

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

September 27, 2018

7:00 P.M.

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

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. CONSENT ITEMS
 - a. Minutes Available for Review
 - i. September 13, 2018
4. OPEN FORUM
5. OLD BUSINESS
 - i. Memo to Board Regarding New Construction Exemptions
6. NEW BUSINESS
 - a. Appeal Hearings in:
 - i. T16-0515, Krivitz v. Ma
 - ii. T16-0683, Prager v. Lagos
 - iii. L16-0094, Wiebe v. Tenants
7. SCHEDULING AND REPORTS
8. ADJOURNMENT

Accessibility. This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or

Spanish interpreter, please email sshannon@oaklandnet.com or call (510) 238-3715 or California relay service at 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a sshannon@oaklandnet.com o llame al (510) 238-3715 o 711 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 sshannon@oaklandnet.com 或致電 (510) 238-3715 或 711 California relay service。請避免塗搽香氛產品。參加者可能對化學成分敏感。

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

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

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

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

**CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND RELOCATION BOARD**

**REGULAR MEETING
September 13, 2018
7:00 p.m.
City Hall, Hearing Room #1
One Frank H. Ogawa Plaza, Oakland, CA**

MINUTES

1. CALL TO ORDER

The HRRRB was called to order at 7:06 p.m. by Board Chair, Jessie Warner.

2. ROLL CALL

MEMBER	STATUS	PRESENT	ABSENT	EXCUSED
Ubaldo Fernandez	Tenant	X		
Debra Mesaros	Tenant	X		
Tracie Mason	Tenant Alt.		X	
Tanaia Hall	Tenant Alt.			X
Robert Stone	Homeowner	X		
Jessie Warner	Homeowner	X		
Mary Jo Cook	Homeowner			X
Ed Lai	Homeowner Alt.			X
Kevin Blackburn	Homeowner Alt.			X
Benjamin Scott	Owner	X		
Karen Friedman	Owner	X		
Debrenia Madison	Owner		X	

Staff Present

Kent Qian	Deputy City Attorney, Office of the City Attorney
Linda M. Moroz	Hearing Officer, Rent Adjustment Program
Kelly Rush	Acting Program Analyst, Rent Adjustment Program

3. CONSENT ITEMS

i. Approval of Minutes from August 30, 2018.

The Rent Adjustment Program staff made corrections to the Minutes as follows: delete the last incomplete sentence that reads "The owner contended that" in the first paragraph on page 2 under T16-0104; and delete the third sentence in the second

paragraph on page 2 under the case T16-0104 that reads "He did not have a voice." J. Warner moved to approve the Minutes as corrected. K. Friedman seconded.

The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, R. Stone, J. Warner, K. Friedman, B. Scott

Nay: 0

Abstain: 0

The Motion was approved by consensus.

4. OPEN FORUM

No speakers

5. NEW BUSINESS

A. Appeal Hearing in cases:

- 1) T16-0539, Hudson v. Lantz Properties
- 2) T16-0622, Hall v. Leung

1) **T16-0539; Hudson v. Lantz Properties**

Appearances:

No Appearance by Owner Appellant
Renia Hudson, Tenant (appeared by telephone)
Jack Easterling, Tenant's neighbor

The Board waited until 7:15 p.m. for the Owner to appear. The owner did not appear.

J. Warner made a motion to dismiss the appeal subject to finding of good cause for non-appearance. B. Scott seconded.

The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, R. Stone, J. Warner, K. Friedman, B. Scott

Nay: 0

Abstain: 0

The Motion was approved by consensus.

2) T16-0622, Hall v. Leung

Appearances:

Christopher Hodgson Owner's Representative - Appellant
No appearance by Tenant

Owner appealed the Hearing Decision which granted the tenant petition, set the rent, ordered restitution due to rent overpayments and decreased housing services.

The owner's representative argued that the restitution amount was excessive and erroneously calculated as there was no evidence as to how much rent the tenant actually paid. The owner's representative also argued that the amount awarded for decreased housing services was excessive and erroneously calculated as there was electricity and adequate heat in the subject unit.

After arguments made by the owner's representative, questions to the owner's representative and the Board discussion, B. Scott moved to affirm the Hearing Decision based on substantial evidence. D. Mesaros seconded.

The Board voted as follows:

Aye: U. Fernandez, D. Mesaros, R. Stone, J. Warner, K. Friedman, B. Scott

Nay: 0

Abstain: 0

The Motion was approved by consensus.

6. SCHEDULING AND REPORTS

The RAP staff L. Moroz informed the Board that the report the Board requested regarding the exemption based on new construction is included on the Agenda for September 20, 2018, Board meeting. J. Warner requested the report to be also put on the Agenda for September 27, 2018, Board meeting because she will be absent on September 20, 2018.

Deputy City Attorney K. Qian updated the Board on the proposals made to the Committee regarding the exemption on substantial rehabilitation and that the proposals are going to be included in the City Council special meeting next week.

R. Stone proposed that the Board discusses and clarifies at a future meeting the standard for "proof of payment" for Capital Improvements and that it will be clearly stated at the outset on the petition and in the ordinance and regulations.

7. ADJOURNMENT

The meeting was adjourned at 8:11 p.m.

CITY OF OAKLAND



Housing and Community Development Department
Rent Adjustment Program
250 FRANK H. OGAWA PLAZA, NO. 5313
OAKLAND, CA 94612-2034

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

MEMO

To: Rent Board Members

**From: Barbara Kong-Brown
Senior Hearing Officer**

Date: September 12, 2018

Re: Request for Information Regarding Hearing Decisions on New Construction Exemptions

At the Rent Board meeting on July 26, 2018, the Board postponed hearing T16-0683, Prager v. Lagos and requested information regarding new construction cases that have been decided in prior hearing decisions. There are two Board appeal decisions regarding the existence of prior structures on the subject property. Both Board appeal decisions granted an exemption based on new construction.

There are seven hearing decisions regarding the existence of prior structures on the subject property since 2016.

Two of the hearing decisions interpreted Section 8.22.030(A)(5) to mean that the building had to consist of new construction **and** be constructed from space that was formerly non residential. These cases are pending appeal (Cortes and DeZerega)

One hearing decision which applied this standard was not appealed (Dragon).

One hearing decision which applied this standard was reversed by the board (Buggs).

One hearing decision applied the standard in the Buggs case where the prior building was demolished and granted the new construction exemption. (Wong).

One hearing decision granted an exemption where a single family residence was gutted, the house was raised, and two lower units were constructed (Feiner).

The remaining hearing decision, Prager v. Lagos, involves facts identical to the Buggs case, and is pending appeal on September 27, 2018.

Board Appeal Cases

T01-0107, Castellanos v. Greer

The property is a three bedroom lower unit in a residential building containing two units. The original structure consisted of a single family dwelling constructed on or about December 1970. The tenant contested a rent increase. The owner appealed from the hearing decision which granted the tenant petition.

The Board held that the unit was exempt as new construction and the certificate of occupancy was issued after January 1, 1983. Even though the original building was built prior to 1983, the unit was newly created out of space not previously used for housing. It was added to the original structure.

T16-0377, Buggs v. Bay Property

The Buggs case has virtually identical facts to the Prager case-In that case, there was a single family residence on the property that was demolished. A totally new building was built which consists of 10 residential units. It was built after January 1, 1983.

The relevant section of the Rent Ordinance is Section 8.22.030(A)(5) which states that the exemption applies to property that constitutes new construction or was constructed from space that was formerly non-residential. The Board held that the hearing officer erred by interpreting the ordinance to mean that both conditions are required in order to get the exemption. The Board voted as follows:

Aye: U. Fernandez, E. Lai, J. Warner, K. Friedman

Nay: 0

Abstain: 0

T16-0683, Prager v. Lagos

A 10 unit apartment building was built in 1986. Prior to the construction, a single family residence existed on the property. The hearing officer applied the "and" interpretation of the new construction ordinance, that the building had to be new construction and not formerly consist of a residential use. **This case is pending appeal on September 27, 2018.**

L17-0061, Feiner v. Tenants

An existing single family residence was gutted. The house was raised and 2 new units were constructed beneath it. The hearing granted an exemption based on new construction for the two lower units on the grounds that it was new construction but not the upper unit. **This case is pending appeal.**

L17-0126, DeZerega v. Tenants

Fire destroyed a building and a new building was built in the same footprint as the old building. The City of Oakland inspector issued a letter saying they are processing the certificate of occupancy, and ok to occupy and permanent c/o coming shortly; the permit indicates the building was finalized on 12/24/99; also the permit was issued to demolish fire damaged building. The new building was built in the same footprint as the demolished building. The hearing officer interpreted Section 8.22.030(A)(5) mean that the building had to consist of new construction **and be constructed from space that was formerly non residential. This is case is pending appeal.**

T17-0173, Cortes v. Wong

L1177-0068, Yip v. Tenants

A building was built in 1911 at the subject property. It was a single family residence that was demolished in 1987 with permits. The prior building was a two story building. A permit was issued for new construction of a 14 unit apartment building. The hearing officer determined that there was prior residential use of a building on the land in question and units 1-4 are in the footprint of the prior residential building, this constitutes prior residential use of the property even though it was new construction. The hearing officer granted exemption to units 5-14 which she determined fell outside the footprint of the building. **This case is pending appeal.**

T16-0706, Dagrón v. Shiu

Tenant contested rent increases. Landlord claimed new construction exemption. Single family residence on the lot was demolished prior to construction and a new single family residence was constructed with second dwelling unit. The hearing officer interpreted Section 8.22.030(A)(5) to mean that the building had to consist of new construction **and be constructed from space that was formerly non residential.**

L17-0091, Wong v. Tenant

Building records indicated that a building was demolished and a lot cleared as of 1974 before the subject property was built in 1988. The hearing officer granted an exemption on the basis of new construction on the grounds that the former building was completely demolished and the lot was cleared and the building was newly built on an empty lot after January 1, 1983.

I have provided a summary of selected new construction hearing decisions primarily covering the period from 2015-2018 for your information.

CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0515

Case Name: Krivitz v. Ma

Property Address: 442 Oakland Avenue, Oakland, CA

Parties: Jeremy Krivitz (Tenant)
Alicia Reyes (Tenant)
Sanford Ma (Property Owner)

TENANT APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	September 14, 2016
Owner's Response filed	October 26, 2016
Hearing Decision issued	June 28, 2017
Tenant Appeal filed	July 12, 2017

T14-0515 MS/LM

<p>CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721</p>	<p>RECEIVED CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 2016 SEP 14 AM 10:13</p>
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name <i>Jeremy Krivitz</i>	Rental Address (with zip code) <i>442 Oakland Ave Oakland CA 94611</i>	Telephone <i>(510) 858-2044</i>
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) <i>Ma Properties Sanford Ma</i>	Mailing Address (with zip code) <i>395 Merritt Ave 94610 Ste. 304 Oakland</i>	Telephone <i>(510) 465-5730</i>

Number of units on the property: 4

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

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

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

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

Date you moved into the Unit: August Initial Rent: \$ _____ /month

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

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

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

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
7/23/2016	09/01/2016	From 1687	To 1719		
7/23/2016	09/01/2016	\$ 1687	\$ 1719	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

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

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

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

September 2, 2016

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

Jeremy Krivitz and Alicia Reyes
442 Oakland Ave
Oakland CA 94611

2016 SEP 14 AM 10:13

September 2, 2016

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

To whom it may concern:

We are submitting this petition for rent reduction after many years of being mistreated by Ma Properties, including several violations of the warranty of habitability. We have warned him many times that we will take action if this mistreatment continues.

I, Jeremy Krivitz, am a disabled man who suffers constant pain due to multiple back injuries and degenerative disc conditions. Prior to being disabled I worked in construction management. In five years of working in that capacity I assisted in overseeing around 400 million dollars of new construction in Richmond, San Ramon and South San Francisco. Thousands of people live in and conduct business in buildings I helped build every day. Alicia is a graduate from UC Berkeley with a degree in Anthropology who spent the first 15 years of her career working for area nonprofits. She now works for the Alameda County Library System as their information specialist. We both believe that no one deserves the treatment we have received from Ma Properties.

We have attached a list of six things we are asking the Rent Board to consider. In addition to the documents we have provided, we also have witnesses who are willing to testify about things they have observed at our apartment.

Sanford Ma, the owner of Ma Properties, has been dishonest from the start of our relationship and has not dealt with us in good faith. We feel that he has essentially committed fraud against us and also harassed us at times.

We ask that you also read the attached list of complaints we have about Ma Properties so that you get a fuller sense of how much we have had to put up with, especially over the past three years.

