was not feasible, I stated that the information was unknown.</p> <p><input type="checkbox"/> The subject unit(s) are exempt from the registration requirement</p>	<p>To support this declaration, I am providing:</p> <p><input type="checkbox"/> If property not registered online: Copy of the Property Registration and Residential Unit Registration forms submitted to RAP for the affected covered unit in the building.</p> <p><input type="checkbox"/> If property registered online: Copy of a document containing the registration data related to property registration and residential unit registration of the affected covered unit since the registration was done online.</p> <p>OR</p> <p>Declaration of Exemption:</p> <p><input checked="" type="checkbox"/> The residential property involved in this petition matter is not covered by either the city's Rent Adjustment Ordinance or the Just Cause Ordinance. Thus, the subject unit(s) are not subject to the registration requirements under the Oakland Municipal Code, Section 8.22.090.B.1.c.ii.</p>

## PROPERTY OWNER CLAIM OF EXEMPTION

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

- ☐ The unit is a single-family residence or condominium exempted by the Costa Hawkins Rental Housing Act (Civil Code 1954.50, et seq.). **If claiming this exemption, you must answer the following questions. Attach a separate sheet if necessary.**
1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
  2. Did the prior tenant leave after being given a notice of rent increase (Civil Code Section 827)?
  3. Was the prior tenant evicted for cause?
  4. At the time the prior tenant vacated were there any outstanding violations of building housing, fire or safety codes in the unit or building?
  5. Is the unit separately alienable, meaning it can be sold separately from any other unit on the parcel?
  6. Did the petitioning tenant have roommates when he/she moved in?
  7. If the unit is a condominium, did you purchase it? If so: 1) From whom?? 2) Did you purchase the entire building?

- ☐ The rent for the unit is controlled, regulated, or subsidized by a governmental unit, agency, or authority other than the City of Oakland Rent Adjustment Ordinance. (Attach documentation.)
- ☒ The unit was newly constructed and issued a Certificate of Occupancy on or after January 1, 1983. (Attach copy of Certificate of Occupancy.)
- ☐ The unit is located in a motel, hotel, or rooming/boarding house, which the tenant/petitioner has occupied for less than 30 days.
- ☐ The unit is in a building that was previously issued a certificate of exemption from RAP based on substantial rehabilitation. (Attach copy of Certificate of Exemption.)
- ☐ The unit is an accommodation in a hospital, convent, monastery, extended care facility, convalescent home, non-profit home for the aged, or dormitory owned and operated by an educational institution. (Attach documentation.)

## RESPONSE TO TENANT PETITION

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

A.

### Unlawful Rent Increase(s)

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

List all rent increases given within the past five years, starting with the most recent increase. Not applicable.

Date tenant given notice of rent increase: (mm/dd/yy)	Date rent increase went into effect: (mm/dd/yy)	Amount of increase:		Did you provide a RAP Notice with the notice of rent increase?		Reason for increase (CPI, banking, or other):
		FROM	TO	YES	NO	
		\$	\$	<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 the Tenant Petition is based on either of the following grounds, state your response in the space below or in a separate sheet attached to this form.

Tenant Petition Grounds		Owner Response
(A2)	Tenant did not receive proper notice; was not properly served; and/or was not provided with the required RAP form with rent increase(s).	Claim of tenant, not applicable due to permanent exemption.
(A3)	A government agency has cited the unit for serious health, safety, fire, or building code violations.	

B.

### Decreased Housing Services

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

Tenant Petition Grounds		Owner Response
(B1)	The owner is providing tenant(s) with fewer housing services and/or charging for services originally paid for by the owner.	Owner timely and properly made all repairs.

(B2)	Tenant(s) is/are being unlawfully charged for utilities	
C	<b>Other</b>	
	Complete this section if any of the grounds for the Tenant Petition fall under Category C on the Tenant Petition.	
	<b>Tenant Petition Grounds</b>	<b>Owner Response</b>
(C1)	Rent was not reduced after a prior rent increase period for capital improvements	
(C2)	Owner exemption based on fraud or mistake	
(C3)	Tenant's initial rent amount was unlawful because owner was not permitted to set initial rent without limitation (O.M.C. § 8.22.080 (C)).	

**OWNER VERIFICATION***(Required)*

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

Charles Alfanzo, Attorney and authorized Agent  
Property Owner 1 Signature

8/13/2024  
Date

\_\_\_\_\_  
Property Owner 2 Signature

\_\_\_\_\_  
Date

**CONSENT TO ELECTRONIC SERVICE***(Highly Recommended)*

Check the box below if you agree to have RAP staff and the OTHER PARTY/IES send you documents related to your case electronically. If you agree to electronic service, the RAP and other parties may send certain documents (except a response) only electronically and not by first class mail.

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

**MEDIATION PROGRAM**

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

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

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

Charles A. Alfanzo, attorney and authorized agent  
Property Owner Signature

8/13/2024  
Date

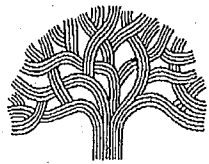
**INTERPRETATION SERVICES**

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

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

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

**-END OF RESPONSE-**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

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

On the following date: 8 / 13 / 2024 I served a copy of (check all that apply):

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

☐ Other: \_\_\_\_\_

by the following means (check one):

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

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

**PERSON(S) SERVED:**

Name	Ezra Gold
Address	6026 S. Highlands Avenue
City, State, Zip	Madison, Wisconsin 53705

Name	City of Oakland Rent Adjustment Program
Address	250 Frank H. Ogawa Plaza, Suite 5313

City, State, Zip	Oakland, CA 94612-0243
------------------	------------------------

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

Charles A. Alfonzo

PRINTED NAME

*Charles A. Alfonzo*

SIGNATURE

8/13/2024

DATE SIGNED

**CITY OF OAKLAND**  
**BUSINESS TAX CERTIFICATE**

**ACCOUNT  
NUMBER**

00112228

**DBA**

UPTOWN HOUSING PARTNERS LP  
THE UPTOWN

**BUSINESS LOCATION**

600 WILLIAM ST  
OAKLAND, CA 94612-5401

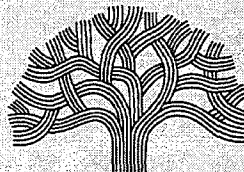
**BUSINESS TYPE**

O2 Rental - Apartment

**EXPIRATION DATE**

12/31/2024

Starting January 1, 2021, Assembly  
Bill 1607 requires the prevention of  
gender-based discrimination of  
business establishments. A full notice  
is available in English or other  
languages by going to:  
<https://www.dca.ca.gov/publications>



THE UPTOWN  
127 PUBLIC SQ STE 2300  
CLEVELAND, OH 44114-1306

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

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

PUBLIC INFORMATION ABOVE  
THIS LINE TO BE  
CONSPICUOUSLY POSTED!

**000075**



**WORK ORDER: 6223431**

**STATUS: WORK COMPLETED PRIORITY: EMERGENCY**

**Building // Unit:** 1 // 546

**TODAY'S DATE:**

**Resident // Phone:** Acher, Zoe // +1 608-444-4670

**TIME IN:**

**PTE:** No

**TIME OUT:**

**SIGNATURE:**

**Location // Problem:** Primary Bathroom // Other - Interior

**NOTES:**

**Description:** Water leak inside the bathroom and water has spread to kitchen

**Animals:** No

**Entry Notes:** Call resident

**Assigned To:** Aaron Johnson

**Created Date:** 02/08/2024 at 01:55 PM PST (staff)

**Scheduled Date:** 04/29/2024 from 10:42 AM PDT to 09:41 AM PST

**000076**



Description	Date - Time
Printed by Patty Hernandez	Apr 29, 2024 - 10:42 AM PDT
Completion Date updated to 02/12/2024 10:41 AM by Aaron Johnson	Feb 12, 2024 - 09:41 AM PST
Scheduled End Date updated to: 02/12/2024 by Aaron Johnson	Feb 12, 2024 - 09:41 AM PST
Closed by Aaron Johnson	Feb 12, 2024 - 09:41 AM PST
Status updated: from Open to Work Completed by Aaron Johnson	Feb 12, 2024 - 09:41 AM PST
Visible to Resident Closing Note added: Roof leak fixed by Aaron Johnson	Feb 12, 2024 - 09:41 AM PST
Assigned To updated: from Alex Whitaker to Aaron Johnson by Aaron Johnson	Feb 12, 2024 - 09:40 AM PST
Permission to enter denied by Jasmine Aponte on behalf of Zoe Acher; Entry note provided: Call resident	Feb 08, 2024 - 01:55 PM PST
Assigned To: Alex Whitaker by Jasmine Aponte	Feb 08, 2024 - 01:55 PM PST
Opened by Jasmine Aponte	Feb 08, 2024 - 01:55 PM PST
Entry Note added: Call resident by Jasmine Aponte	Feb 08, 2024 - 01:55 PM PST



WORK ORDER: 6231988

STATUS: WORK COMPLETED PRIORITY: MEDIUM

Building // Unit: 1 // 546

Resident // Phone: Gold, Ezra // +1 510-499-5959

PTE: No

Location // Problem: Primary Bathroom // Roofing

Description: PM 3/1 The roof has been scheduled for next week 3/6-3/7 to be repaired. And the roof repair will be on the roof and not inside the unit. PM 2/26 Work was scheduled for Saturday but awaiting for material. PM 2/26 Followed up PM 2/23 Quote was received. Waiting for the green light.....The roof is still leaking into our apartment, causing the paint to bubble and saturating the drywall in our bathroom where there's also a mildew smell.