Sincerely and truly,



Jeremy Krivitz and Alicia Reyes

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RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM
Document List
2016 SEP 14 AM 10:13

List of Documents pertaining to our rent reduction request. All documents are numbered with number at top of page. All pages of a document will be listed with document number then page number at top of document

Document 1 – List of items we are asking the Rent Board to consider. 2 pages

Document 2 – Letter describing flea problem in greater detail. 5 pages

Document 3 – Letter detailing current maintenance issues, thus far not responded to by MP. 1 page

Document 4 – a full list of complaints we have against Ma Properties 3 pages

Document 5 – Repair and Deduct warning letter delivered to Ma Properties on September 2, 2016. 2 pages

Document 6 – Handwritten note threatening to tow our car left as retaliation one day after repair and deduct letter was given to Ma Properties. 1 page

Document 7 – Letter dated September 11, 2015 informing tenants of pesticide spray that occurred on September 8 and 9th 2015. 1 page

Document 8 – Letter dated October 1, 2015 informing Ma Properties of rent deduction as advised in letter dated September 2, 2015. 1 page

Document 9 – Letter from Ma Properties dated October 12, 2015, filled with false statements and poor grammar. 1 page.

Document 10- Our rebuttals to false statements contained in Ma Properties October 12, 2015 letter 2 pages.

Document 11 – Letter dated April 24th, 2014 In which I responded to comments made in the conversation that Sanford Ma lied about in his letter dated October 12, 2015 This refers to false statement #4 in said letter. 3 pages

Document 12 – Letter dated July 2, 2014 in which I again address the conversation that Sanford Ma lied about in his October 12, 2015 letter. As you can clearly see, the cause of my anger is not that he brought up fleas during that conversation, but due to years of mistreatment. I am most especially outraged that he called my apartment the “worst he had ever seen in his life” when he has caused more damage to the apartment with his own negligence than we have. Fleas were NEVER discussed during this phone call. 2 pages

Document 13 – Receipt for work I paid for because Ma Properties refused to provide the “laundry-ready” facilities it had advertised. 1 page

Document 14 – Copy of letter received from Ma Properties on September 10, 2016 refusing to provide needed maintenance in our apartment under false pretenses in retaliation for my letter dated September 1, 2016 in which I enumerate our losses due to Ma Properties fraud, breach of contract and negligence and declare our intention to take legal action to recover losses. 1 page

000014

Document 15 – Our rebuttal to certain statements in Ma Properties letter received September 10, 2016.
1 page

Document 16 – Two pictures of flea bites on my legs suffered when Ma Properties refused to provide pest control during the severe infestation of August and September of 2015 that affected the two first floor apartments, basement and exterior of the building. 2 pages

Document 17 – A note from our neighbors in 448 Oakland Ave written in response to our inquiry about whether other people had problems with fleas. 1 page

Document 18 – September 1, 2016 letter we wrote to Ma Properties enumerating losses we have suffered because of their fraud, breach of contract and negligence, informing them we intend to take legal action to recover our losses. It is in response to this letter that Ma Properties is retaliating against us by refusing to do maintenance work under false pretenses. 4 pages

Document 19 – Copy of our lease agreement. 4 pages

Document 20 – Receipts for purchases of flea eradication and prevention product Advantage II for Cats from Amazon.com. We don't have a receipt for every purchase because we sometimes purchased it from Pet Food Express or the veterinarian's office and did not save receipts. We enclose these receipts to prove that we do treat our cat with these products. We feel this is necessary since Sanford Ma in his most recent letter disingenuously "educated" us about these products despite the fact that we have informed him on at least two occasions in writing and in every phone conversation with his office that we treat our cat with flea eradication and prevention products. We even included information from the manufacturer in one letter we wrote. 3 Pages

One CD containing photos. One folder contains photos of apartment conditions, the condition of the buildings' exterior and the outside landscape surrounding the building. Another folder contains photos of flea bites we suffered when Ma Properties refused to provide pest control during infestation of building and surrounding landscape in August and September of 2015. The third folder are photographs that show what the inside of our apartment looked like in April of 2014 when Sanford Ma in a phone call called my apartment, "the worst apartment I have ever seen in my life". Our apartment is cleaner now than it was when these photos were taken.

1-1

RECEIVED
CITY OF OAKLAND
RENT ARBITRATION PROGRAM

Items we are asking rent board to consider:

2016 SEP 14 AM 10: 13

1. Return of \$1200.00 of original \$2700.00 security deposit. Apartment was advertised as available for only one-month deposit. After accepting our application, Ma Properties demanded that we give them two months' rent, totaling \$2700.00, as a deposit. We never would have applied had they been honest about their deposit requirement because we only applied to apartments that asked for a deposit totaling one month's rent. After reading yelp reviews, we believe that Sanford Ma makes a habit of illegally withholding deposits and forcing former tenants to sue to get their deposits back after moving out. We cannot afford to have so much of our money tied up for so long.
2. Sanford Ma refuses to provide seasonal pest control. As a result, we and our pet, who never goes outdoors, are assaulted in our apartment by fleas at least once per year in September or October, and sometimes in the early spring. Getting rid of these infestations costs between \$50-\$210.00 every time they occur. The average monthly cost over the past 2 1/2 years is \$11.00 per month.
3. Sanford Ma responded to our repair and deduct letter dated September 2, 2015 by retaliating with a hand-written letter threatening to tow our car away. His letter dated October 12, 2015 essentially confirms that he was the one who left the hand-written note on our windshield. Other tenants are allowed to double park in their spot, but we have been threatened with towing should we do so. They do this all the time and Ma Properties has never threatened to tow their cars away. This means that we get half of the value from the parking space we pay for that other tenants do. We suggest the value of this is 1/3 of the amount we pay to rent the garage and accompanying parking space which is about 30.00 per month.
4. Ma Properties advertised the apartment as "laundry ready". It was not laundry ready. The power supply in the laundry room was not adequate for modern laundry machines. We eventually had to pay a plumber to install a gas line to power the dryer. Ma Properties did not provide power for the washer until November of 2007. Ma Properties did so by illegally altering the wiring in the laundry room. I asked a friend, Robert Vignalats, who was head building inspector for the City of Richmond whether the wiring is legal. He told me that it has been illegal to wire outlets the way Sanford Ma did in the state of California since the mid 1980's. This cost us 350.00 to install gas lines in the laundry room and also 35.00 per month to take our laundry to the laundromat while we were waiting for the laundry room to be fixed. We propose that our rent be reduced by 36.00 per month for one year until Sanford Ma has paid for the gas line and for the three months we had to pay to take our laundry to a laundromat when our apartment was advertised as laundry ready.
5. Ma Properties has left incomplete work all over our apartment. There are damaged windowsills that their window installer never repaired. There are patches on walls and ceilings that are unpainted. There is also water damage to the ceiling, walls and floor caused by the apartment above us that Ma Properties has never repaired even though we have notified them promptly every time that our apartment was flooded by the apartment above us. I don't know how much diminished aesthetics are worth, but it does not feel good to be treated this way. Ma Properties, on September 10, 2016, left a note on our door stating that they refuse to do this work because of fleas and also claiming that our apartment is too dirty for them to do work in, which is absurd.

He also is refusing to replace the non working light fixture in the bathroom. We have no light in our bathroom,

1-2

6. Ma Properties harasses us with notices demanding that we pay a 10% late fee for the times that our rent has been late. We have provided Ma Properties with information about the late fee clause and California Law and he refuses to listen to it. His late fee clause is illegal because it both contains a pre-determined fee and is so high that it is punitive in nature. For example, for being two days late he is attempting to charge us \$169.00, which far exceeds the 10% annual rate permitted by California law. While we do regret ever being late paying rent, Alicia and I have gone through extraordinary hardship at times. In spite of the hardship that we have gone through, our rent has never been more than 5 days late, and most times when paid late was only one or two days late. Ma Properties has contributed to that hardship by lying about promised facilities, using a "bait and switch" technique to get us to give them a deposit two times larger than the one month his ad stated was required, and by committing breaches of the lease contract including the implied warranty of habitability and maintaining a reasonably rodent proof building, as there have been many pest infiltrations into the building's basement that Ma Properties has done nothing to abate. We simply ask that you help clarify who is correct in this matter.

To summarize, we are asking for immediate return of \$1200.00 of our original \$2700.00 security deposit plus a permanent reduction in rent totaling \$41.00. We are also asking for a temporary one-year reduction of rent of \$36.00 per month to compensate us for the fact that this apartment, which was advertised as laundry-ready, was not laundry ready until over three months after we moved in, and only after we paid a plumber \$350.00 to do work which Ma Properties should have paid for. Also whatever value you would assign to the deplorable way that Ma Properties has treated us.

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM 2016 OCT 26 PM 2:36
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T160515

OWNER RESPONSE

Please print legibly.

Your Name <u>SANFORD MA</u>	Complete Address (with zip code) <u>395 MERRITT AVE #304</u> <u>OAKLAND, CA 94610</u>	Phone: <u>510-834-3805</u> Email: <u>MA@PROPERTIES</u> <u>@ATT.NET</u>
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) <u>JEREMY A. KRIVITZ</u> <u>ALICIA REYES</u>	Complete Address (with zip code) <u>442 OAKLAND AVE</u> <u>OAKLAND, CA 94611</u>	

Have you paid for your Oakland Business License? Yes No Number 2867710
 (Provide proof of payment.)

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

There are 4 residential units in the subject building. I acquired the building on 1/12/00

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

I. RENTAL HISTORY

The tenant moved into the rental unit on 8/13/07.

The tenant's initial rent including all services provided was \$ 1,350 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
 Yes No I don't know If yes, on what date was the Notice first given? 8/13/07

Is the tenant current on the rent? Yes No owes \$1,032 late fees

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase? <input type="checkbox"/> Yes <input type="checkbox"/> No
		From	To	
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE *N/A*

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

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

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

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

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

VI. VERIFICATION

Owner must sign here:

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



Owner's Signature

10/24/16

Date

VII. MEDIATION AVAILABLE

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

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

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

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

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

Owner's Signature

Date

2016 OCT 26 PM 2:37

City of Oakland Rent Adjustment Program

Landlord Response to Tenant Petition of Housing Services Being Decreased

File Name: Krivitz V. Ma Properties
Property Address: 442 Oakland Ave, Oakland, CA 94611
Case Number: T16-0515

Respondent: Sanford Ma, Ma Properties

The following is a summary of landlord's responses. All supporting documents will be submitted no later than seven days prior to the hearing.

1. Property Owner's Position regarding Tenant Petition of Decreased Housing Services: Contradictory to tenant petitioner Mr. Krivitz' claim, the housing services to 442 Oakland Ave have not been decreased. All services requested by Mr. Krivitz have been provided in a timely manner if those services are the responsibility of the Landlord.

2. Tenant Petitioner's latest request for eradicating fleas in his unit was not granted because his unit was the only unit in the building infested. According to Oakland Housing Code Section H-201 (c) (3), tenant is responsible for extermination of any insects, rodents, or other pests, whenever said unit is the only one in the residential building infested and the owner has provided a reasonable insect-proof and rodent-proof building.

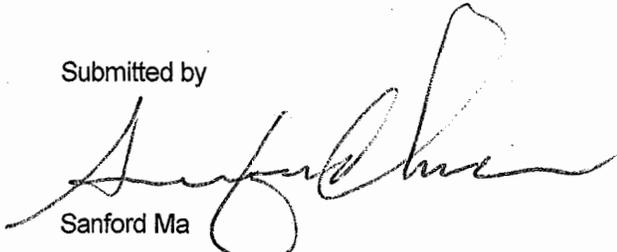
3. Tenant Petitioner's request for replacing all smoke detectors in his unit was not granted. Per California State Fire Marshal Information Bulletin 14-006, Section B. 1., for consumers/end users, existing operable/in working condition smoke alarms are not required to be replaced.

4. As part of the service and capital improvement plan, all windows in Mr. Krivitz's unit were replaced with new screened double pane windows. As such, his unit is much more noise-proof, weather-proof and insect-proof. While it could justify a rent increase based on the cost of the improvement, the cost was not passed on to Mr. Krivitz, thus services and benefits to his unit have been increased without any cost to him.

It is my belief that Mr. Krivitz' filing of the petition is just part of the acts of retaliation, harassment, bullying, intimidation against me ever since August 2014 after I denied his request of using his security deposit to pay rent. He was informed of our policy, as stipulated on Section 3 of the Lease Agreement, that "residents shall not use the security deposit to pay any month's rent". He was further informed that we apply the same policy to every tenant, no exceptions. Since then I have received numerous insulting and threatening notes and letters from him.

Prior to the filing of the petition, Mr. Krivitz and co-tenant Alicia Reyes sent me notes and letters demanding to pay them \$5,000.00, otherwise they would take legal action against me. I consider this not only harassment but extortion as well.

Submitted by


Sanford Ma



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

CITY OF OAKLAND

Housing and Community Development Department
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0515, Krivitz v. Ma

PROPERTY ADDRESS: 442 Oakland Ave., Oakland, CA

DATE OF HEARING: May 3, 2017

DATE OF DECISION: June 13, 2017

APPEARANCES: Jeremy Krivitz, Tenant
Alicia Reyes, Tenant
John Ericson, Witness for Tenant
Sanford Ma, Owner
Marco A. Perez, Ma Properties – maintenance
Jeffery Dang, Ma Properties
Lennon MacDonald, Ma Properties
Gloria Fong, Ma Properties

SUMMARY OF DECISION

The tenant petition is denied.