Animals: No

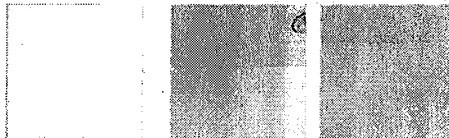
Entry Notes:

Assigned To: Alex Whitaker // CE Real Estate Improvements

Created Date: 02/19/2024 at 03:10 PM PST (resident)

Scheduled Date: 03/06/2024 from 10:00 AM PST to 05:00 PM PST

Attachments:



TODAY'S DATE:

TIME IN:

TIME OUT:

SIGNATURE:

NOTES:

000078

Description	Date - Time
Printed by Patty Hernandez	Apr 29, 2024 - 10:42 AM PDT
Closed and Work Completed by Isileli Misinale	Mar 09, 2024 - 11:41 PM PST
Visible to Resident Closing Note added: Roof repaired was completed yesterday by Isileli Misinale	Mar 09, 2024 - 11:41 PM PST
Printed by Isileli Misinale	Mar 07, 2024 - 08:04 AM PST
Printed by Isileli Misinale	Mar 04, 2024 - 09:56 AM PST
Vendor added: CE Real Estate Improvements by Isileli Misinale	Mar 01, 2024 - 12:32 PM PST
Scheduled End Date updated to: 03/06/2024 by Isileli Misinale	Mar 01, 2024 - 12:32 PM PST
Scheduled Start Date updated to: 03/06/2024 by Isileli Misinale	Mar 01, 2024 - 12:32 PM PST
Visible to Resident Note added: The roof has been scheduled for next week 3/6-3/7 to be repaired. It needs 2 full days for the repair to be cured. And the roof repair will be on the roof and not inside the unit. by Isileli Misinale	Mar 01, 2024 - 12:29 PM PST
Description Updated: View Changes by Isileli Misinale	Mar 01, 2024 - 12:28 PM PST
Description Updated: View Changes by Isileli Misinale	Feb 27, 2024 - 06:38 AM PST
Status updated: from Open to Scheduled by Isileli Misinale	Feb 27, 2024 - 05:57 AM PST
Visible to Resident Note added: Once the roof is fixed , we will contact you to repair the drywall inside the unit. We got quote for the repair already. by Isileli Misinale	Feb 26, 2024 - 05:58 PM PST
Description Updated: View Changes by Isileli Misinale	Feb 26, 2024 - 04:23 PM PST
Printed by Isileli Misinale	Feb 26, 2024 - 09:00 AM PST
Description Updated: View Changes by Isileli Misinale	Feb 26, 2024 - 04:15 AM PST
Printed by Isileli Misinale	Feb 20, 2024 - 10:27 AM PST
Assigned To: Alex Whitaker by Isileli Misinale	Feb 20, 2024 - 10:22 AM PST
Permission to enter denied by Resident on behalf of Ezra Gold; Entry note provided:	Feb 19, 2024 - 03:10 PM PST
Opened by Resident	Feb 19, 2024 - 03:10 PM PST



PRINTED: 03/04/2024 AT 10:42 AM PST  
The Updown: 500 William Street, Suite 100, San Francisco, CA 94111

**WORK ORDER: 6245190**

**STATUS: WORK COMPLETED PRIORITY: HIGH**

**Building // Unit:** 1 // 546

**TODAY'S DATE:**

**Resident // Phone:** Gold, Ezra // +1 510-499-5959

**TIME IN:**

**PTE:** No

**TIME OUT:**

**Location // Problem:** Primary Bathroom // Light Fixture

**SIGNATURE:**

**Description:** Leak coming from bathroom light fixture.  
Examine the fixture and dry or replace as  
needed. Rook leak to be fixed on March  
6th and 7th.