CONTENTIONS OF THE PARTIES

On September 14, 2016, the tenant filed a tenant petition which contested a single rent increase and alleged decreased housing services.

On October 26, 2016, the owner filed a timely response alleging no services were decreased because they were addressed in a timely manner if the issues were the owner's responsibility. The response also states that the tenant was not current on his rent.

THE ISSUES

- (1) Was the tenant current on his rent?
- (2) Have the tenant's housing services been decreased, and if so, by what amount?

000023

EVIDENCE

Background and Rent Increase

The tenant moved into the subject unit on August 13, 2007, at an initial monthly rent of \$1,350.00. The subject unit is located in a residential dwelling containing four (4) residential units.

The tenant indicated on his petition that he was contesting a rent increase from \$1,687.00 to \$1,719.00, effective September 1, 2016. However, at the hearing he corrected this statement and testified that he was not contesting this rent increase. Therefore, the rent increase issue will not be addressed in this Hearing Decision. As of September 1, 2016, the tenant's current rent is \$1,719.00. This evidence was not disputed.

The owner response alleged that the tenant owes \$1,032.00 in late fees.

RAP Notice

The tenant testified that he received the notice of the existence of the Rent Adjustment program (RAP Notice) yearly and with each prior rent increase since he moved into the subject unit. This evidence was not disputed.

Decreased Housing Services

At the hearing the tenant alleged that there is a flea infestation in his unit and the seasonal pest control should be provided by the owner because it is part of warranty of habitability. The tenant identified the following incidents regarding the flea infestation:

Flea Infestation in 2013: The tenant testified that in October of 2013 he began having fleas in his apartment that were coming from small animals living in the basement. The tenant has two cats but they do not go outside. The tenant testified that the fleas come from the outside and jump on the tenants when they take out the trash.

~~The owner testified that the maintenance person takes care of any maintenance and repairs relating to the building. The owner responded within ten days of the tenant's complaint and sprayed in the basement, outside along the parameter of the building, on the back staircase and a walkway from the staircase leading to the outside the tenant's door. No one else complained of fleas at that time.~~

Flea Infestation in August/September of 2015: The owner began the flea treatment and sprayed outside along the building, in the basement, on the back stairs, and hallway leading from the stairs to the outside door of the tenants' unit. No other tenants reported any flea problem. The maintenance person, Marco Perez, testified that he sprayed the affected areas and then he sprayed the same areas again two or three days later. He testified that he sprayed the basement three times. He testified

that he did not encounter any fleas outside and no other tenant reported having any fleas. The tenant testified that after September of 2015, they did not have any problems with fleas until September 2016.

The owner testified that the property management office keeps up with management issues, they called vector control, sprayed, and do everything that was recommended by the inspectors.

Fleas in September of 2016: The tenant testified that the fleas appeared in the apartment again in September of 2016 but that they applied their usual flea treatment on their cats and they have not seen the fleas since then. The tenants believed the problem was eliminated at that point. The owner testified that they did not receive a notice of this problem in September of 2016.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Tenant Current on His Rent

Late fees are not considered rent. Therefore, the tenant is current on his rent even if he owes late fees.

Untimeliness of Claims for 2013 and 2015 Flea Incidents

Prior to September 20, 2016, the Oakland Rent Ordinance provided that a tenant petition must be filed within 60 days after the date of service of a rent increase notice or the date the tenant first receives the RAP notice, whichever is later.¹ The Board has held that a petition claiming decreased housing services must be filed within sixty days after the decrease in services occurred, or within sixty days after the Notice to Tenants is served, whichever is later.²

It is undisputed that the tenants received the RAP Notices with their yearly rent increases since they first moved into their unit. To be considered timely, these claims should have been filed within sixty days after each incident of flea infestation – within 60 days of October 2013 or within 60 days of August of 2015. The tenants testified that they did not see fleas for a long time after each incident – since October 2013 until August 2015, and again from September of 2015 until September of 2016. Because the tenants' petition was filed on September 14, 2016, it is untimely. Therefore, these claims are denied.

Even if these claims were made timely, it is undisputed that the maintenance person began treatment right away by spraying the affected areas and continued spraying until the fleas were eliminated each time there was a tenant complaint. The owner acted reasonably and took reasonable steps to eliminate the fleas. Therefore, the compensation for these claims is denied even if these claims were timely made.

¹ O.M.C. §8.22.090(2)

² T09-0086, Lindsay v. Grimsley (2010)

Decreased Housing Services

Under the Oakland Rent Ordinance, a decrease in housing services is considered to be an increase in rent³ and may be corrected by a rent adjustment.⁴ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy and is no longer being provided, or one that was contracted between the parties. "Living with lack of painting, water leaks and defective Venetian blinds may be unpleasant, aesthetically unsatisfying, but does not come with the category of habitability. Such things will not be considered in diminution of the rent."⁵ The tenant has the burden of proving decreased housing services by a preponderance of the evidence.

In a decreased services case, the tenant must establish he has given the owner notice of the problems and the opportunity to fix the problems before he is entitled to a relief.⁶

Fleas in September of 2016: There is no evidence of notice to the owner when the fleas appeared again in September of 2016. Therefore, this claim is denied.

ORDER

1. The Tenant Petition T16-0515 is denied.
2. The claim for decreased housing services is denied.

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

Dated: June 13, 2017



Linda M. Moroz
Hearing Officer
Rent Adjustment Program

³ O.M.C. §8.22.070(F)

⁴ O.M.C. §8.22.110(E)

⁵ *Green v. Superior Court* (1974) 10 Cal. 3d 616 at p. 637

⁶ Hearing Decision T11-0191, *Howard v. Smith* (2012)

PROOF OF SERVICE

Case Number T16-0515

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

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

Tenant

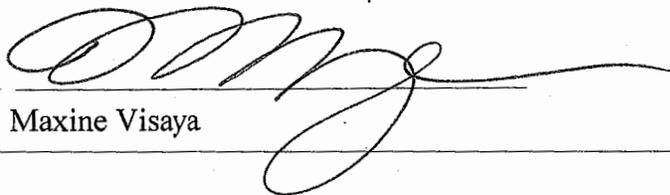
Jeremy Krivitz
442 Oakland Ave
Oakland, CA 94611

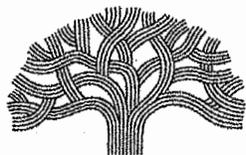
Owner

Ma Properties/Sanford Ma
395 Merritt Ave Suite 304
Oakland, CA 94610

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 28, 2017 in Oakland, CA.


Maxine Visaya



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

RECEIVED

JUL 12 2017

RENT ADJUSTMENT PROGRAM **APPEAL**
OAKLAND

Appellant's Name Jeremy Krivitz		<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Tenant	
Property Address (Include Unit Number) 442 Oakland Ave			
Appellant's Mailing Address (For receipt of notices) 442 Oakland Ave Oakland CA 94611		Case Number T16-505 <i>T16-0515</i>	Date of Decision appealed unknown - misplaced decision letter
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

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

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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.

Number of pages attached: 2.

You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on July 10, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Sanford Ma
Address	395 Merritt Ave Ste 304
City, State Zip	Oakland CA 94611
Name	
Address	
City, State Zip	

	07/10/2017
---	------------

SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE

DATE

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

To whom it may concern:

July 10, 2017

I am appealing the Rent Board's decision regarding our case, T16-505, on the following grounds:

1. The decision is not supported by substantial evidence:

The analyst who decided our case did not have the facts correct at all. The analyst incorrectly states that Ma Properties did provide seasonal pest control every time it was requested in 2013 and 2015. This is not true. Ma Properties has only done pest abatement and seasonal pest control once, in 2015, and only after other tenants called to complain. Ma Properties has maintained that the mere fact that we own cats means that they do not need to provide pest control for our apartment. Our cats do not go outdoors and we do not believe that we should have to pay for pest control when we are attacked by fleas coming into our apartment from the surrounding area.

The analyst also incorrectly states that pest control was provided "immediately" in 2015. This is also not true, as it is shown in evidence in letters I wrote to the owner that we reported problems with fleas on August 29, and the owner did nothing about it until September 8. 11 days is not "immediately".

Finally, the analyst states that there was not a loss of service in 2016 when we reported fleas to Ma Properties because: 1. The analyst incorrectly states that we did not provide evidence that the owner had been notified. We did notify the owner in writing of a list of repairs that needed to be made. This list included a request that Ma Properties provide seasonal pest control because we had seen fleas in our apartment. The owner responded in writing that because there were fleas in our apartment, he could not send anyone to work in our apartment. This forced us to write a letter using the Tenant Protection ordinance to compel Ma Properties to complete the repairs that needed to be done. In this letter, we informed Ma Properties that we had not seen any fleas since using Advantage II for cats to treat our cat. So, if Ma Properties stated under oath that we did not notify them of the fleas in September, they lied. I provided all letters, both to and from Ma Properties, from September of 2016 with our original petition.

Finally, the analyst states that there was no loss of service because we treated our cats with a flea treatment and that eliminated the problem. At this point, I have to question whether the analyst even bothered to read anything or look at any evidence. The fact that we are able to use Advantage II for cats to get rid of fleas when they intrude into our apartment does not make it OK for our landlord to refuse to provide the seasonal pest control needed to prevent the fleas from entering our apartment in the first place. When fleas appear, to ensure their elimination, we have to treat our animals for a minimum of 3 months, at a cost of \$30-\$45 per animal. And this does not solve the problem, as treating our cats does not prevent more fleas from intruding into our apartment from the outside areas. It just kills the fleas when they attack our cats.

2. I was not given ample time to address the statements made by Ma Properties:

000030

Additionally, the hearing was very poorly moderated. The official who conducted the hearing was very diligent in stopping us from interrupting Ma Properties as they went on and on making lies under oath and slanderous comments that had absolutely nothing to do with the issue at hand. On the other hand, she allowed Ma Properties to interrupt me frequently when I was attempting to respond to their comments, and then cut the hearing short before I was given a chance to respond to all of Ma Properties comments.

3. The analyst who made the decision does not seem to understand the issue at all:

The reason we filed this petition is this:

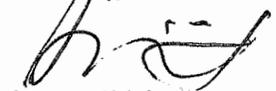
We have, on a fairly regular basis, sometimes in early spring and nearly always in the late summer, had fleas attacking us and our pets inside of our apartment for some time. We have always been mystified about the origin of these fleas because our pets do not go outdoors. Another tenant, who used to live in our building, told me that someone Ma Properties hired to work on her apartment told her that the fleas were from pest animals that intruded in the basement. This individual treated her apartment with some sort of "orange spray" that made the fleas go away. Since then, we have been trying to get Ma Properties to do something about fleas when they appear.

A part of each lease in California is the warranty of habitability. This warranty is supposed to guarantee that apartments remain habitable. A pest infestation that is not the fault of the tenant is a condition that violates the warranty of habitability. Our position is that the fleas that intrude into our apartment seasonally must come from outside of the apartment. Fleas do not magically grow from the skin of animals. They are parasites whose survival depends on the presence of host animals. Our neighborhood has an abundance of foliage and small animals that are probably the source of the fleas that intrude into our apartment.

Ma Properties has maintained that the fact that we own cats means they do not have to provide pest control when fleas intrude into our apartment. As a result, we have had to spend around \$500-\$600 since 2013 to eliminate fleas that intrude into our apartment. All we are asking Ma Properties to do is to come twice a year in the early spring and the late summer to spray pesticide in the basement, the wooden stairs, and the landscape so that we do not have fleas coming into our apartment. They have only done this once in the 9 1/2 years since we moved here, and only after other tenants called to complain.

So, for the analyst to determine that there was no loss of service in September of 2016 because we purchased flea treatment and eliminated the fleas that intruded into our apartment on our own is absolutely ridiculous. It shows that the analyst did not comprehend the issue at all.

Sincerely,



Jeremy Krivitz

CHRONOLOGICAL CASE REPORT

Case Nos.: T16-0683
Case Name: Prager v. Lagos
Property Address: 95 41st Street, #202, Oakland, CA
Parties: Marc Prager (Tenant)
Panos Lagos (Property Owner)
James Yamada (Property Owner)

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Tenant Petition filed	December 2, 2016
Owner Response filed	December 30, 2016
Hearing Decision issued	June 13, 2017
Owner Appeal filed	July 3, 2017

Ttl. 0683 Re/BC

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM Mail To: P. O. Box 70243 Oakland, California 94612-0243 (510) 238-3721	For date stamp. RECEIVED DEC - 2 2016 OAKLAND RENT ADJUSTMENT
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed.