**NOTES:**

**Animals:** No

**Entry Notes:** Please call first for appt.

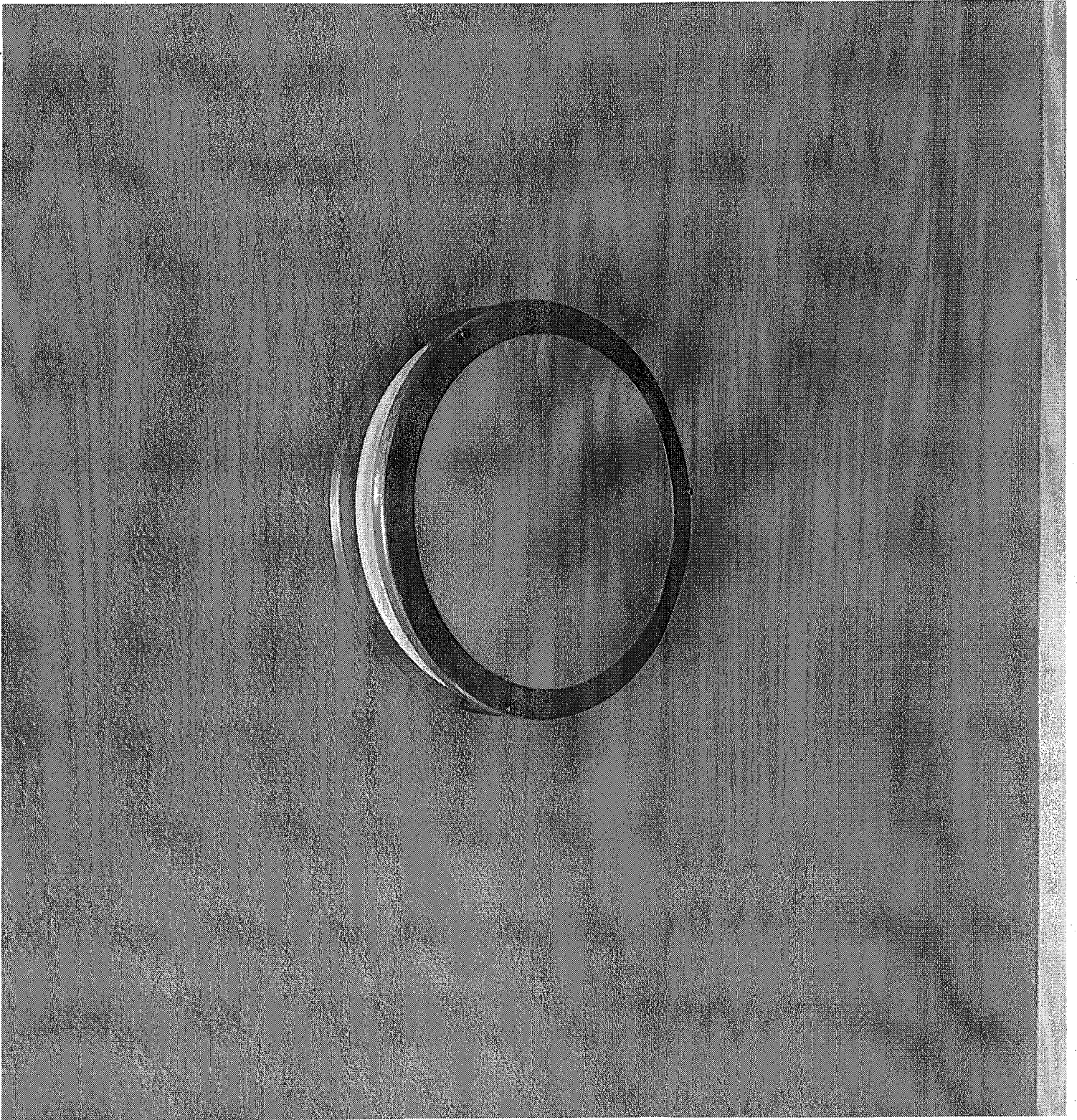
**Assigned To:** Alex Whitaker

**Created Date:** 03/04/2024 at 09:33 AM PST (staff)

**Scheduled Date:** 03/05/2024 from 02:00 PM PST to 02:30 PM PST

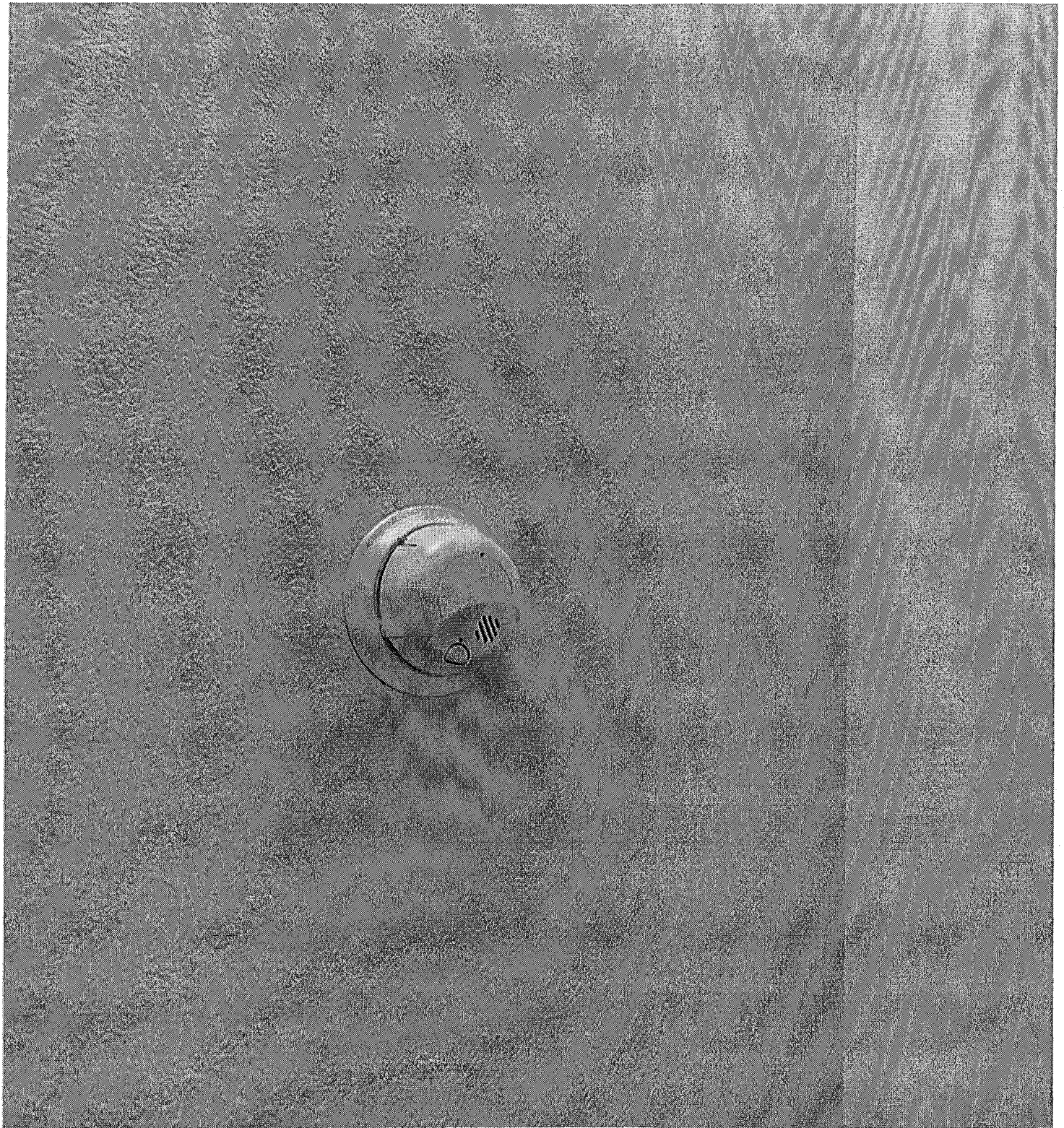
**000080**

Description	Date - Time
Printed by Patty Hernandez	Apr 29, 2024 - 10:42 AM PDT
Closed and Work Completed by Patty Hernandez	Mar 05, 2024 - 12:42 PM PST
Visible to Resident Closing Note added: Resident has requested that we exam the bathroom ceiling after the roof leak has been repaired. by Patty Hernandez	Mar 05, 2024 - 12:42 PM PST
Printed by Isileli Misinale	Mar 05, 2024 - 09:05 AM PST
Printed by Isileli Misinale	Mar 04, 2024 - 09:56 AM PST
Assigned To updated: from Aaron Johnson to Alex Whitaker by Aaron Johnson	Mar 04, 2024 - 09:43 AM PST
Entry Note updated: from Please come in the afternoon to Please call first for appt. by Patty Hernandez	Mar 04, 2024 - 09:37 AM PST
Scheduled End Date updated: from 03/04/2024 to 03/05/2024 by Patty Hernandez	Mar 04, 2024 - 09:37 AM PST
Scheduled Start Date updated: from 03/04/2024 to 03/05/2024 by Patty Hernandez	Mar 04, 2024 - 09:37 AM PST
Scheduled End Date updated to: 03/04/2024 by Patty Hernandez	Mar 04, 2024 - 09:36 AM PST
Scheduled Start Date updated to: 03/04/2024 by Patty Hernandez	Mar 04, 2024 - 09:36 AM PST
Permission to enter denied by Patty Hernandez on behalf of Ezra Gold; Entry note provided: Please come in the afternoon	Mar 04, 2024 - 09:33 AM PST
Assigned To: Aaron Johnson by Patty Hernandez	Mar 04, 2024 - 09:33 AM PST
Opened by Patty Hernandez	Mar 04, 2024 - 09:33 AM PST
Entry Note added: Please come in the afternoon by Patty Hernandez	Mar 04, 2024 - 09:33 AM PST



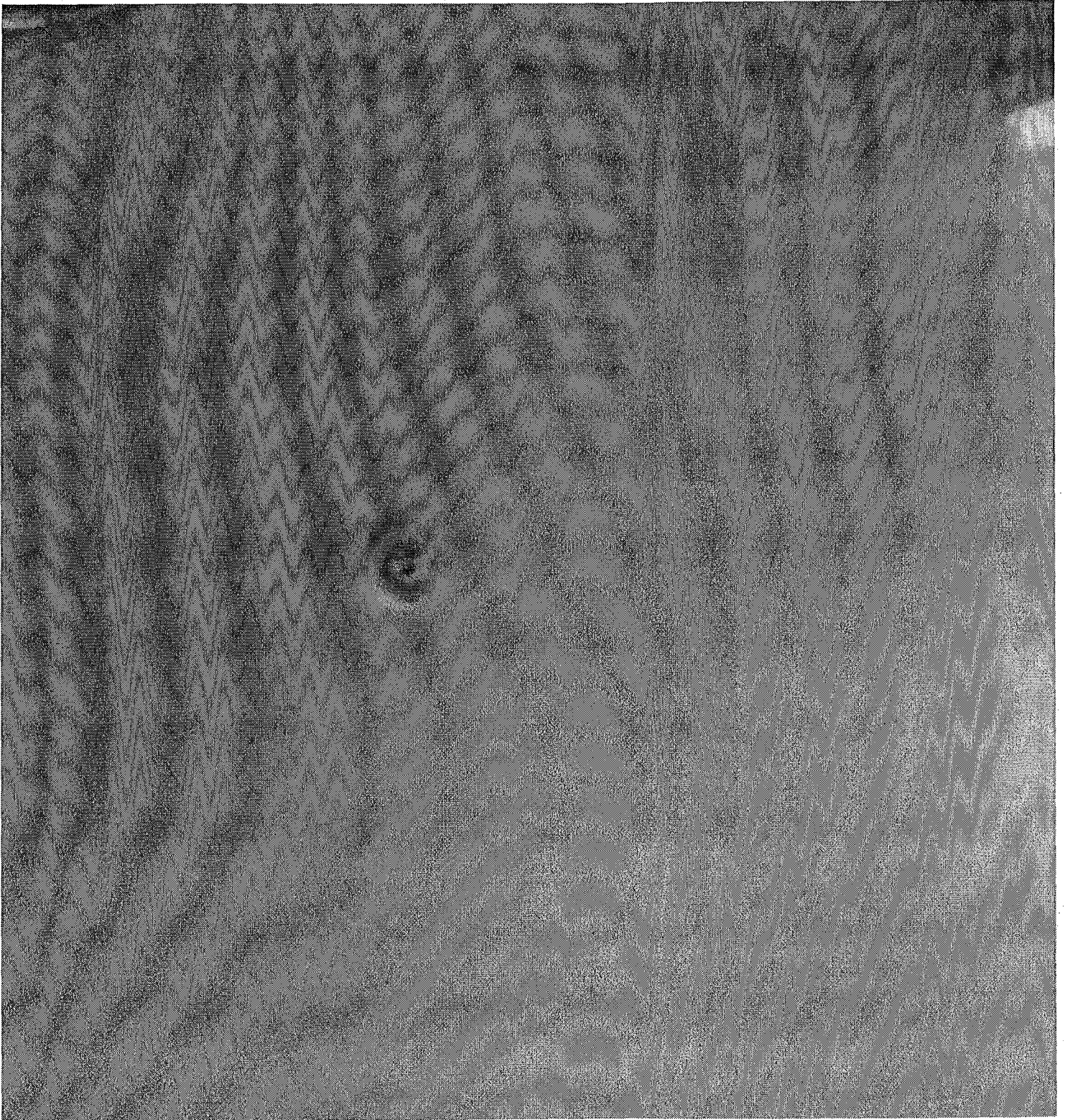
000082





000083





000084



**Charles Alfonzo**

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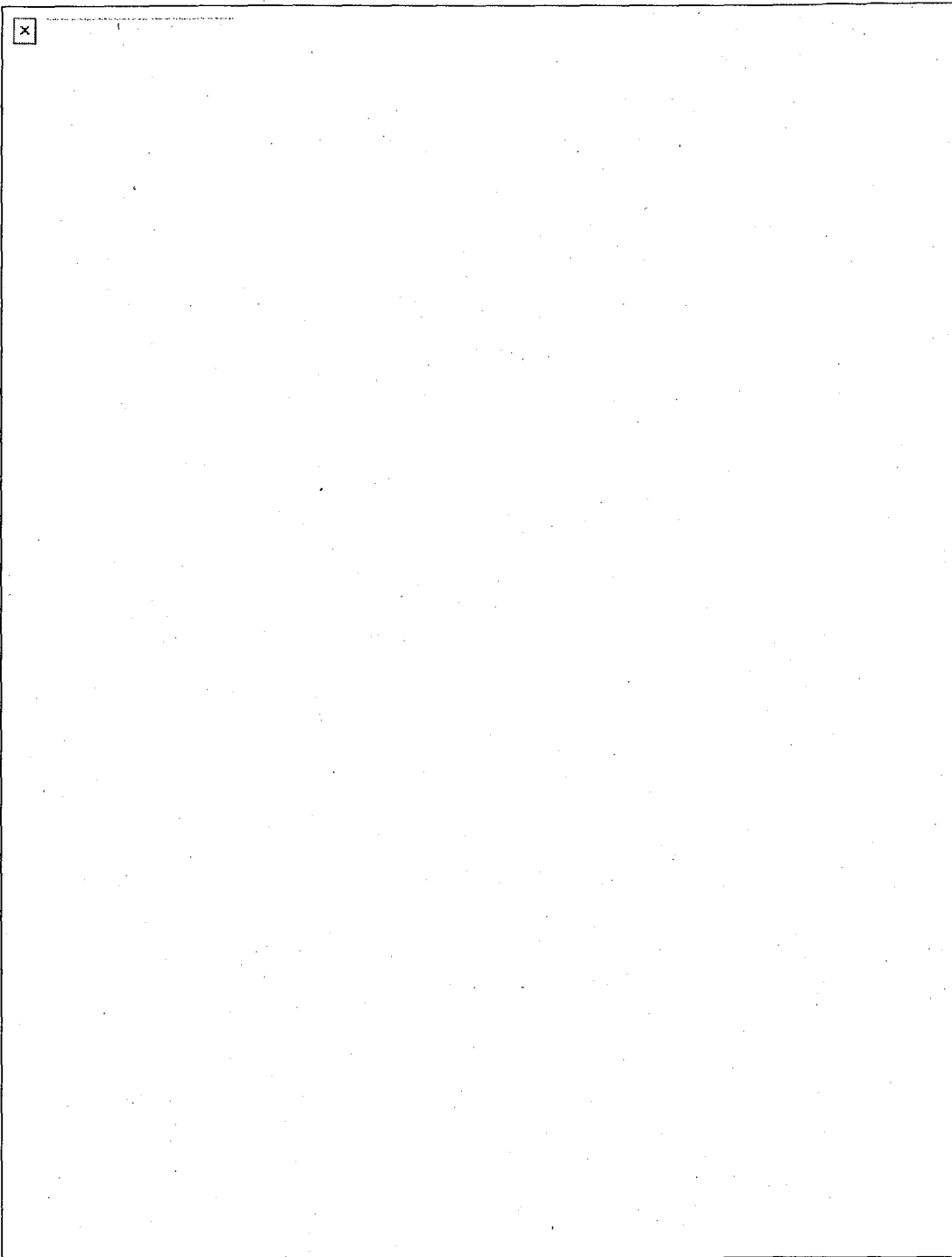
**From:** Patty Hernandez <phernandez@millcreekplaces.com>  
**Sent:** Tuesday, March 5, 2024 3:16 PM  
**To:** Zoe Acher  
**Cc:** Ezra Gold; Isileli Misinale  
**Subject:** RE: [EXTERNAL] Pictures  
**Attachments:** image005.png; image006.png; Re: [EXTERNAL] Pictures