TENANT PETITION

Please print legibly

Your Name Marc PRAGER	Rental Address (with zip code) 94611 95 41st St. Oakland Apt. 202	Telephone 510 913 3080
Your Representative's Name	Mailing Address (with zip code)	Telephone
Property Owner(s) name(s) Panos Lagos	Mailing Address (with zip code) 5032 Woodminster Ln. Oakland 94602	Telephone 510 530 4078

Number of units on the property: 11

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

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

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

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

Date you moved into the Unit: 3/3/2014 Initial Rent: \$ 1825.00 /month

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

possibly 11/26/16

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

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

Note: Notice slows 11/22/2017 as date

Date Notice Served (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Are you Contesting this Increase in this Petition?*	Did You Receive a Rent Program Notice With the Notice Of Increase?
		From	To		
11/22/16	2/1/17	\$ 1825	\$ 2200	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

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

III. DESCRIPTION OF DECREASED OR INADEQUATE HOUSING SERVICES:

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

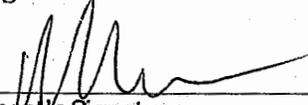
Are you being charged for services originally paid by the owner? Yes No
 Have you lost services originally provided by the owner or have the conditions changed? Yes No
 Are you claiming any serious problem(s) with the condition of your rental unit? Yes No

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

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

IV. VERIFICATION: The tenant must sign:

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



Tenant's Signature

11/28/16

Date

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

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

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

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

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

Tenant's Signature

Date

VI. IMPORTANT INFORMATION:

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

File Review

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

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

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

Reduced Services -

Carpet is past its useful life and
should be replaced.

A handwritten signature consisting of stylized, overlapping letters, possibly 'JMM', followed by a long horizontal flourish.

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM P.O. Box 70243 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For filing stamp. RECEIVED DEC 30 2016 OAKLAND RENT ADJUSTMENT
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Please Fill Out This Form As Completely As You Can. Failure to provide needed information may result in your response being rejected or delayed.

CASE NUMBER T 16-0683 / Prager v. Lagos

OWNER RESPONSE

Please print legibly.

Your Name PANOS LAGOS	Complete Address (with zip code) LAW OFFICES OF PANOS LAGOS 5032 Woodminster Lane Oakland, CA 94602	Phone: <u>510 530 4078</u> Email: <u>panos@panoslagoslaw.com</u>
Your Representative's Name (if any)	Complete Address (with zip code)	Phone: _____ Fax: _____ Email: _____
Tenant(s) name(s) MARC PRAGER	Complete Address (with zip code) 95 41st Street, Apt. 202 Oakland, CA 94611	

Have you paid for your Oakland Business License? Yes No Number 2766302
(Provide proof of payment.) **SEE EXHIBIT A**

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

There are 10 residential units in the subject building. I acquired the building on 10/27 /1997

Is there more than one street address on the parcel? Yes No
(10 parcel numbers with Unit #101 being parcel #12-992-22 through Unit #402, parcel #12-992-31)

I. RENTAL HISTORY

The tenant moved into the rental unit on or about 3/1/2014

The tenant's initial rent including all services provided was \$ 1,825.00 / month.

Have you (or a previous Owner) given the City of Oakland's form entitled **NOTICE TO TENANTS OF RESIDENTIAL RENT ADJUSTMENT PROGRAM ("RAP Notice")** to all of the petitioning tenants?
Yes No I don't know If yes, on what date was the Notice first given? 02/28/2014 SEE EXHIBIT B

Is the tenant current on the rent? Yes No

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

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

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

Date Notice Given (mo/day/year)	Date Increase Effective (mo/day/year)	Amount Rent Increased		Did you provide NOTICE TO TENANTS with the notice of rent increase? <input type="checkbox"/> Yes <input type="checkbox"/> No
		From	To	
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No
		\$	\$	<input type="checkbox"/> Yes <input type="checkbox"/> No

II. JUSTIFICATION FOR RENT INCREASE

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

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

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

III. DECREASED HOUSING SERVICES

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

IV. EXEMPTION

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

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

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

7. If the unit is a condominium, did you purchase it? If so: 1) from whom? 2) Did you purchase the entire building?

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

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

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

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

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

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

V. IMPORTANT INFORMATION

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

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

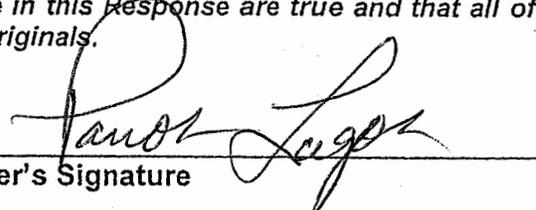
File Review. You should have received a copy of the petition (and claim of decreased services) filed by your tenant with this packet. Other documents provided by the tenant will not be mailed to you. You may review additional documents in the RAP office by appointment. For an appointment to review a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

VI. VERIFICATION

Owner must sign here:

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

Owner's Signature



Date

12/22/16

VII. MEDIATION AVAILABLE

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

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

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

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

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

Owner's Signature

Date



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: T16-0683, Prager v. Lagos
PROPERTY ADDRESS: 95 41st Street, # 202, Oakland, CA
DATE OF HEARING: April 28, 2017; May 22, 2017
DATE OF DECISION: June 13, 2017
APPEARANCES: Marc Prager, Tenant (both dates)
Panos Lagos, Owner (both dates)
James Yamada, Owner (April 28, 2017)
Craig Riesterer, Witness (April 28, 2017)

SUMMARY OF DECISION

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

CONTENTIONS OF THE PARTIES

The tenant filed a petition on December 2, 2016, contesting a rent increase from \$1,825 to \$2,200 a month, on the following grounds:

- The increase exceed the Consumer Price Index (CPI) Adjustment, is unjustified or is greater than 10%; and,
- No written notice of the Rent Program (*RAP Notice*) was given to him at least six months prior to the effective date of the rent increase.

Additionally, the tenant claimed that his housing services had decreased. The claims of decreased services involve the carpet is his unit being past its useful life.

000041

The owner filed a timely response to the tenant petition on December 30, 2016 claiming that the unit is exempt from the RAP as new construction.

THE ISSUES

1. Is the unit exempt from the RAP as new construction?
2. When, if ever, was the *RAP Notice* first served on the tenant?
3. Can the tenant raise claims related to decreased services that were not raised in the tenant's initial filing?
4. Have the tenant's housing services decreased?
5. What is the rent and what, if any, restitution is owed between the parties?

EVIDENCE

Building History: The owners testified that they purchased the subject property in 1997.

The owners had not produced any documents to the RAP prior to the Hearing about the subject property. At the Hearing they referred to a document entitled *Application for Report of Residential Building Record*. They testified that they did not think they had a *Certificate of Occupancy*. They testified that based on the documentary record (the *Application for Report of Residential Building Record*), they believed that a single family dwelling was demolished before the current building was built. They did not own the property at the time.

The Hearing was set for a second day. The owners were asked to produce a *Certificate of Occupancy* and the *Application for Report of Residential Building Record* prior to the Hearing. They were also asked to produce any plans that might show the footprint of the prior residential unit and the footprint of the current 10 unit building. Prior to the Hearing, the owners produced only the *Certificate of Occupancy*. This document states that the building completion date was June 20, 1986, and that the building is a ten unit apartment house.¹

At the Hearing held on May 22, 2017, the owner was asked about the *Application for Report of Residential Building Record*, which was provided to the Hearing Officer at the Hearing. This document, dated October 1, 1997, shows that a permit was received in February of 1981 to "demolish (a) single family dwelling."² Then in July of 1983 a permit was issued to construct a 10-unit apartment building.

The owner was also asked about whether he was able to find any plans for the previous building or the current building. He testified that he did not find any records.

¹ Exhibit 3. This document, and all other documents referred to in this Hearing Decision, was admitted into evidence without objection.

² Exhibit 2. The owners were specifically asked at the first Hearing to produce this document but chose not to. This document was admitted into evidence without objection, even though it was not produced 7 days in advance, as it had crucial information about the prior history of this property that was not available on any other document produced by the owners.

Rental History: The tenant testified that he moved into the rental unit in March of 2014, at an initial rent of \$1,825 a month. He received a rent increase notice on about November 22, 2016, purporting to increase his rent to \$2,200 (from \$1,825) a month. He has paid the old rent of \$1,825 and will continue to do so until he receives a Hearing Decision in this matter. He received the *RAP Notice* with this rent increase notice. He also received the *RAP Notice* when he moved into the building.³

The owners did not dispute the tenant's testimony about these issues.

Decreased Housing Services: The tenant testified that the carpet is old, worn and smells. It is not a tripping hazard. The carpet was in the same condition when he moved in. The tenant produced photographs of the carpet, which show minor staining.⁴

The owner Panos Lagos testified that at the time that he rented the unit to the tenant it was in fine shape. The carpet was not worn and it did not smell. When he got notice of the tenant's complaint, he returned to the unit to see the carpet in February of 2017. The carpet was in fine shape, there is no tripping hazard, it is not worn and does not smell.

Official Notice is taken that on April 20, 2017, (prior to the first Hearing in this case) the tenant produced a letter to the RAP seeking to add additional claims regarding decreased services in this case. The tenant was not permitted to testify about these matters (See below.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Is the unit exempt from the RAP as new construction?

The Oakland Rent Adjustment Ordinance states that dwelling units are not "covered units" under the Ordinance if such units "were newly constructed and received a certificate of occupancy on or after January 1, 1983."⁵ The Ordinance states:

"To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed or created from space that was formerly entirely non-residential."⁶

An owner has the burden of proof on all elements of a claim for exemption.

In this case, the owner purchased a 10 unit residential building in 1997. The evidence documents that prior to the 10 unit residential building being built, which was in 1986, a prior residential single family dwelling existed on the property.

³ Exhibit 1.

⁴ Exhibit 4. These documents were produced by the tenant prior to the second Hearing. The tenant was given an opportunity to produce additional evidence, since the owner was being given the opportunity to produce additional evidence.

⁵ O.M.C. § 8.22.030(A)(5)

⁶ O.M.C. § 8.22.030(A)(5)

The owner offered no evidence to establish the size of the prior single family dwelling in order to show that the tenant's unit was outside of that footprint, and therefore new construction.

Furthermore, this building was built before *Costa Hawkins*, California Civil Code § 1954.50 et seq. was enacted. While *Costa Hawkins* does state that newly constructed units are exempt if they have a *Certificate of Occupancy* issued after February 1, 1995, or were already exempt from rent control pursuant to a local exemption for newly constructed units, *Costa Hawkins* is not controlling here since the *Certificate of Occupancy* was issued before February 1, 1995.

In order to qualify for a new construction exemption, the new construction must create new units from space not already being used for residential purposes. Since the owners did not provide any evidence as to the footprint of the prior residential building, there is no way to establish that the tenant's unit is new construction.

Therefore, the owners have not met their burden of proof to establish that the subject building is exempt from the Rent Adjustment Ordinance as new construction.

When, if ever, was the *RAP Notice* first served on the tenant?

The Rent Adjustment Ordinance (Ordinance) requires an owner to serve the *RAP Notice* at the start of a tenancy⁷ and together with any notice of rent increase or change in the terms of a tenancy.⁸ An owner can cure the failure to give notice at the start of the tenancy, but may not raise the rent until 6 months after the first *RAP Notice* is given.⁹

The tenant was served with the *RAP Notice* when he moved into the unit.

Can the tenant raise claims related to decreased services that were not raised in the tenant's initial filing?

In order to bring a claim of decreased housing services, the tenant is required to provide a list or a description of his claims when he files his petition. O.M.C. § 8.22.070 (F). Here the tenant filed a list of decreased housing services with his petition, which raised only an issue related to the carpet.

Approximately a week prior to the initial Hearing, the tenant sent a letter to the RAP office seeking to add additional claims of decreased services to his petition. This document was filed on April 20, 2017. Since this list was not provided with the tenant's initial petition, these issues were not considered at the Hearing. Only those issues that were on the documents the tenant initially filed were considered at the Hearing.

///

⁷ O.M.C. § 8.22.060(A)

⁸ O.M.C. § 8.22.070(H)(1)(A)

⁹ O.M.C. § 8.22.060 (C)

Have the tenant's housing services decreased?

Under the Oakland Rent Adjustment Ordinance, a decrease in housing services is considered to be an increase in rent¹⁰ and may be corrected by a rent adjustment.¹¹ However, in order to justify a decrease in rent, a decrease in housing services must be the loss of a service that seriously affects the habitability of a unit or one that was provided at the beginning of the tenancy that is no longer being provided.

In a decreased housing services case tenants must establish that they have given the owner notice of the problems and the opportunity to fix the problems before they are entitled to relief.

In this case the tenant complained of the condition of the carpet. Both the owner and the tenant testified that the carpet is in essentially the same condition as it was when the tenant moved into the unit; therefore, there is not a changed condition. Furthermore, there is no proof that there is any habitability violation with respect to the carpet—there are no holes, no mold and no tripping hazards.

The tenant has established only that there are some stains on the carpet. Stains are not a habitability problem. This claim is denied.

What is the rent and what, if any, restitution is owed between the parties?

The owners did not seek to justify the rent increase other than claiming new construction. Since the owners have not prevailed in their claim of new construction, the rent remains \$1,825 a month. The tenant has not paid the rent increase. Therefore, there are no underpayments or overpayments.