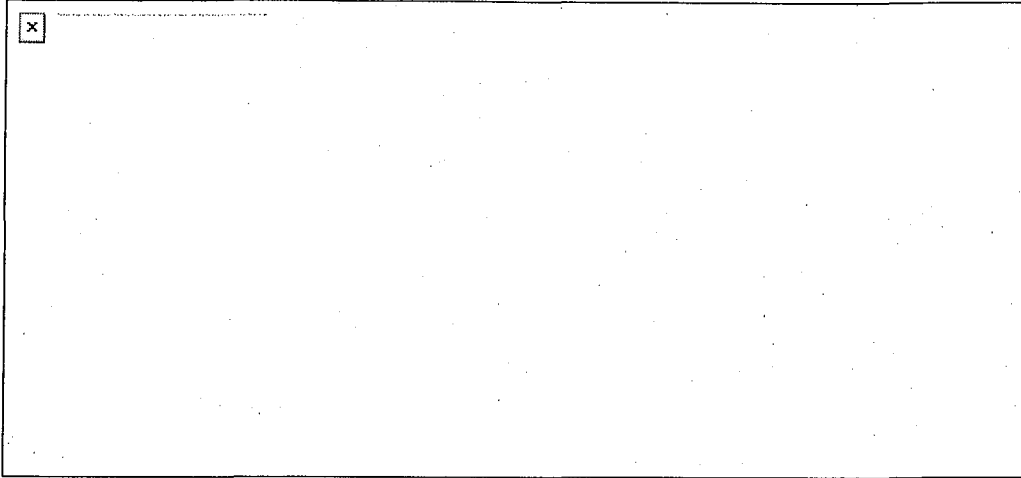
Hi Zoe,

I didn't realize that you were not aware that what prompted me to open the new request was the email Ezra sent me (attached) on 3/2 stating "This is happening right now."

As a follow up to the smell of marijuana smell in your master bath, Pryce and Jasmine have inspected the home next door, the closest home to yours that shares the bathroom venting system with your master bath, and we found no smoking occurring in that home. So we are continuing our search and will be inspecting all the homes underneath yours 1<sup>st</sup> floor to 4<sup>th</sup> floor and all the homes underneath your next door neighbor 1<sup>st</sup> floor through 4<sup>th</sup> floor. We will follow up with you on those results as well. The fan on the roof has been repaired so please let us know if the marijuana smell continues to occur.

After sharing your and Ezra's emails, your current concession request, lease break requirements, the history of your residency and past concessions we've issued with my supervisor Nina Cook we are able to meet you half way on the concession pay back and buy-out (lease break) amounts. So, your buy-out amount would be \$3,202.00 and your concession pay back would be \$5,002.50, for a total of \$8,204.50. We will need your decision by tomorrow to accommodate a March 31<sup>st</sup> move out date. If we do not hear from you by tomorrow we will assume that you will finish out the terms of your lease.





[[#]]

name: Patty Gaines

[[#]]

**From:** Zoe Acher <acher.zoe@gmail.com>

**Sent:** Tuesday, March 5, 2024 2:01 PM

**To:** Patty Hernandez <phernandez@millcreekplaces.com>

**Cc:** Ezra Gold <ezragold212@gmail.com>; Isileli Misinale <imisinale@millcreekplaces.com>

**Subject:** Re: [EXTERNAL] Pictures

Patty, we don't feel that our current situation at the Uptown is safe or healthy for us, which is why we've requested to break our lease early, without penalties or fees. At the moment, we don't have anywhere else to go, but hope to very soon. Nothing has happened in the last few days since your last inspection to justify another inspection or repair, though. I hope that clears things up.

We're eagerly awaiting an answer from you about our lease.

On Tue, Mar 5, 2024 at 12:44 PM Patty Hernandez <[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com)> wrote:

Hi Zoe,

No problem, I don't want to cause a disruption if you do not feel it's an urgent safety issue. I closed the request and we'll address it after the roof leak has been repaired.

Kindest regards,



Patty Hernandez

Community Manager

THE UPTOWN

500 WILLIAM STREET OAKLAND, CA 94612 | P. 510-452-1355  
[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com) | [www.theuptownoakland.com](http://www.theuptownoakland.com)

A MILL CREEK RESIDENTIAL COMMUNITY



**From:** Zoe Acher <[acher.zoe@gmail.com](mailto:acher.zoe@gmail.com)>

**Sent:** Tuesday, March 5, 2024 12:13 PM

**To:** Patty Hernandez <[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com)>

**Cc:** Ezra Gold <[ezragold212@gmail.com](mailto:ezragold212@gmail.com)>; Isileli Misinale <[imisinale@millcreekplaces.com](mailto:imisinale@millcreekplaces.com)>

**Subject:** Re: [EXTERNAL] Pictures

Hi Patty,

If you need to re-examine the bathroom ceiling due to an urgent safety issue, let us know via email and we can allow you in today. Otherwise, to limit any further disruptions in our life, we'd prefer to wait until after the roof repairs are complete to deal with any more interior water damage. We've made many accommodations for you and your staff to enter our apartment due to the multitude of issues we've been experiencing. If this isn't an urgent safety issue, I don't see any reason why it can't wait until after the roof is fixed, especially because the leaks in question are not new since you inspected our apartment only five days ago, on 2/29.

We're expecting a response from you today about whether you are willing to work with us on ending our lease early, without penalty or fees.

On Tue, Mar 5, 2024 at 11:23 AM Patty Hernandez <[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com)> wrote:

Hello Zoe,

I want to clarify that opening work orders for your apartment home does not mean we will enter without your permission/scheduling it with you. We would only do so in case of emergency such as fire or flood OR if you open the request and mark the request with "Permission To Enter" during business hours button. What is a good time for you both today for us to re-examine the bathroom ceiling?



Patty Hernandez

Community Manager

THE UPTOWN

500 WILLIAM STREET OAKLAND, CA 94612 | P. 510-452-1355

[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com) | [www.theuptownoakland.com](http://www.theuptownoakland.com)

A MILL CREEK RESIDENTIAL COMMUNITY



**From:** Zoe Acher <[acher.zoe@gmail.com](mailto:acher.zoe@gmail.com)>

**Sent:** Monday, March 4, 2024 3:00 PM

**To:** Patty Hernandez <[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com)>

**Cc:** Ezra Gold <[ezragold212@gmail.com](mailto:ezragold212@gmail.com)>; Isileli Misinale <[imisinale@millcreekplaces.com](mailto:imisinale@millcreekplaces.com)>

**Subject:** Re: [EXTERNAL] Pictures

Again, we're willing to work with you and your supervisor on finding a fair path out of our lease. Once you've had a chance to discuss our needs with your supervisor, you can let us know if you're willing to work with us too. As far as everything else concerned -- the repairs, building codes, etc. -- that is now between the city of Oakland code enforcement office and Mill Creek/the Uptown. Of course, if you deem repairs urgent for safety reasons, we will let you in to do the repairs whenever you need us to. And, it goes without saying that if the scheduled roof repair doesn't fix the leak, well... the Uptown has failed to fix the problem.

Outside of that, we request that you check in with us before submitting any more work orders on our behalf so we can coordinate timing. Or, allow us to submit them ourselves so we can get the work done at a convenient time. If it's not an emergency safety issue, we don't see any reason for you to submit work orders on our behalf without first contacting us to make sure it works with our schedule.

On Mon, Mar 4, 2024 at 2:39 PM Patty Hernandez <[phernandez@millcreekplaces.com](mailto:phernandez@millcreekplaces.com)> wrote:

Hello Zoe,

I can understand how this needed roof repair is causing you both stress. The roof repair is scheduled for 3/6 and 3/7, but if drywall needs to be removed for safety reasons then we should be given access to evaluate it and to remove if necessary. If it's not necessary to remove it then we will not do it. I understand that new drywall cannot go in until the rook leak has been repaired. There are no points of failure between the roof and the ceiling. Ceiling codes are not designed to hold water. Water looks for the path of least resistance and will leak out somewhere. When issues arise management is obligated to fix them and we have indicated all along that we would so I do not see a basis for

withholding rent. That's said, I have a meeting with my supervisor tomorrow 3/5 to discuss your request and I'll have an answer for you then.

Sincerely,



Patty Hernandez

Community Manager

THE UPTOWN

500 WILLIAM STREET OAKLAND, CA 94612 | P. 510-452-1355

[pfernandez@millcreekplaces.com](mailto:pfernandez@millcreekplaces.com) | [www.theuptownoakland.com](http://www.theuptownoakland.com)

A MILL CREEK RESIDENTIAL COMMUNITY



**From:** Zoe Acher <[acher.zoe@gmail.com](mailto:acher.zoe@gmail.com)>

**Sent:** Monday, March 4, 2024 11:56 AM

**To:** Ezra Gold <[ezragold212@gmail.com](mailto:ezragold212@gmail.com)>; Patty Hernandez <[pgaines@millcreekplaces.com](mailto:pgaines@millcreekplaces.com)>; Isileli Misinale <[imisinale@millcreekplaces.com](mailto:imisinale@millcreekplaces.com)>

**Subject:** Re: [EXTERNAL] Pictures

Hello Patty,

As we said, we are willing to work with the Uptown to find a solution that feels fair regarding our lease. We need to live in a safe and habitable home and we'll be moving our things out as soon as we have somewhere else to go. The decision to end the lease, however, is a different matter and entirely dependent on the outcome of the Uptown's decision regarding penalties and fees. Should the Uptown decline to work with us, we will continue our lease through August 6th, which is less of a financial burden to us than ending the lease now and paying fees and penalties. I hope this clarifies the matter for you.

And of course, while it will be incredibly disruptive for us to have the wall and ceiling replaced while we are living here, we will allow for the necessary work when it needs to be done. I'm not sure that submitting work orders for our apartment on our behalf is productive at the moment, as it is only causing us more stress having to accommodate work that we haven't scheduled ourselves. And, as long as the roof isn't fixed, there's no point in doing more interior work, as I'm sure you can understand.

Our understanding is that the necessary maintenance done to code includes replacing the drywall in the bathroom as well as sections of the ceiling in both the bathroom and kitchen. But it also includes locating the source of the leak by inspecting points of failure in the space between the roof and ceiling, not just the roof alone.

We would like to avoid going down the road of legally withholding rent from the Uptown until the apartment is up to code. Instead, we hope that you and your supervisor can discuss the matter with due consideration for the position we're currently in and respond to our original proposal with an answer, preferably by midweek.

## EXHIBIT 3 - Certificate of Occupancy



## CITY OF OAKLAND – COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY

Inspection services – 250 Frank H. Ogawa Plaza, Suite 2340, Oakland, California 94612 (510) 238-3102

## CERTIFICATE OF OCCUPANCY

C.O. NO. 09-0123

Revised Construction Type Only 05/06/2009

Jobsite Address	600 William Street	Property Owner	Uptown Housing Partners L.P.
Permits	B 0600595 E 0602026	Permittee	Same As Owner
	P 0601607 M 0601131	Parcel Number	008- 0716- 053- 00
Final Inspection Approved	03/ 04/ 2009	Occupancy	S-3, R-1 Stories 6
Use of Premises	Parking Garage and Apartments	Construction	V 1hour modified/ I F.R. Sprinkler Yes
		OBC Edition	2002 Ordinance 12452 CMS
Subdivision	FM-7616 Resolution 79545 CMS	Planning Permits	PUDF 05047 ER030007 / GP05105 Zone C-51/ S-17
No. of Units	Condo Rental* 255	Bldg Code Variances	See approved plans

STORY	ROOM DESCRIPTION	HABITABLE ROOMS
1 <sup>st</sup> Story	two hundred thirty (230) Parking Spaces, three Electrical Rooms, two Fan Rooms,	
"	Gas Meter Room, three Elevator Machine Rooms, three Elevator Lobbies, Fire Pump	
"	Room, Battery Room, Trash Room, Boiler Room, Storage Room, Telephone/Cable/	
"	Data Room, Bicycle Parking Area.	0
2 <sup>nd</sup> Story	five Units each with: Kitchen/Living Room/Dining Room/Sleeping Room with	
"	Closet combination, Bathroom.	
"	twenty-five Units each with: Kitchen/Living Room/Dining Room combination,	
"	Bedroom with Closet, Bathroom, Laundry Closet.	
"	sixteen Units each with: Kitchen/Living Room/Dining Room combination, Two Bed-	
"	rooms with Closets, Two Bathrooms, Laundry Closet.	
"	one Unit with: Kitchen/Dining Room/Living Room/combination, two Bedrooms with	
On-Site Parking	<input type="checkbox"/>	Room Total

Comments: Encroachment Permits – ENMI 06254/ 06236/ 06237 &amp; ENMJ 05102 Page 1 of 7

THIS BUILDING HAS BEEN INSPECTED FOR COMPLIANCE WITH THE REQUIREMENTS OF THE REFERENCED CODES AND ORDINANCES FOR THE OCCUPANCIES AND THE USES DESCRIBED ABOVE, AND OCCUPANCY OF THE PREMISES ONLY FOR SAID PURPOSES IS HEREBY AUTHORIZED.

THIS CERTIFICATE SHALL NOT BE CONSTRUED AS AUTHORITY TO VIOLATE, CANCEL, ALTER, OR SET ASIDE ANY OF THE PROVISIONS OR REQUIREMENTS OF ANY LAWS OR CITY OF OAKLAND ORDINANCES NOR SHALL SUCH ISSUANCE THEREAFTER PREVENT REQUIRING CORRECTIONS OF ERRORS OR OF VIOLATIONS OF SAID REGULATIONS. THIS CERTIFICATE IS NOT A LICENSE.

By: \_\_\_\_\_  
INSPECTIONS MANAGERBUILDING OFFICIAL  
Date Issued: May 7, 2009

Copies:

X

Owner

☐ Assessor☐ Microfilm☐ \*Business License



CITY OF OAKLAND



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

Housing and Community Development Department  
Rent Adjustment Program

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

**CERTIFICATE OF EXEMPTION**  
**O.M.C. §8.22.030(B)**

Pursuant to the Hearing Decision L18-0084, Uptown Housing Workforce, LLC v. Tenants, the residential properties described below are permanently exempt from application of the City of Oakland Rent Adjustment Ordinance, Oakland Municipal Code, Chapter 8.22, Article 1. The subject properties are also exempt from application of the Just Cause Ordinance, Measure EE, Oakland Municipal Code, Chapter 8.22.300 et seq.

Situs Address: 500 William Street, Oakland, CA  
Alameda County Assessor Parcel No: 008-0716-057-00

Situs Address: 600 William Street, Oakland, CA  
Alameda County Assessor Parcel No: 008-0716-053-00

Situs Address: 601 William Street, Oakland, CA  
Alameda County Assessor Parcel No: 008-0716-055-00

DATE: June 7, 2022

A handwritten signature in black ink, appearing to read 'Briana Lawrence-McGowan', written over a horizontal line.

Briana Lawrence-McGowan  
Administrative Analyst I  
City of Oakland  
Rent Adjustment Program

000093

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of ALAMEDA

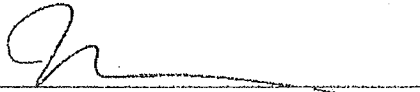
On June 7, 2022 before me, NICOLA DUESBERG, NOTARY PUBLIC  
(insert name and title of the officer)

personally appeared Briana Lawrence-McGowan  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

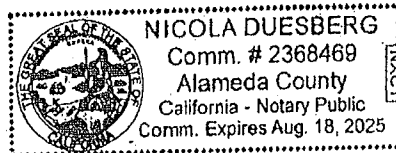
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



**PROOF OF SERVICE**

**Case Number L18-0084**

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**

Certificate of Exemption

**Owner**

Ben Hirschland  
Uptown Housing Partners, LLC  
500 Williams Street  
Oakland, CA 94612

**Owner Representative**

Daniel J. Turner  
Reuben, Junius & Rose, LLC  
One Bush Street, Suite 600  
San Francisco, CA 94104

**Owner Representative**

Kristen M. Cavin  
Griffen & Kaminski, LLC  
1300 E. 9th Street, Suite 1600  
Cleveland, OH 44114

**Owner Representative**

Mark Loper  
Reuben, Junius & Rose LLC  
One Bush Street, Suite 600  
San Francisco, CA 94104

**Owner Representative**

Uptown Housing Workforce, LLC  
127 Public Square, Suite 3200  
Cleveland, OH 44114

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

**000095**



CITY OF OAKLAND

**CITY OF OAKLAND  
RENT ADJUSTMENT PROGRAM**

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

For Rent Adjustment Program date stamp.

## APPEAL

<b>Appellant's Name</b> Ezra Gold	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
<b>Property Address (Include Unit Number)</b> 600 William St. Oakland, CA 94612	
<b>Appellant's Mailing Address (For receipt of notices)</b> 6026 S Highlands Ave. Madison, WI 53705	<b>Case Number</b> T24-0092
	<b>Date of Decision appealed</b> 8/13/24
<b>Name of Representative (if any)</b>	<b>Representative's Mailing Address (For notices)</b>

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

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



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

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

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

I served a copy of: Appeal (insert name of document served)

☒ And Additional Documents

and (write number of attached pages) 1 attached pages (not counting the Appeal Form or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- ☒ a. First-Class Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- ☐ c. Electronic Service. I electronically sent the document(s) to the person(s) at the address(es) listed below who have previously given written consent to receiving notices and documents in this matter from the RAP and from the OTHER PARTY/IES electronically at the email address(es) they provided.

<b>Name</b>	Christine Franz
<b>Address</b>	5910 N Central Expy Suite 1100
<b>City, State Zip</b>	Dallas TX 75206
<b>Email Address</b>	
<b>Name</b>	
<b>Address</b>	
<b>City, State Zip</b>	

Email Address

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and the documents were served on 1/9/3/24 (insert date served).

Ezra Gold

PRINT YOUR NAME

SIGNATURE

9/3/24

DATE

**IMPORTANT INFORMATION:**

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

- Appeals filed late without good cause will be dismissed.
- You must provide all the information required, or your appeal cannot be processed and may be dismissed.
- **Any response to the appeal by the responding party must be received by the Rent Adjustment Program, along with a proof of service on appealing party, within 30 days of service of the service of the appeal if the party was personally served. If the responding party was served the appeal by mail, the party must file the response within 35 days of the date the appeal was mailed to them.**
- There is no form for the response, but the entire response is limited to 25 pages or less.
- The Board will not consider new claims. All claims, except jurisdictional issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The case record is available to the Board, but sections of audio recordings that you want the Board to review must be pre-designated to Rent Adjustment Staff.





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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

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

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

I served a copy of: Appeal (insert name of document served) and

☒ And Additional Documents

(write number of attached pages) 1 attached pages (not counting the Petition or Response served or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):

- ☒ a. First-Class Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- ☐ c. Electronic Service (DO NOT USE THIS SERVICE METHOD TO SERVE PETITIONS OR RESPONSES TO PETITIONS.) I electronically sent the document(s) to the person(s) at the address(es) listed below who have previously given written consent to receiving notices and documents in this matter from the RAP and from the OTHER PARTY/IES electronically at the email address(es) they provided.

### PERSON(S) SERVED:

Name	Christine Franz
Address	5910 N Central Expy Suite 1100
City, State, Zip	Dallas TX 75206
Email Address	

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and the documents were served on 9/3/24 (insert date served).

Ezra Gold

PRINT YOUR NAME

A handwritten signature in blue ink, appearing to be 'Ezra Gold', is written over a horizontal line.

SIGNATURE

9/3/24

DATE



## Explanation of Appeal

T24-0092

9/3/24

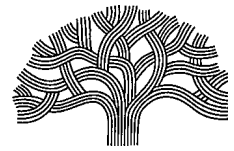
The nature of my appeal is simple and requires no evidence beyond what RAP already possesses/has access to.

It has been verbally confirmed to me by the Oakland Business Tax Office (they did not provide me with written proof) that The Uptown/Mill Creek Residential has not been paying their RAP fees. OBTO has also informed me that The Uptown/Mill Creek Residential has now been invoiced for all outstanding fees and presumably any late penalties that are due.