ORDER

1. Petition T16-0683 is granted in part. The rent remains \$1,825.
2. The tenant's claims of decreased services are denied.

3. The unit is not exempt from the RAP as new construction.
4. **Right to Appeal:** **This decision is the final decision of the Rent Adjustment Program Staff.** Either party may appeal this decision by filing a properly completed appeal using the form provided by the Rent Adjustment Program. The appeal must be received within twenty (20) calendar days after service of the decision. The date of

///

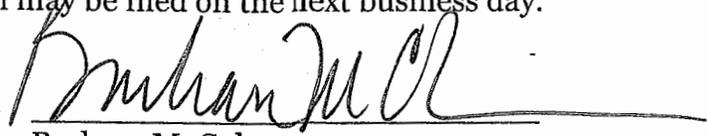
///

¹⁰ O.M.C. § 8.22.070(F)

¹¹ O.M.C. § 8.22.110(E)

service is shown on the attached Proof of Service. If the Rent Adjustment Office is closed on the last day to file, the appeal may be filed on the next business day.

Dated: June 13, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number T16-0683

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

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

Tenant

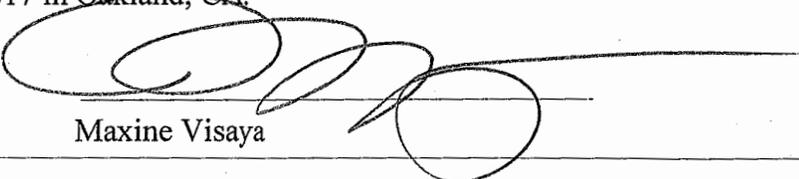
Marc Prager
95 41st St #202
Oakland, CA 94611

Owner

Panos Lagos
5032 Woodminster Lane
Oakland, CA 94602

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 13, 2017 in Oakland, CA.


Maxine Visaya

000047



CITY OF OAKLAND

**CITY OF OAKLAND
RENT ADJUSTMENT PROGRAM**

P.O. Box 70243
Oakland, CA 94612-0243
(510) 238-3721

For date stamp

RECEIVED

JUL 03 2017

RENT ADJUSTMENT PROGRAM **APPEAL**
OAKLAND

Appellant's Name Panos Lagos		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant	
Property Address (Include Unit Number) 95 41st Street, #202 Oakland, CA 94611			
Appellant's Mailing Address (For receipt of notices) 5032 Woodminster Lane Oakland, CA 94602		Case Number T16-0683, Prager v. Lagos	
		Date of Decision appealed June 13, 2017	
Name of Representative (if any)		Representative's Mailing Address (For notices)	

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

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

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

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

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

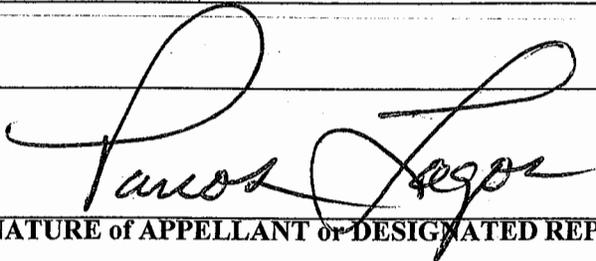
- f) I was denied a sufficient opportunity to present my claim or respond to the petitioner's claim. (In your explanation, you must describe how you were denied the chance to defend your claims and what evidence you would have presented. Note that a hearing is not required in every case. Staff may issue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

Submissions to the Board are limited to 25 pages from each party. Please number attached pages consecutively.
 Number of pages attached: 11

You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.

I declare under penalty of perjury under the laws of the State of California that on June 30, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Tenant: Marc Prager
Address	95 41st Street, #202
City, State Zip	Oakland, CA 94611
Name	
Address	
City, State Zip	

	June 30, 2017
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

EXPLANATION

2) a) and e):

Issue: Is the 10-unit apartment building at 95 41st Street in Oakland exempt under the provisions of OMC Chapter 8.22.030 A. (5)?

Short Answer: Yes. The undisputed evidence submitted at the Rent Board Hearing established that this apartment building was entirely newly constructed, and that it received a certificate of occupancy after January 1, 1983. Appellant proved each of the elements required for exemption under the Ordinance. The hearing officer's conclusion that this building is not exempt is therefore contrary to the evidence, contrary to the law, and should be reversed.

Applicable Law:

OMC Chapter 8.22.030 A. (5) (hereinafter "Ordinance") addresses the issue of exemptions and reads:

"Types of Dwelling Units Exempt. The following dwelling units are not covered units for purposes of this chapter, ..."

"Dwelling units which were newly constructed and received a certificate of occupancy on or after January 1, 1983. ... To qualify as a newly constructed dwelling unit, the dwelling unit must be entirely newly constructed **or** created from space that was formerly entirely non-residential." (emphasis added)

The Ordinance sets forth that, as long as a dwelling unit was entirely newly constructed **or** created from space that was formerly entirely non-residential, it qualifies as a newly constructed dwelling (and exempt) unit so long as a Certificate of Occupancy is received on or **after** January 1, 1983.

Discussion:

The Hearing Officer acknowledged that the former structure on the property was a single-family residence (*Hearing Decision, Page 3*), that the now-existing 10-unit apartment building replaced it, and that a Certificate of Occupancy for the 10-unit apartment building was issued on June 20, 1986 (*Hearing Decision, Exhibit 3*).

Yet the hearing officer stated, "In order to qualify for a new construction exemption, the new construction must create new units from space not already being used for residential purposes." (*Hearing Decision, Page 4*).^[1] The Hearing Officer appears to have ignored the portion of the

^[1] Even if the Ordinance only contained this language, it's requirement was satisfied with the documents presented at the subject hearing as will be discussed hereafter.

EXPLANATION

Ordinance, quoted above, providing for an exemption for a dwelling unit which is "...entirely newly constructed..." which, as will be discussed hereafter, **was also proven** by appellant.

The evidence before the Hearing Officer included the October 1, 1997 Application for Report of Residential Building Record (3-R Report) (*Hearing Decision, Exhibit 2*) which, on its face, refers to the **new** construction of a four-story, non-owner occupied 10-unit apartment building, and noting it to be **original construction** (1983). This evidence also established that a permit was issued on February 24, 1981 to "Demolish single family dwelling" with an "Original construction permit" issued on July 19, 1983. A Certificate of Occupancy was issued on June 20, 1986 (also in evidence before the Hearing Officer, *Hearing Decision, Exhibit 3*). It is self-evident that if a 10 unit residential apartment building sits where a single family dwelling once sat, entirely new construction took place. Thus, Appellant proved that this apartment building is exempt.

Another one of the errors made by the Hearing Officer, as reflected by her decision, was that she ignored evidence--- namely, the site plan diagram submitted by Appellant.

The "first" hearing of this matter was held on April 28, 2017. Following this hearing and its continuance to May 22, 2017 to give both sides an opportunity to produce additional evidence (see *Hearing Decision, Page 3, Footnote 4*), Appellant, on May 1, 2017 submitted a letter to the Hearing Officer (*Exhibit A hereto*), which **included** the noted (and more legible) Certificate of Occupancy (*Hearing Decision, Exhibit 3*) **as well as** the property's site plan diagram (see, *Exhibit A, Page 5, hereto*). This submission was in response to the Hearing Officer's request for the "footprint" of the previously-existing structure, i.e., a single-family dwelling. This site plan diagram includes the words "**new building proposed**" and confirms the footprint of the previously existing single-family dwelling (outlined in blue) was well within the confines of the larger "footprint" of the then-proposed and presently existing 10-unit building (outlined in pink). Further, the words "2 sty stucco (to be removed)" are written over the footprint of the single-family dwelling, clearly indicating that the old 2-story stucco residence was to be demolished. A true and correct copy of this site plan diagram submitted to the Hearing Officer on May 22, 2017, properly orientated, enlarged, and with its pertinent parts outlined/highlighted as noted above, is attached for the Board's convenience (*Exhibit C hereto*).^[2] This evidence was uncontroverted by the tenant.

The Hearing Officer's statement that "The Owner offered no evidence to establish the size of the prior single family dwelling in order to show that the tenant's unit was outside of that footprint, and therefore new construction" (*Hearing Decision, Page 4*) not only incorrectly reads into the Ordinance language and requirements that are not there, it also indicates the Hearing Officer's

^[2] Page 5 of *Exhibit A hereto* is the same diagram depicted in *Exhibit B hereto* but was "reversed" when copied at the City's Permit Center and initially sent to the Hearing Officer on May 1, 2017. To the extent that it is later found that this particular "legible" diagram (*Exhibit B hereto*) was not made part of the record when it was provided to the Hearing Officer on May 22, 2017, request is herewith made, in the interests of justice, that it be made part of this Appeal process, or, in the alternative, an additional evidentiary hearing be ordered.

EXPLANATION

conflation of the Ordinance's terms. The Ordinance does not reference, or require proof of, the size of the prior single family dwelling. While the second alternative for exemption applies to dwelling units created from "space" that was formerly entirely non-residential, that provision --- which does not require evidence of the size of the prior single family dwelling (or space) --- most importantly has no bearing on whether the property is exempt under the first alternative. These are two entirely separate, independent grounds for exemption. Appellant was only required to prove, which it did, that these 10 new apartments were all "entirely newly constructed". Clearly, the Hearing Officer was confused regarding the relevant terms of the subject Ordinance.

It is true that no documents were produced by Appellant/owners **prior** to the **first** hearing.^[3] Appellant/owners **did**, however, produce, **at the first hearing**, the October 1, 1997 Application for Report of Residential Building Record (3-R Report) (*Hearing Decision, Exhibit 2*). However, it is not true that Appellant/owners produced **only** the Certificate of Occupancy prior to the second hearing. The documents that were provided **prior** to the second hearing, as set forth in Exhibit A hereto, consisted of, 1) a May 1, 2017 transmittal letter, 2) the June 20, 1986 Certificate of Occupancy, and, 3) the property's (reverse copied) site plan diagram already noted for the Board's present convenience as Exhibit C hereto.

2) d):

Appellant submits that the term(s) "footprint", "created" and/or "from space that was formerly entirely non-residential" used separately and/or together in OMC Chapter 8.22.030 A. (5)---at least insofar as these terms appear to be interpreted and applied by the Hearing Officer--- are vague, uncertain, arbitrary, overly broad, ambiguous and incapable of providing or meeting reasonable due process concerns to which United States citizens and California residents are entitled before their property, real or otherwise, is taken from them. By way of example, suppose the footprint of a previously-existing and later demolished two-story residential dwelling showed a bedroom on the first floor in the northeast corner; is a bedroom in the same northeast corner of the first floor of an entirely newly constructed ten or twenty unit apartment building not exempt because it did not create living space that did not previously exist? Such a result is illogical, absurd, impractical, unworkable, and entirely at odds with the purpose of the Ordinance.

As used in the context of building construction, a "building footprint" refers to the perimeter of the building plan. Parking lots, landscapes, and other non-building facilities are not included in such a "building footprint". A "footprint" alone says nothing about how many bedrooms existed, where they were located, and/or how many stories the structure had.

^[3] It is not true that Appellant/owners were specifically asked to "produce" the October 1, 1997 Application for Report of Residential Building Record (3-R Report) (*Hearing Decision, Exhibit 2*) at the first hearing but chose not to. It was "produced" **and shown to everyone**. It was the only document Appellant/owners had and they had no reason not to produce it if, as **admitted** by the Hearing Officer, Appellant/owners relied on the document at the hearing (*Hearing Decision, Page 2, First Paragraph*). It was not marked and placed in the evidentiary record until the May 22, 2017 hearing.

EXPLANATION

Therefore, requiring a footprint of the former structure to prove either alternative basis for exemption under the “newly constructed dwelling unit” section of the Ordinance is neither logical nor practical. New construction can, and often does, follow the same footprint as the former structure, yet it is still creating entirely new dwelling units when the newly constructed apartment building replaces a single family dwelling. Thus, to the extent the Hearing Officer interpreted the Ordinance as requiring proof that Mr. Prager’s unit was “new” in the sense that it is not in the same “space” as what was already being used for residential purposes in the former single-family home, is reading into the Ordinance language that does not exist, is creating a burden of proof that is virtually impossible to meet, and is contrary to the intent of the Ordinance.

One of the stated purposes of the Ordinance is, “... encouraging rehabilitation of rental units, encouraging investment in new residential rental property in the city ... ” (see OMC 8.22.010 A., B., C.). However, the Hearing Officer’s erroneous interpretation and application of the subject Ordinance’s language is inconsistent with the purpose of the Ordinance. There would be **no incentive**, for example, to tear down a single family home and to put up a 10 unit apartment building (and thereby create new residential property that could accommodate 20 or more new renters) if the Hearing Officer’s interpretation and application of the Ordinance was correct.