The purpose of my appeal is to have the eligibility of their exemption and any other privileges they purport to enjoy through assumed payment of RAP fees examined thoroughly, and for any and all possible repercussions to be taken to the fullest extent.

I would like to know exactly what those repercussions are and to be kept fully informed as to the status of their enforcement.

Additionally, given the fact that aspects of RAP's processes rely on knowing whether or not properties are paying their RAP fees, it concerns me that I had to find this information myself rather than RAP already knowing it. I hope the city of Oakland will rectify this gap in regulatory enforcement.



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

Housing and Community Development Department  
Rent Adjustment Program

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

## NOTICE OF INCOMPLETE APPEAL FORM

**CASE NAME/NUMBER: T24-0092**

**PROPERTY ADDRESS: 600 William Street, Unit 546 Oakland, CA 94612**

The Rent Adjustment Program received an *Appeal* from you on **September 3, 2024.**

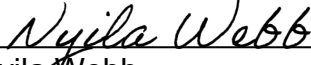
The *Appeal* that you attempted to file was incomplete. The chart below indicates what is missing from your filing:

Grounds for Appeal:	Needed
Math/clerical errors – <b>Explanation required</b>	<input type="checkbox"/>
Inconsistent with ordinance, regulations, or prior Board decisions – <b>Explanation required</b>	<input type="checkbox"/>
Inconsistent with prior hearing decisions – <b>Explanation required</b>	<input type="checkbox"/>
New policy issue – <b>Explanation required</b>	<input type="checkbox"/>
Violates federal, state or local law – <b>Explanation required</b>	<input type="checkbox"/>
Not supported by substantial evidence – <b>Explanation required</b>	<input type="checkbox"/>
Denied sufficient opportunity to present/respond – <b>Explanation required</b>	<input type="checkbox"/>
Denies Owner fair return – <b>Explanation + calculations required</b>	<input type="checkbox"/>
Other – <b>Explanation Required: Please serve the correct parties.</b>	
<b>The proof of service on your appeal should show that the appeal was served on the owner and manager (with the same names and addresses) provided on the original Petition that was received by RAP on June 24, 2024.</b>	<input checked="" type="checkbox"/>
Please submit a CORRECTED Proof of Service (POS). The POS must have all applicable fields completed, including the number of attached pages served on the Respondent. As well as the box field indicating the Appeal was served.	
<b>PROOF OF SERVICE ON OPPOSING PARTY</b>	<input checked="" type="checkbox"/>
<b>Dated Signature of Appellant or Representative</b>	<input type="checkbox"/>

You have 30 days from the date of the mailing of this letter to submit the required information as noted above, or your Appeal may be administratively dismissed.

If you have any questions or concerns, please contact the Hearings Unit. The email address is [HearingsUnit@OaklandCA.gov](mailto:HearingsUnit@OaklandCA.gov).

Dated: November 12, 2024

  
\_\_\_\_\_  
Nyila Webb  
Administrative Assistant II  
City of Oakland  
Rent Adjustment Program

**PROOF OF SERVICE**  
**Case Number: T24-0092**

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**


Notice of Incomplete Appeal Form

**Tenant**

Ezra Gold  
6026 S. Highlands Avenue  
Madison, Wisconsin 53705

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 **November 12, 2024** in Oakland, CA.

  
\_\_\_\_\_  
Nyila Webb

Oakland Rent Adjustment Program



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

For Rent Adjustment Program date stamp.

## APPEAL

<b>Appellant's Name</b> Ezra Gold	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant
<b>Property Address (Include Unit Number)</b> 600 William St. #546 Oakland, CA 94612	
<b>Appellant's Mailing Address (For receipt of notices)</b> 6026 S Highlands Ave. Madison, WI 53705	<b>Case Number</b> T24-0092 <b>Date of Decision appealed</b> 8/13/24
<b>Name of Representative (if any)</b>	<b>Representative's Mailing Address (For notices)</b>

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.)*
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  - 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.)*
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  - e) ☐ The decision is not supported by substantial evidence. *(In your explanation, you must explain why the decision is not supported by substantial evidence found in the case record.)*

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

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

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

I served a copy of: Notice of Appeal (insert name of document served)

☒ And Additional Documents

and (write number of attached pages) 1 attached pages (not counting the Appeal Form or the Proof of Service) to each opposing party, whose name(s) and address(es) are listed below, by one of the following means (check one):


- ☐ a. First-Class Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- ☒ c. Electronic Service. I electronically sent the document(s) to the person(s) at the address(es) listed below who have previously given written consent to receiving notices and documents in this matter from the RAP and from the OTHER PARTY/IES electronically at the email address(es) they provided.

<b><u>Name</u></b>	Uptown Housing Partners, LP, Owner
<b><u>Address</u></b>	500 William St.
<b><u>City, State Zip</u></b>	Oakland, CA 94612
<b><u>Email Address</u></b>	phernandez@millcreekplaces.com
<b><u>Name</u></b>	Charles Alfonzo, Burnham/Brown, Owner Representative
<b><u>Address</u></b>	2125 Oak Grove Road, Suite 105
<b><u>City, State Zip</u></b>	Walnut Creek, CA 94598

<b>Email Address</b>	calfonzo@burnhambrown.com
----------------------	---------------------------

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and the documents were served on // 11/26/24(insert date served).

Ezra Gold  
PRINT YOUR NAME

  
SIGNATURE

11/26/24  
DATE

### IMPORTANT INFORMATION:

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

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- There is no form for the response, but the entire response is limited to 25 pages or less.
- The Board will not consider new claims. All claims, except jurisdictional issues, must have been made in the petition, response, or at the hearing.
- The Board will not consider new evidence at the appeal hearing without specific approval.
- You must sign and date this form or your appeal will not be processed.
- The case record is available to the Board, but sections of audio recordings that you want the Board to review must be pre-designated to Rent Adjustment Staff.





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

For Rent Adjustment Program date stamp.

## PROOF OF SERVICE

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

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

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

I served a copy of: \_\_\_\_\_ (insert name of document served) and

☐ And Additional Documents

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

- ☐ a. First-Class Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) listed below and at the address(es) below and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- ☐ b. Personal Service. (1) By Hand Delivery: I personally delivered the document(s) to the person(s) at the address(es) listed below; or (2) I left the document(s) at the address(es) with some person not younger than 18 years of age.
- ☐ c. Electronic Service (DO NOT USE THIS SERVICE METHOD TO SERVE PETITIONS OR RESPONSES TO PETITIONS.) I electronically sent the document(s) to the person(s) at the address(es) listed below who have previously given written consent to receiving notices and documents in this matter from the RAP and from the OTHER PARTY/IES electronically at the email address(es) they provided.

### PERSON(S) SERVED:

Name	
Address	
City, State, Zip	
Email Address	

Name	
Address	
City, State, Zip	
Email Address	

Name	
Address	
City, State, Zip	
Email Address	

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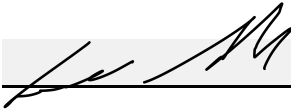
Name	
Address	
City, State, Zip	
Email Address	

Name	
Address	
City, State, Zip	
Email Address	

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

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

\_\_\_\_\_  
PRINT YOUR NAME

  
\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

## Explanation of Appeal

T24-0092

11/26/24

The nature of my appeal is simple and requires no evidence beyond what RAP should already possess/have access to.

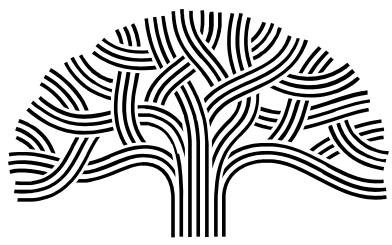
It has been verbally confirmed to me by the Oakland Business Tax Office (they did not provide me with written proof) that The Uptown/Mill Creek Residential has not been paying their RAP fees. OBTO has also informed me that The Uptown/Mill Creek Residential has now been invoiced for all outstanding fees and presumably any late penalties that are due.

The purpose of my appeal is to have the eligibility of their RAP exemption and any other privileges they purport to enjoy through assumed payment of RAP fees examined thoroughly, and for any and all possible repercussions to be taken to the fullest extent.

I would like to know exactly what those repercussions are and to be kept fully informed as to the status of their enforcement, and for that to be public information.

Additionally, given the fact that aspects of RAP's enforcement are apparently supposed to rely on knowledge of or have access to a property's RAP fee payment status, I was baffled to discover that not only was The Uptown 2 years delinquent on RAP fees, but that RAP had no knowledge of or interest in being aware of this information. It makes one wonder how long The Uptown would have been allowed to go without paying what they owed. I hope the city of Oakland will rectify this gap in its regulatory enforcement.

I look forward to all of this being on public record, along with The Uptown's pattern of negligent conduct as a landlord.



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# RAP Annual Report Fiscal Years 22-23 and 23-24

Department of Housing  
and Community Development





# Overview

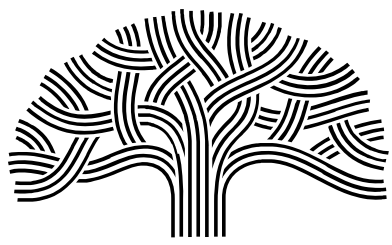
1. **HCD's Strategic Framework**
2. **Oakland's Rental Housing Laws**
3. **How RAP Implements These Laws**
4. **RAP Finances**
5. **Looking Ahead**



## **Recommendation:**

Staff recommends that City Council receive and file this report.