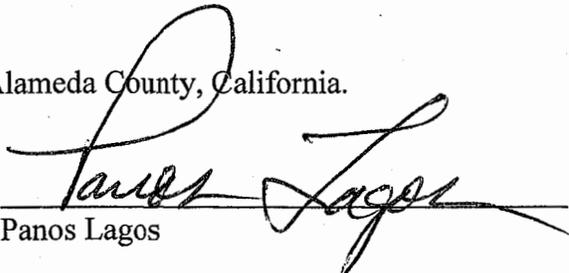
Finally, the Hearing Officer’s Decision is inconsistent with a related provision of the Ordinance which provide for an exemption for “substantially rehabilitated buildings”. If the original owners of this 10-unit apartment had simply “spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project” by turning the single family dwelling into ten apartments, the building would be exempt, regardless of whether any of the new units were “outside” of the footprint of the old structure, or whether any of the new units were created “from ‘space’ [] already being used for residential purposes”. (*Hearing Decision, Page 4*).

Hearing Request: To the extent that Board determines that an evidentiary hearing is necessary, Appellant requests such hearing pursuant to OMC Chapter 8.22.120 B. (4).

Attestation:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. If called as a witness, I could and would testify competently to the matters stated herein.

Executed this 30th day of June, 2017, at Oakland, Alameda County, California.


Panos Lagos

The Law Offices of
Panos Lagos

TEL. (510) 530-4078
FAX (510) 530-4725

5032 WOODMINSTER LANE
OAKLAND, CA 94602

E-MAIL ADDRESS:
PANOS@PANOSLAGOSLAW.COM

September 6, 2018

VIA EMAIL and REGULAR MAIL

Michele A. Byrd, Director
Sylvia M. Shannon, Executive Assistant
Robert F. Costa, Program Analyst II
Maryann Leshin
City of Oakland

mbyrd@oaklandnet.com
sshannon@oaklandnet.com
rcosta@oaklandnet.com
mleshin@oaklandnet.com

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

Re: File Name: Prager v. Lagos
Property Address: 95 41st Street, #202, Oakland, CA, 94611
Case Number: T16-0683 / Appeal Hearing: 9/27/2018 / Time: 7:00 p.m.

Everyone:

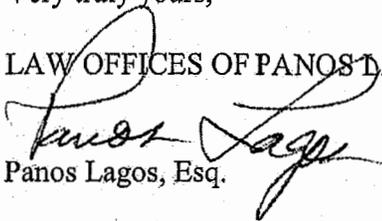
Please be advised that this matter will be argued by John Hughes who, despite the case name, i.e., Prager v. Lagos, is one of the owners of the subject 10 unit apartment building.

Consistent with my letter of July 13, 2018, the full 15 minutes for oral argument per your Notice of Appeal Hearing form sent to the parties on August 27, 2018, is again requested. In the appeal hearing held May 10, 2018, argument was limited to five minutes. Given the issues presented in this appeal, anything less than the full fifteen minutes will severely hamper appellants' ability to adequately submit their position to the panel. As you all may or may not recollect or otherwise determine from the record, the previous three person panel was not capable of making a decision for whatever reasons. The requested full 15 minutes is needed to avoid a similar result and to reach a lawful outcome.

Your attention is appreciated.

Very truly yours,

LAW OFFICES OF PANOS LAGOS


Panos Lagos, Esq.

PL/ah

cc: Marc Prager (via email and regular mail)

000054

The Law Offices of
Panos Lagos

TEL. (510) 530-4078
FAX (510) 530-4725

5032 WOODMINSTER LANE
OAKLAND, CA 94602

E-MAIL ADDRESS:
PANOS@PANOSLAGOSLAW.COM

July 23, 2018

RECEIVED

JUL 27 2018

**RENT ADJUSTMENT PROGRAM
OAKLAND**

VIA EMAIL and REGULAR MAIL

Michele A. Byrd, Director
Sylvia M. Shannon, Executive Assistant
Robert F. Costa, Program Analyst II
Maryann Leshin
City of Oakland
Department of Housing and Community Development
Rent Adjustment Program
P.O. Box 70243
Oakland, CA 94612-2043

Re: File Name: Prager v. Lagos
Property Address: 95 41st Street, #202, Oakland, CA, 94611
Case Number: T16-0683

Everyone:

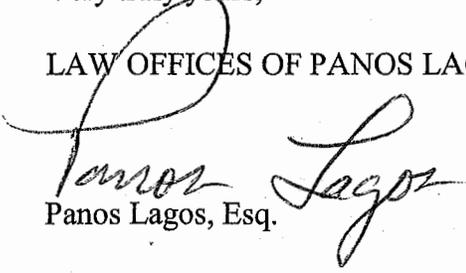
This letter constitutes my **second request** that the enclosed Application for Report of Residential Building Record ("Application") be made part of the Chronological Case Report.

Although the Application was included in the Chronological Case Report for the May 10, 2018 appeal hearing as Bates stamp 000011 (following my letter of March 20, 2018), the Application is **omitted** from the record provided with the Chronological Case Report for the July 26, 2018 appeal hearing. I remind you all that this Application is referenced in the Hearing Officer's June 13, 2017 Decision and is noted to have been introduced into the evidentiary hearing record. Please provide me with written confirmation that the subject Application is, in fact, part of the evidentiary record for the July 26, 2018 **appeal** hearing.

Your attention and response is appreciated.

Very truly yours,

LAW OFFICES OF PANOS LAGOS


Panos Lagos, Esq.

PL/ah
Enclosure

cc: Marc Prager (via email and regular mail)

000055

RECEIVED

JUL 23 2018

8/26/97 H. 50.00



APPLICATION FOR REPORT OF RESIDENTIAL BUILDING RECORD (3-R Report)

PERMITS PROGRAM FOR CITY AND COUNTY OF OAKLAND

Office of Planning and Building 1455 Broadway, Suite 11-206

Address of Subject Property: 95 41st; Name of Applicant: Ron Dunn; Building Address of Applicant: 145 Sea Bridge Ct., Alameda, Ca. 94502; Date Completed: 10/1/97; Application Date: 1/2/98; Completed by: S. M. Buggs

REPORT OF RESIDENTIAL BUILDING RECORD. This is NOT to be confused with said residential building inspection with all applicable laws of the City and only use from the version of the date completed shown above. Zone District: R-70; Date of original building construction: 1983; Building type: OTHER; Original OCCUPANCY or USE: 4 Story + Basement garage 10 unit apartment building; Total number of HABITABLE BUILDINGS: 1; Total number of HABITABLE ROOMS: 37; Total number of UNITS or APARTMENTS: 10; Date: October 1, 1997; Signature: S. M. Buggs; Date: 10/1/97; Phone: (510) 521-9721

P. 001

FROM Pacific Coast R. R.

110000

The Law Offices of
Panos Lagos

TEL. (510) 530-4078
FAX (510) 530-4725

5032 WOODMINSTER LANE
OAKLAND, CA 94602

E-MAIL ADDRESS:
PANOS@PANOSLAGOSLAW.COM

May 1, 2017

VIA FAX and MAIL

Barbara M. Cohen, Hearing Officer
City of Oakland
Department of Housing and Community Development
Rent Adjustment Program
P.O. Box 70243
Oakland, CA 94612-2043

Re: File Name: Prager v. Lagos
Property Address: 95 41st Street, #202, Oakland, CA, 94611
Case Number: T16-0683

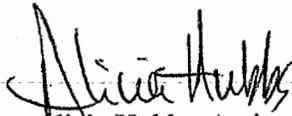
Dear Ms. Cohen:

Enclosed please find a copy of the "First Page", "Second Page" and "Third Page" of the June 20, 1986 Building Certificate of Occupancy, the Third Page being the most legible, as well as a diagram of the subject building.

Your attention is appreciated.

Very truly yours,

LAW OFFICES OF PANOS LAGOS


Alicia Hubbs, Assistant

/ah
Enclosures

cc: Marc Prager (via email and regular mail)

EXHIBIT A,
Page 1 of 5

000057

CITY OF OAKLAND
BUILDING CERTIFICATE OF OCCUPANCY

No. 117-110 HC 117-110 19-55

THIS IS TO CERTIFY that the GROUP 03 TYPE 1-1A STORY building

of 117-110 which is owned

by Parent Corp.

117 Santa Clara Avenue

ONE OF THREE PAGES

Oakland, Ca 94610

in FIRE ZONE _____ USE ZONE _____ OHC Variance No. _____ Dated _____

Building Permit No. 11602 Building Completion Date 1-2-51 has been Inspected

and the following occupancy thereof is hereby authorized:

Occupancies:

Number
Habitable
Rooms

Cellar _____

Basement 1 Car Garage, 1 Living Room, 1 Kitchen, 1 Bath _____

1st Story 2 - 1 Room Units, 1 Living Room, 1 Dining Room, 1 Kitchen, 1 Bath _____

2nd Story 2 Bedrooms, 1 Bath, 1 Car Garage _____

3rd Story 2 - 1 Room Units, 1 Living Room, 1 Dining Room, 1 Kitchen, 1 Bath _____

4th Story 1 Bedroom, 1 Bath _____

Story _____

Add Story as necessary _____

Prior Cert. of Occup. _____ Date _____ TOTAL _____

Prior Cert. of Occup. void on _____ Rental Units (Yes or No) _____

Re-Inspl. Dates _____ Licence (Yes or No) _____

REMARKS: Number 151021 Street
Parking was not provided;

[Signature]
Chief Building Inspector

The Certificate of Occupancy shall not be construed as authority to violate, cancel, alter or set aside any of the provisions or requirements of any laws or ordinances of the City of Oakland nor shall such issuance thereafter prevent requiring corrections of errors or of violations of any applicable law or ordinance of the City of Oakland.

Necessary licenses shall be obtained, as this Certificate does not of itself constitute a license.

EXHIBIT A,
Page 2 of 5

000058

**CITY OF OAKLAND
BUILDING CERTIFICATE OF OCCUPANCY**

No. 3517A 25 High Street (For Multi-Residential Units) June 20, 1986

THIS IS TO CERTIFY that the GROUP RC TYPE 1 1/2 1 1/2 Four STORY building

at 25 - High Street which is owned

by Harold Towler
144 Fulton Street, Oakland RENTED UNIT
 Bayland Co. 94610

in FIRE ZONE _____ USE ZONE _____ OHC Variance No. _____ Dated _____

Building Permit No. _____ Building Completion Date _____ has been inspected

and the following occupancy thereof is hereby authorized:

Occupancies:	Number Habitable Rooms
Cellar _____	
Basement _____	
2 nd Story <u>1 - 2 Bedrm. Living, Living Room, Dining Room, Kitchen, Combo</u>	
3 rd Story <u>1 - 2 Bedrm., Bath</u>	
4 th Story <u>2 - 2 Bedrm. Living, Living Room, Dining Room, Kitchen, Combo</u>	
5 th Story <u>1 - 2 Bedrm., Bath</u>	
Story _____ (CONTINUATION ON NEXT SHEET)	
Add Story _____ as necessary _____	

Prior Cert. of Occup. _____ Date _____ TOTAL _____

Prior Cert. of Occup. void on _____ Rental Units (Yes or No) _____

Re-Inspl. Dates _____ License (Yes or No) _____

[Signature]
 For Chief Building Inspector

The Certificate of Occupancy shall not be construed as authority to violate, cancel, alter or set aside any of the provisions or requirements of any laws or ordinances of the City of Oakland nor shall such issuance thereafter prevent requiring corrections of errors or of violations of any applicable law or ordinance of the City of Oakland.

Necessary licenses shall be obtained, as this Certificate does not of itself constitute a license.

**EXHIBIT A,
Page 3 of 5**

CITY OF OAKLAND BUILDING CERTIFICATE OF OCCUPANCY

No. 19125 59115 1st Unit, Apt. Etna House Date 2/19/80

THIS IS TO CERTIFY that the GROUP B1 TYPE V-1111 (4) Four STORY building

at 95 - 47th Street which is owned

by Harold Jordan

166 Santa Clara Avenue (THIRD PAGE)

Oakland, Ca 94610

In FIRE ZONE _____ USE ZONE _____ OHC Variance No. _____ Dated _____

Building Permit No. _____ Building Completion Date _____ has been Inspected

and the following occupancy thereof is hereby authorized: Number Habitable Rooms

Occupancies: Rooms

Cellar _____

Basement _____

3rd Story 1 - 3 Room Units - Living Room, Dining Room, Kitchen Combo _____

3rd Story 1 Bedroom, Bath 3

4th Story 1 - 4 Room Units - Living Room, Dining Room, Kitchen Combo _____

4th Story 2 Bedrooms, Bath 4

4th Story 1 - 3 Room Units - Living Room, Dining Room, Kitchen Combo _____

Add Story As necessary 1 Bedroom, Bath 3

Prior Cert. of Occup. _____ Date _____ TOTAL 27

Prior Cert. of Occup. void on _____ Rental Units (Yes or No) Yes

Re-Insp. Dates _____ License (Yes or No) Yes

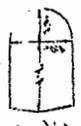
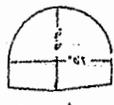
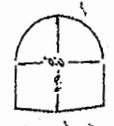
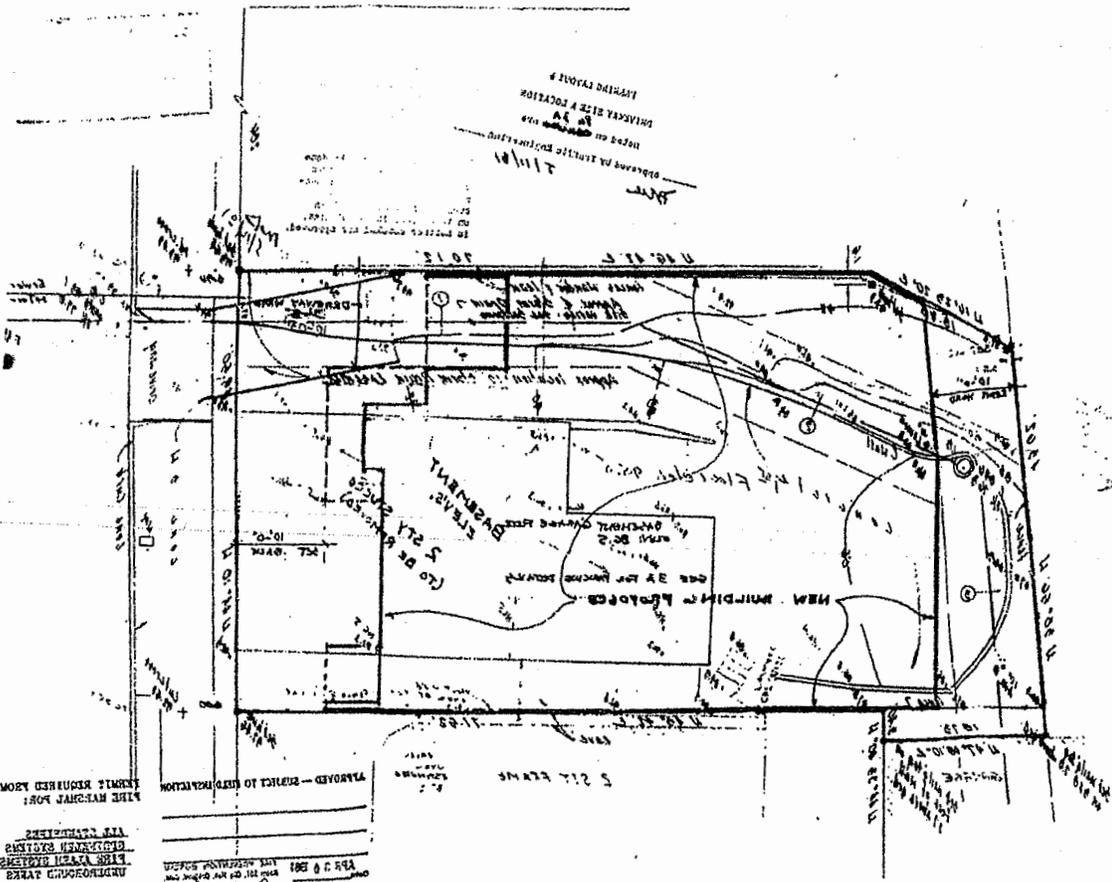

For Chief Building Inspector

The Certificate of Occupancy shall not be construed as authority to violate, cancel, alter or set aside any of the provisions or requirements of any laws or ordinances of the City of Oakland nor shall such issuance thereafter prevent requiring corrections of errors or of violations of any applicable law or ordinance of the City of Oakland.

Necessary licenses shall be obtained, as this Certificate does not of itself constitute a license.

EXHIBIT A,
Page 4 of 5

APPROVED BY THE CITY ENGINEER
DATE: 11/11/11
PROJECT NO. 1100001



SECTION 1
SECTION 2
SECTION 3

ALL DIMENSIONS
SHOWN ARE APPROXIMATE
AND SHOULD BE
CHECKED IN THE
FIELD.

APPROVED BY THE CITY ENGINEER
DATE: 11/11/11
PROJECT NO. 1100001

2011 NOV 11 AM 11:11

THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION. THE CITY ENGINEER'S OFFICE HAS REVIEWED THIS PLAN AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY ENGINEERING DEPARTMENT'S STANDARDS AND SPECIFICATIONS. THE CITY ENGINEER'S OFFICE HAS REVIEWED THIS PLAN AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE CITY ENGINEERING DEPARTMENT'S STANDARDS AND SPECIFICATIONS.

All dimensions shown are approximate and should be checked in the field.

NO. 1100001
PROJECT NO. 1100001
DATE: 11/11/11



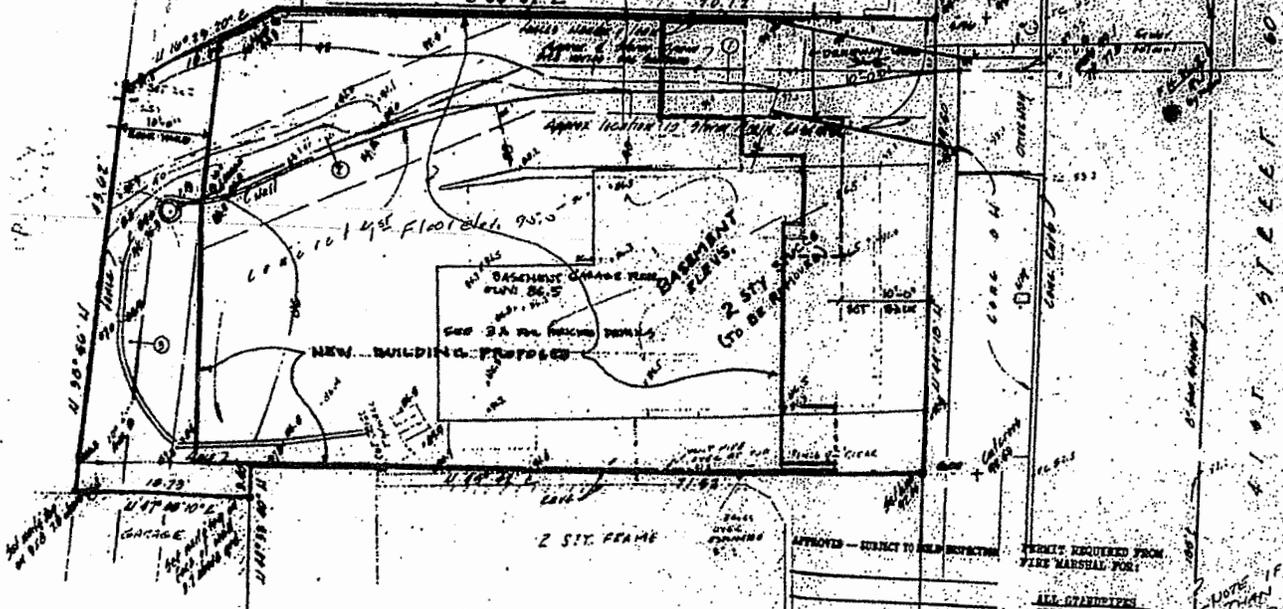
PIEDMONT AVENUE

PARKING LAYOUT & DRIVEWAY SITE & LOCATION No. 24 dated on 5/11/81

approved by Traffic Engineering Dept. 5/11/81

NOTICE: No work shall be done in the indicated street area without having obtained necessary permits, approvals or curb permits. Work so shown on this plan, in street area, is neither checked nor approved.

OWNER AND DESIGNER: HOLLEY JAMES CO. 1402 E. 4th St. OAKLAND, CALIF.



APPROVED - SUBJECT TO FIELD INSPECTION PERMITS REQUIRED FROM FIRE MARSHAL FOR:

- ALL STAIRWAYS
- SURVEILLANCE SYSTEMS
- FIRE ALARM SYSTEMS
- UNDERGROUND PARKING

NOTE: IF MORE THAN 100 FEET FROM NEAREST STATION

APR 30 1981 FIRE PREVENTION BUREAU

Signature: J. [unclear]

Submittal dated 4-29-81 by Holley James Co.

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY SUPERVISION IN COMPLIANCE WITH THE REQUIREMENTS OF THE LAND SURVEYORS ACT AT THE REQUEST OF HOLLEY JAMES CO. I HEREBY CERTIFY THAT THE SAME COMPLY WITH THE LAWS AND LOCAL ORDINANCES THAT HAVE BEEN COMPLIED WITH IN THIS STATE; THAT THE PARCELS DELINEATED UPON THIS

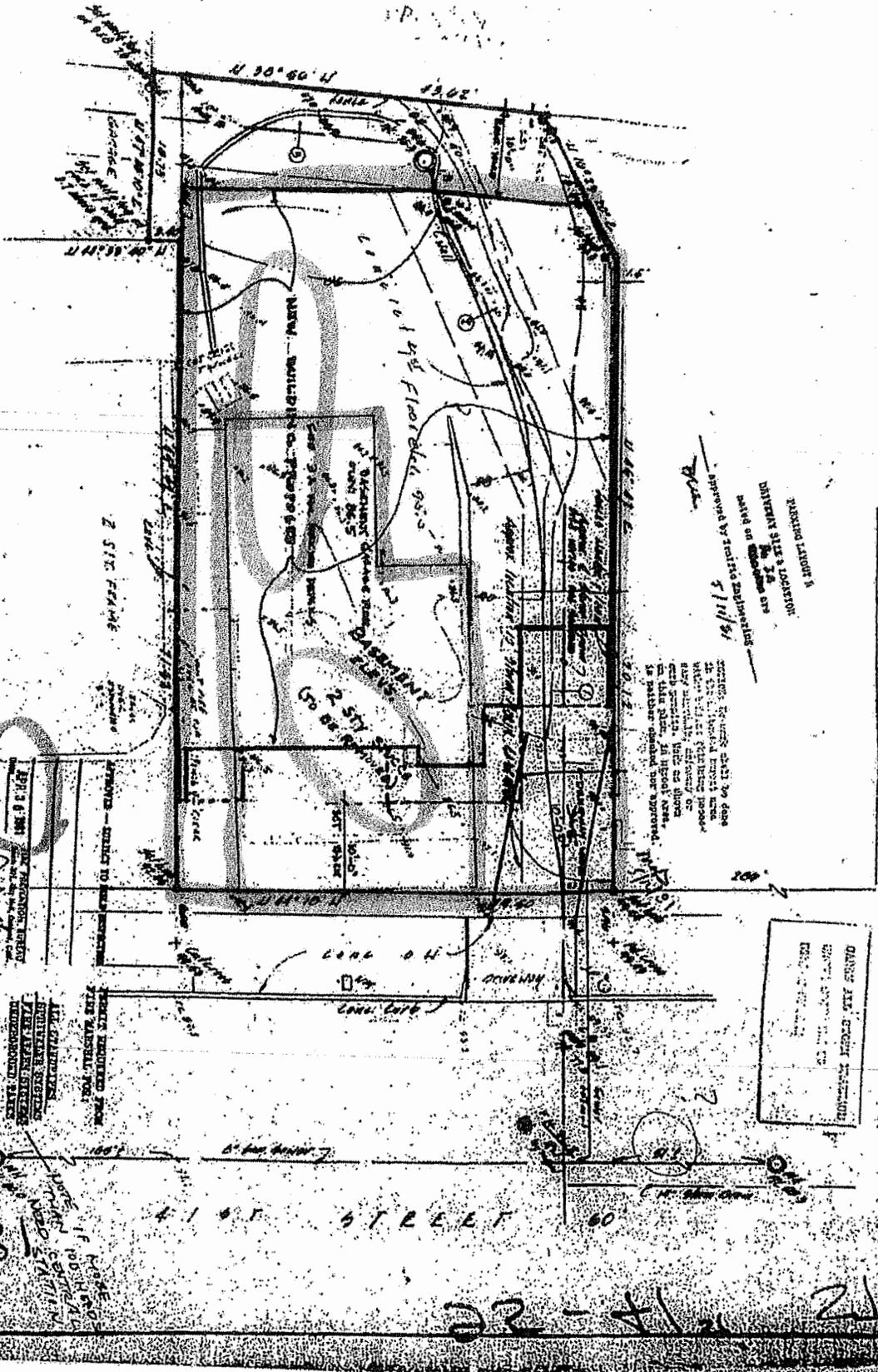
City of Oakland, California



PROJECT: 1402 E. 4th St. STEEL OAKLAND, CALIF. FOR: HOLLEY JAMES, INC.