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# 1. HCD's Strategic Framework



# The 3Ps Framework



## Preservation

Existing Affordable  
Housing Stock



## Protection

of Oaklanders from  
Displacement



## Production

New Affordable Housing



# Rental Housing Laws



## Preservation

Existing Affordable  
Housing Stock



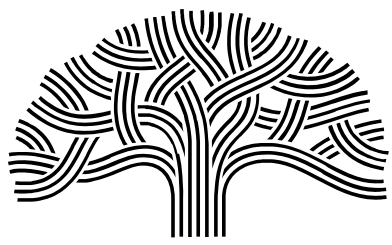
## Protection

of Oaklanders from  
Displacement



## Production

New Affordable Housing



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## 2. Oakland's Rental Housing Laws



# **RAP-Enforced Laws**

## **Rent Adjustment Program**

Rent stabilization; pre-1983

## **Just Cause for Eviction**

Eviction protections

## **Rent Registration**

Annual registration of rentals

## **Rent Program Service Fee**

Annual RAP cost recovery

## **Tenant Protection**

Harassment deterrence

## **Tenant Move Out Agreement**

Move-out protections

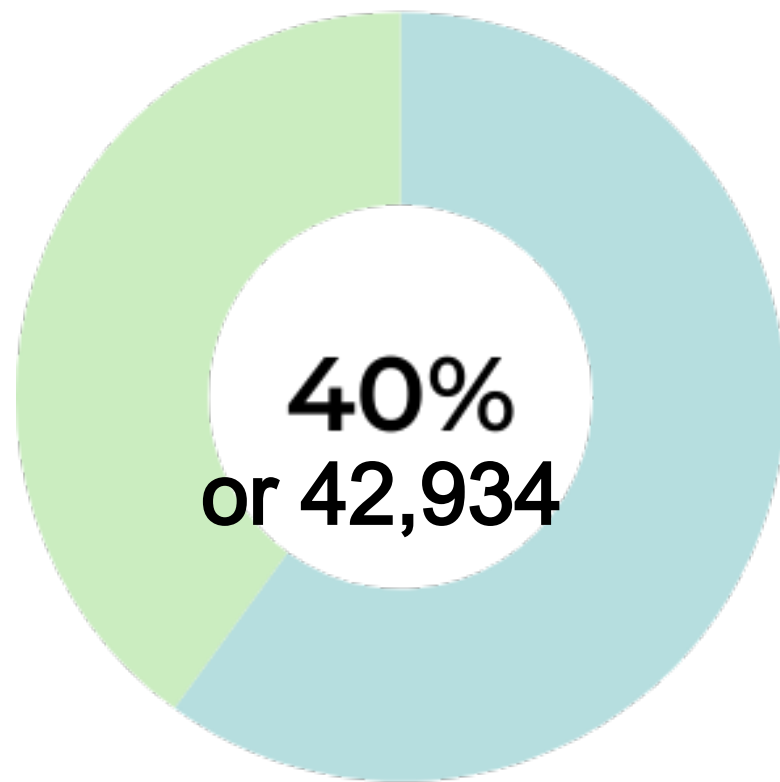
## **Tenant Relocation**

Relocation protections & benefits

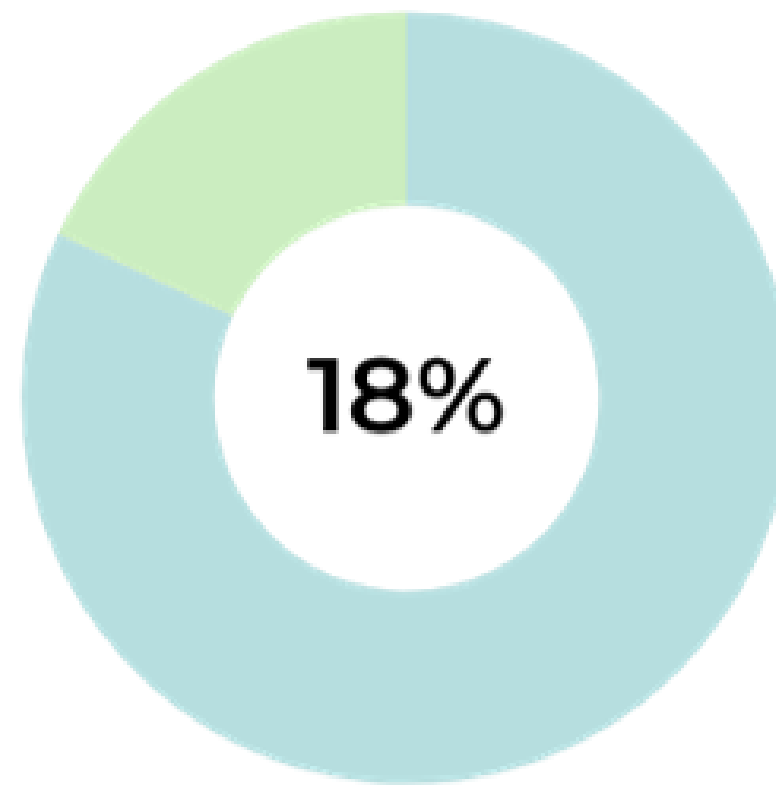
# Oakland's Housing Stock

There are 182,000 occupied units in Oakland.

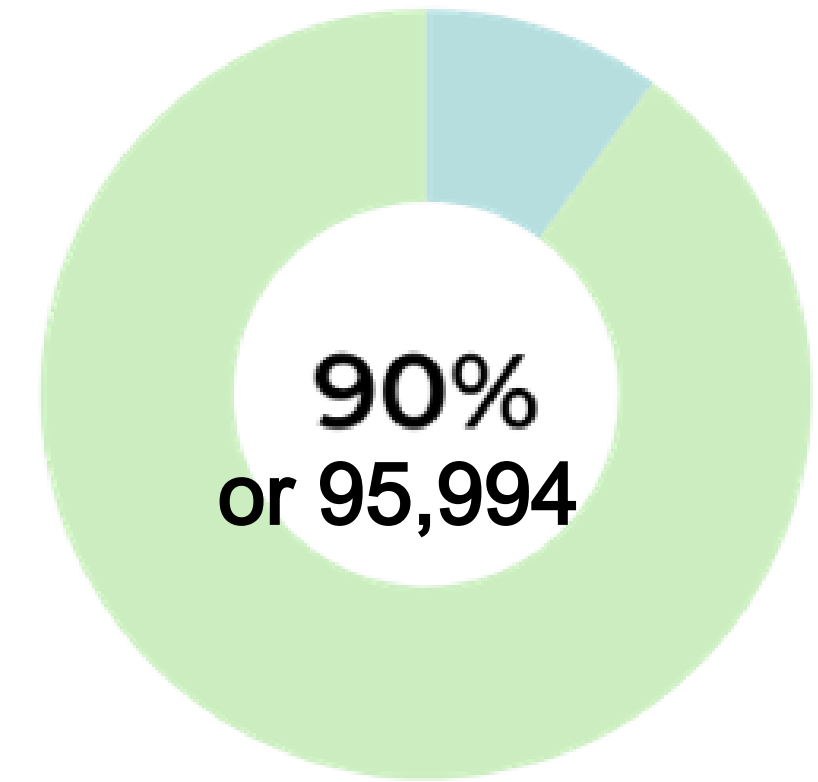
107,000 (59%) are tenant-occupied. 75,000 (41%) are owner-occupied.



% of rental units that are  
rent controlled



% of rental units that are  
subsidized



% of rental units that are  
covered by just cause

*2023; American Community Survey, 1 Year Estimates, Selected Housing Characteristics  
2023 Impact Report, City of Oakland, Department of Housing & Community Development*

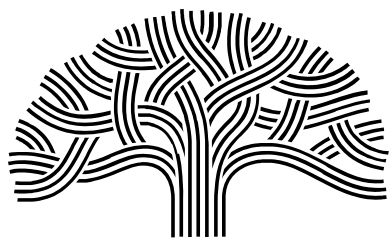
# Annual Report: Key Data

## Eviction Notices Received\*

2019-2020 (pre-pandemic)	4,696
2022-2023	719
2023-2024 (post-moratorium)	5,515

## Top three reasons (numbers combined 22-24)

Failure to Pay Rent	5,468
Disorderly Conduct	223
Rental Agreement Violation	214



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# 3. How RAP Implements These Laws



# Implementation: RAP Structure

## **Administration and Policy**

Provides leadership and overall management of RAP operations. Staffs Rent Board meetings, conducts analysis and prepares reports.

## **Community Engagement and Enforcement**

Provides counseling services, workshops and other outreach to guide tenants and owners through the petition process and inform them of their rights and responsibilities.

## **Hearings**

Adjudicates disputes between tenants and owners over rent increases, conditions of the property, and other issues related to tenancies under the Rent Stabilization Ordinance.

## **Rent Registry**

Informs owners of annual registration requirements, provides technical assistance, and maintains rent registry.

# Annual Report: Highlights

Managed the lifting of the Eviction and Rent Increase Moratoriums

Launched the Rent Registry

Partnered with community-based organizations to provide increased support for tenants and owners, such as representation at RAP petition proceedings

Improved the customer service experience through technology



# 4. RAP Finances



# RAP Cost Recovery

Council established the **Rent Program Service Fee (RAP Fee)** Ordinance to cover RAP's costs to implement rental housing laws and provide essential services to tenants and property owners

Property owners are required to pay the RAP Fee and may pass-through half of the fee to tenants

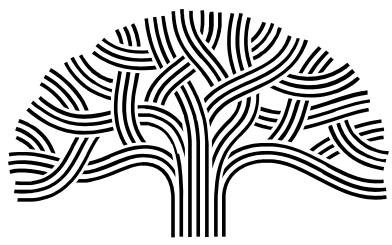
**Finance Department (Revenue Management Bureau) manages the collection process**

# Surplus and Deficit

RAP Fund Financials (in millions)	17-18 actual	18-19 actual	19-20 actual	20-21 actual	21-22 actual	22-23 actual	23-24 actual	24-25 projected
Revenue	5.21	6.92	8.04	10.95	7.46	7.82	8.24	8.0
Expenditures	-4.43	-5.64	-8.21	-9.22	-9.38	-9.55	-10.38	-11
Surplus / (Deficit)	0.78	1.28	-0.17	1.73	-1.92	-1.73	-2.14	-3.0
FYE Fund Balance	1.9	3.18	3.02	4.75	2.83	1.1	-1.04	-4.04

# Non-HCD Costs Supporting RAP

Category	17-18 actual	18-19 actual	19-20 actual	20-21 actual	21-22 actual	22-23 actual	23-24 actual*	24-25 projected
<b>Non-HCD Expenditures</b> (in millions)	1.66	2.06	2.86	3.37	3.64	3.57	1.4	1.4
<b>Revenue</b> (in millions)	5.21	6.92	8.04	10.95	7.46	7.82	8.24	8.0
<b>% of RAP Revenue Covering Non-HCD Expenditures</b>	32%	30%	36%	31%	49%	46%	17%	18%



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# 5. Looking Ahead



# Looking Ahead

## **Continue to meet tenant and property owner demand for RAP services**

Focus on staff retention/training and operational efficiency to meet current and anticipated demand

## **Increase property owner compliance with RAP Fee and Rent Registry requirements**

Engage property owners to better understand barriers to RAP Fee payment and devise strategies to reduce or eliminate barriers

## **Ensure financial sustainability of RAP**

Work with key stakeholders to explore strategies to increase revenue and reduce expenses

## **Increase Rent Registry functionality and leverage data to better serve tenants and property owners**

Build-out data management system to send Rent Registry data and helpful information to tenants and to use its data to drive City decision-making re: rental housing policy



## **MEMORANDUM**

**Date:** February 20, 2025  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Oliver Luby, Deputy City Attorney  
**Re:** Appeal Memo in T24-0072, Mitchell v. VA7 Merritt, LLC  
**Appeal Hearing Date:** February 27, 2025

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Property Address: 1130 3<sup>rd</sup> Ave., Unit # 1804, Oakland, CA

### **BACKGROUND**

The tenant filed a petition on May 30, 2024, contesting a rent increase from \$989.22 to \$1,019 monthly and alleging several decreased housing services. The owner did not file a response. A hearing was held on August 14, 2024, which was not attended by the owner.

### **RULING ON THE CASE**

On September 23, 2024, the hearing officer issued a hearing decision, granting and denying the petition in part. The decision denied the petition regarding the rent increase on the basis of lack of timeliness. Regarding alleged outstanding decreased housing services, including ventilation unit and toilet, the decision granted restitution in the amount of 6% of 6 months rent, \$366.84, and an ongoing monthly rent reduction in amount of \$61.14 (6%) until repairs are made.

### **GROUND'S FOR APPEAL**

The owner appealed the hearing decision on the grounds of the decision was inconsistent with the law, denial of sufficient opportunity to respond to a petitioner's

claims, and other. Specifically, the owner contends that the owner was not provided notice of the hearing.

(The tenant also submitted an appeal of the hearing decision in October, however, that appeal has not been scheduled to come before the Rent Board. RAP issued a deficiency notice to the tenant regarding their appeal. After receiving no correction from the tenant within 30 days, RAP issued an Administrative Appeal Decision on November 19, 2024, dismissing that appeal.)

## **ISSUES**

1. Did the respondent have good cause for failure to appear at the hearing?

## **APPLICABLE LAW AND PAST BOARD DECISIONS**

### **I. Failure to Respondent to Appear at Hearing** (Rent Adjustment Program Regulations Section 8.22.110.B.2)

If a respondent fails to appear, the Hearing Officer may rule against the respondent, or proceed to a hearing on the evidence.

### **II. Past Board Decisions**

#### **T19-0307     *Edwards v. Lam***

Board remanded case to Hearing Officer to determine if owner had good cause for failure to appear and failure to file a response where owner alleged that she did not read or write English and did not recall receiving any documents from the RAP. On remand, the Hearing Officer determined that the tenant had communicated in written English with the owner and her son on a regular basis and had informed them that she filed a petition with the RAP and that therefore there was no good cause for the failure to appear at Hearing or respond to the petition.

#### **T18-0218     *Durrett et al v. Guiton***

Board Panel found no good cause for owner's failure to appear at a Hearing where the Hearing Decision awarded restitution to tenants for several decreased housing services. Board Panel remanded case to Hearing Officer to determine if any of the tenant petitioners were tenants at the time the petition was filed and determined that restitution was contingent on such a finding.

#### **T18-0172     *Embaye v. Amin***

#### **T18-0183     *Embaye v. Amin***

Board reversed Hearing Decision dismissing tenant's petition for failure to appear at Hearing based on tenant's assertion on appeal that he had moved out of the



unit and did not receive notice of the Hearing and remanded for a Hearing on the merits. Subsequent hearing dismissed when tenant failed to appear.

T17-0577     *Patrick v. Um et al*

Board affirmed Hearing Decision granting tenant's petition contesting a rent increase based on no RAP notice where the owner did not appear at the hearing and the Board found the owner did not provide good cause for his failure to do so.

L16-0075     *Stewart v. Tenant*

Board Panel affirmed Hearing Decision denying owner's capital improvement petition due to owner's not showing good cause for failing to appear at the hearing despite owner's claim that he did not believe he had to appear because tenant did not file a response to his petition.

L15-0074     *Ghahyaz v. Tenants*

Board affirmed Hearing Decision dismissing owner's petition for certificate of exemption due to lack of showing of good cause for failure to appear at the hearing because he did not meet his burden of showing that he had not received notice of the hearing.

T13-0312     *Harris v. Best Bay Apartments*

Board Panel affirmed dismissal of tenant's petition where tenant did not appear at Hearing subject to showing of good cause for non-appearance. (Tenant also did not appear at Appeal Hearing.)

T13-0138     *Rax v. Eng*

Board affirmed dismissal of tenant's petition where tenant did not appear at Hearing.

T12-0072     *Quinn v. Nakama*

Board affirmed dismissal of tenant's petition where tenant did not appear at Hearing (tenant asserted on appeal she could not appear because she was attempting to obtain a restraining order against owner).

T01-0595     *Salaam v. Rose Ventures III, Inc.*

The Board upheld an Administrative Decision that dismissed a tenant petition when the tenant failed to appear at the original hearing despite the tenant's claim of a medical condition preventing his arrival.

00-409                     *Salaam v. Rose Ventures III, Inc.*

The Board upheld an Administrative Decision that dismissed a tenant petition when the tenant failed to appear at the original hearing despite the tenant's claim of a medical condition preventing his arrival.



## MEMORANDUM

**Date:** November 7, 2024  
**To:** Members of the Housing, Rent Residential & Relocation Board (HRRRB)  
**From:** Kent Qian, Deputy City Attorney  
**Re:** Appeal Memo in T24-0092, Gold v. Mill Creek Residential  
**Appeal Hearing Date:** November 19, 2024

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Property Address: 600 William Street, Unit 546, Oakland, CA

### **BACKGROUND**

The tenant filed a petition on June 24, 2024, alleging decreased housing services. The owner responded and contended that the property is exempt from the Rent Adjustment Ordinance as new construction and attached a certificate of exemption issued in L18-0084 and a certificate of occupancy issued in 2009. The owner responded "Exempt from RAP" in the box requiring proof of payment of RAP fee. The owner also checked the exempt box in the part of the response requiring compliance with the rent registry.

### **RULING ON THE CASE**

On July 3, 2024, the hearing officer issued an administration decision dismissing the petition on the grounds that the sufficient uncontested facts were presented that the property is exempt from the Rent Adjustment Ordinance, citing an exemption finding in L18-0084, *Uptown Housing Workforce LLC v. Tenants*, a case included in the owner's response.

### **GROUND FOR APPEAL**

The tenant appealed the hearing decision on the following grounds:

1. The tenant received confirmation from Oakland Business Tax Office that the owner has not been paying RAP fee. Non-payment of RAP fee should impact owner's eligibility for exemption.

### **ISSUES**

1. Did substantial evidence support the hearing officer's decision to issue an administrative decision to dismiss the petition on the ground that the property is exempt?

### **APPLICABLE LAW AND PAST BOARD DECISIONS**

- **Petition Requirement (OMC 8.22.090.B.1):**

B. Owner Petitions and Owner Responses to Tenant Petitions.

1. In order for an owner to file a response to a tenant petition or to file a petition, the owner must provide the following:
  - a. Evidence of possession of a current City business license;
  - b. **Evidence of payment of the Rent Adjustment Program service fee or evidence of exemption from the fee:**
    - i. Evidence of service of written notice of the existence and scope of the Rent Adjustment Program as required by Section 8.22.060 on all tenants in covered units affected by the petition or response;
    - ii. After July 1, 2023, evidence of registration with the Rent Adjustment Program as provided in O.M.C. Section 8.22.510 for each affected covered unit in the building prior to the petition or response being filed;
  - d. A completed response or petition on a form prescribed by the Rent Adjustment Program;
  - e. Organized documentation supporting the owner's claimed justification(s) for the rent increase or supporting any claim of exemption; and
  - f. Proof of service by first-class mail or in person of the owner petition or response and any supporting documents on the tenants of all units affected by the petition. Supporting documents that exceed twenty-five (25) pages are exempt from the service requirement, provided that: (1) the owner petition form must be served by first-class mail or in person; (2) the petition or attachment to the petition must indicate that additional documents are or will be available at the Rent Adjustment Program; and (3) the owner must provide a paper copy of supporting documents to the tenant or the tenant's representative within ten (10) days if a tenant requests a paper copy in the tenant's response.

- **Exemption from Just Cause for Eviction Ordinance (OMC 8.22.350.H)**

8.22.350 Applicability and Exemptions.

The provisions of this Chapter shall apply to all rental units in whole or in part, including where a notice to vacate/quit any such rental unit has been served as of the effective date of this Chapter but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this Chapter. However, Section 6 [8.22.360] and Section 7(A)-(E) [8.22.370(A) through 8.22.370(E)] of the chapter [O.M.C. Chapter 8.22, Article II] shall not apply to the following types of rental units:

...

- H. A rental unit or rental units contained in a building that was newly constructed and received a certificate of occupancy within the past ten (10) years. This exemption applies only to permitted rental units that were newly constructed from the ground up and does not apply to units that were created as a result of rehabilitation, improvement, or conversion of existing residential or commercial space.

### **RECOMMENDED OUTCOME**

Because the owner's response did not prove that the owner is exempt from the Just Cause for Eviction Ordinance at the time of the response and therefore from the RAP fee, the hearing officer should not have accepted the owner's response in making its decision. The Board should remand the case to the hearing officer to reconsider whether to accept the owner's response.

The owner may have relied on the certificate of exemption issued in June 2022, which stated the property was at the time exempt from both the Rent Adjustment Ordinance and the Just Cause for Eviction Ordinance. However, the voters approved Measure V in December 2022 to limit the new construction exemption in Just Cause to only units built within the last 10 years. The subject property's certificate of occupancy was issued in 2009 and does not satisfy this standard after Measure V.

Because amendment to the Just Cause for Eviction Ordinance occurred after the certificate of exemption was issued, we recommend the board to remand the case with instruction to allow the owner to submit a new response if the owner submit evidence of payment of RAP fee and evidence of compliance with rent registry.