23-4-21

copy City of Oakland plan



PIEDMONT AVENUE

APPROVED BY ARCHITECT
 APPROVED BY CIVIL ENGINEER
 APPROVED BY ELECTRICAL ENGINEER

SECTION: 2-1/2" x 11" TO 1/8" SCALE
 IN 1/8" SCALE. ALL DIMENSIONS ARE IN FEET AND INCHES. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

DATE: 11/1/51
 DRAWN BY: J. W. BROWN
 CHECKED BY: J. W. BROWN

THIS PLAN IS A REVISION OF THE ORIGINAL PLAN AND IS SUBJECT TO THE SAME CONDITIONS AND RESTRICTIONS AS THE ORIGINAL PLAN. THE ORIGINAL PLAN IS ON FILE IN THE OFFICE OF THE CITY ENGINEER. THE ORIGINAL PLAN IS ON FILE IN THE OFFICE OF THE CITY ENGINEER. THE ORIGINAL PLAN IS ON FILE IN THE OFFICE OF THE CITY ENGINEER.

APPROVED BY ARCHITECT
 APPROVED BY CIVIL ENGINEER
 APPROVED BY ELECTRICAL ENGINEER

CHRONOLOGICAL CASE REPORT

Case Nos.: L16-0094
Case Name: Wiebe v. Tenants
Property Address: 3515 Brighton Ave, Oakland, CA
Parties: William Wiebe (Property Owner)
No Appearance by Tenants

OWNER APPEAL:

<u>Activity</u>	<u>Date</u>
Landlord Petition filed	December 19, 2016
No Tenant Responses filed	
Hearing Decision issued	June 30, 2017
Corrected Hearing Decision issued	July 5, 2017
Owner Appeal filed	July 25, 2017
Board Appeal Decision issued	May 30, 2018
Order setting new Appeal Hearing	July 17, 2018

416-0094 KCB DC

CITY OF OAKLAND RENT ADJUSTMENT PROGRAM 250 Frank H. Ogawa Plaza, Suite 5313 Oakland, CA 94612 (510) 238-3721	For date stamp. RECEIVED CITY OF OAKLAND RENT ARBITRATION PROGRAM 2016 DEC 19 PM 3:44 <u>LANDLORD PETITION</u> <u>FOR CERTIFICATE OF EXEMPTION</u> (OMC §8.22.030.B)
---	--

Please Fill Out This Form Completely As You Can. Failure to provide needed information may result in your petition being rejected or delayed. Attach to this petition copies of the documents that prove your claim. Before completing this petition, please read the Rent Adjustment Ordinance, section 8.22.030. A hearing is required in all cases even if uncontested or irrefutable.

Section 1. Basic Information

Your Name WILLIAM WIEBF		Complete Address (with zip code)	Telephone Day: 415 994-3647
Your Representative's Name		Complete Address (with zip code)	Telephone Day:
Property Address 3515 Brighton Ave Oakland CA 94602			Total number of units in bldg or parcel. 3
Type of units (circle one)	Single Family Residence (SFR)	Condominium	<u>Apartment</u> or Room
If an SFR or condominium, can the unit be sold and deeded separately from all other units on the property?		Yes	No
Assessor's Parcel No. 23-488-14			

Section 2. Tenants. You must attach a list of the names and addresses, with unit numbers, of all tenants residing in the unit/building you are claiming is exempt. **NO Tenants. Currently vacant for 2+ years**

Section 3. Claim(s) of Exemption: A Certificate of Exemption may be granted only for dwelling units that are permanently exempt from the Rent Adjustment Ordinance.

New Construction: This may apply to individual units. The unit was newly constructed and a certification of occupancy was issued for it on or after January 1, 1983.

Substantial Rehabilitation: This applies only to entire buildings. An owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project. The average basic cost for new construction is determined using tables issued by the Chief Building Inspector applicable for the time period when the Substantial Rehabilitation was completed.

Single-Family or Condominium (Costa-Hawkins): Applies to Single Family Residences and condominiums only. If claiming exemption under the Costa-Hawkins Rental Housing Act (Civ. C. §1954.50, et seq.), please answer the following questions on a separate sheet:

1. Did the prior tenant leave after being given a notice to quit (Civil Code Section 1946)?
2. Did the prior tenant leave after being a notice of rent increase under Civil Code Section 827?
3. Was the prior tenant evicted for cause?
4. Are there any outstanding violations of building, housing, fire, or safety codes in the unit or building?
5. Is the unit a single family dwelling or condominium that can be sold separately?
6. Did the current 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?
8. When did the tenant move into the unit?

I (We) petition for exemption on the following grounds (Check all that apply):

Section 4.
must sign this

<input type="checkbox"/>	New Construction
<input checked="" type="checkbox"/>	Substantial Rehabilitation
<input type="checkbox"/>	Single Family Residence or Condominium (Costa-Hawkins)

Verification Each petitioner section.

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



Owner's Signature

12/19/2016

Date

Owner's Signature

Date

Important Information

Burden of Proof The burden of proving and producing evidence for the exemption is on the Owner. A Certificate of Exemption is a final determination of exemption absent fraud or mistake.

File Review Your tenant(s) will be given the opportunity to file a response to this petition within 35 days of notification by the Rent Adjustment Program. You will be sent a copy of the tenant's Response. Copies of attachments to the Response form will not be sent to you. However, you may review any attachments in the Rent Program Office. Files are available for review by appointment only. For an appointment to review a file, call (510) 238-3721. Please allow six weeks from the date of filing for notification processing and expiration of the tenant's response time before scheduling a file review.

Will provide supplemental documents of expenses prior to hearing.

William R. Wiebe
Case No. L16-0094
Property Location: 3515 Brighton Ave, Oakland CA

RECEIVED

JUN 13 2018

RENT ADJUSTMENT PROGRAM
OAKLAND

Dear Ms. Kong-Brown, Esq.

Please accept this declaration as a request for a rescheduled HRRRB hearing date in case L16-0094. I did not receive notice of the April 26, 2018 HRRRB Hearing. I first learned of the hearing date on the evening of May 24, 2018, when a neighbor (at 285 Connecticut St, whom I had never previously met) dropped off the Board materials that had been given to him by the post office as part of his "vacation hold." That next morning, I immediately contacted the Rent Adjustment Program (RAP), and explained that I had not received notice of the Hearing. I was instructed to wait for a letter from the Board and then to write this letter to you detailing what happened and requesting a rescheduled hearing. I received the RAP letter dismissing the appeal on June 4th (postmarked May 29th).

In support of this request, I declare under penalty of perjury that the following is true and correct:

- I never received any notice of the April 26th hearing until May 24th, as noted above. In support of this request, I also obtained a sworn declarations from my neighbor, Anthony Andrade and from my partner, Laurel Beeler, as well as this sworn declaration from me.
- Prior to this issue, I have timey and diligently pursued my Appeal. As you may remember, I appeared before you and an HRRB Panel in March 2018. At that hearing, the panel (on its own motion) decided to reschedule the hearing before the full HRRRB (the April 26th Hearing for which I received no notice).
- No parties to the petition would be prejudiced by rescheduling. No tenants have contested the petition, nor did any tenant appear before the Hearing Officer, or at the March 2018 HRRRB Panel hearing, or at the hearing April 26, 2018. (All tenants have been fully noticed in advance for each of those hearing).
- As evidenced by the HRRRB's Panel decision to have the Appeal heard by the full Board, my Appeal raises important issues warranting a full hearing on the merits (as opposed to a procedural dismissal). I have spent literally 100s of hours both preparing for the petition before the Hearing Officer and on researching and preparing materials in support of my Appeal. Prior to this issue, I have complied with all filing deadlines and requested appearances in support of my petition. This is my first experience filing a petition (and the 3-unit building at 3515 Brighton Ave is the only rental building I own). I have tried to fully comply with all requirements and would appreciate the opportunity for the HRRRB to hear my Appeal on the merits.
- I am traveling out of the country from June 11th until July 18th but am otherwise available.

Than you in advance for your help in this matter. Signed in the City and County of San Francisco.



William R. Wiebe
415.994.3647
278 Connecticut St. SF, CA 94107

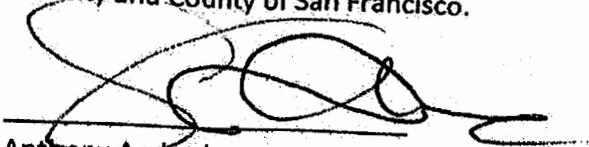
6/9/2018
Date

000067

To Whom it May Concern,

On or about the evening of May 24 2018, I dropped off mail addressed and belonging to a neighbor, Mr. William Wiebe, at 278 Connecticut Street in San Francisco. The mail had been mis-delivered to me when I picked up my mail from the US Post Office as part of an extended "vacation hold" I had in place. I live across the street from Mr. Wiebe at 285 Connecticut St., but had not previously met him.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Signed in the City and County of San Francisco.



Anthony Andrade
285 Connecticut St. SF, CA 94107

6/7/2018
Date

off

To Whom it May Concern,

I declare under penalty of perjury that the following is true and correct. At all relevant times (March & April 2018), I lived (and continue to live) at 278 Connecticut St in San Francisco, a single family home, with my partner, William Wiebe. As part of our typical routine, I retrieve the mail from our mailbox and sort through the correspondences dividing the mail between correspondences directed to me or to Mr. Wiebe. To the best of my knowledge and belief, during the months of March and April 2018, Mr. Wiebe received no mail or other correspondences from the Oakland RAP or HRRRB. During this period, I was very aware of Mr. Wiebe's petition (L16-0094) and appeal to the HRRRB. I also knew that at his March 2018 hearing, after his oral presentation to the Board, the 3-judge HRRRB Panel had decided to reschedule the hearing so that the entire HRRRB could consider the merits of his appeal. As such, I was particularly attuned to any letters from the RAP during this period (particularly as we had an overseas trip scheduled for June/July, and I was concerned that this additional hearing requested by the HRRRB might conflict with our trip). Again, I did not see any RAP/HRRRB correspondences at any during this period (i.e., after the initial March 2018 hearing and the hearing date of April 26, 2018).

I first became aware of the April 26th HRRRB hearing date on or about the evening of May 24 2018, when a neighbor knocked on our door to drop off mail addressed and belonging to Mr. Wiebe. The neighbor explained that the mail had been mis-delivered to him by the US Post Office when he picked up his own mail at the local post office from extended "vacation hold. The neighbor, Anthony Andrade, stated that he lived across the street from us at 285 Connecticut St., but I had not previously met him. Upon opening the mail, Mr. Wiebe shared it with me noting that the hearing had been scheduled for April 26, 2018.

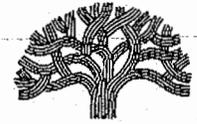
Signed in the City and County of San Francisco.



Ms. Laurel D. Beeler
278 Connecticut St. SF, CA 94107

June 9, 2018
Date

000069



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

HEARING DECISION

CASE NUMBER: L16-0094, *Wiebe v. Tenants*
PROPERTY ADDRESS: 3515 Brighton Ave, Oakland, CA
DATES OF HEARING: April 10, 2017; June 6, 2017
DATE OF DECISION: June 30, 2017
APPEARANCES: William Wiebe, Owner
No appearance by any tenant

SUMMARY OF DECISION

The owner's petition is denied. The units at 3515 Brighton Ave are not exempt from the Oakland Rent Ordinance.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a *Certificate of Exemption* on a 3-unit residential building on the ground that it has been substantially rehabilitated.

No tenant has filed a response to the owner petition.¹

///

///

¹ According to the documents filed with the *Owner Petition* none of the units were occupied at the time the petition was filed. A copy of the *Owner Petition* was sent to all the units. At the Hearing held on April 10, 2017, the owner testified that the units were now occupied. A new copy of the *Owner Petition* was sent to all the units, in each tenant's name. None of the tenants filed a *Tenant Response* to the owner petition and no tenants appeared at the Hearing.

000070

THE ISSUE

Are the units exempt from the Ordinance because they were substantially rehabilitated?

EVIDENCE

The owner testified that he purchased the subject property in either 1999 or 2000. The property consists of a 3 unit apartment building of wood frame construction. The owner produced a *Property Characteristics* document from the *Alameda County Assessor's Office* showing that the square footage of the building in 2016 was 2,848 square feet.² The owner further testified that an additional 84 square feet were added to the building. He produced permits from the *City of Oakland* which document this addition.³ The owner testified that the total square footage after the work was complete was 2,932 square feet.

The owner testified that there had been a fire in one unit in the building in 2015. The owner produced a permit which was opened on October 15, 2015, which states "fire damage repair for triplex including creation of small storage rooms in basement, enlarge bathroom at 1st floor, reconfigure non-load bearing walls at 1st and 2nd floors per plans. Replace finishes at all levels."⁴ The job value was listed as \$80,000. An additional permit was taken out on September 28, 2015, to "construct new addition and deck at Bedroom 2 at upper rear unit." The job value for this permit was listed as \$10,000.⁵ Both of the permits are listed as "final OK" on January 19, 2017.

The owner testified that much of the work was paid for by fire insurance; but not all the expenses because he did some upgrades that were not covered. The owner did not produce the documents which showed his reimbursement from the fire insurance company.

The owner testified that while he had a general contractor, he did a lot of the work himself. None of his work is billed for in the documents provided.

The owner testified that the interior was demolished; the lathe and plaster ceilings were removed; the kitchen counters and appliances were removed; the bath fixtures were removed; all the flooring in the kitchens were removed; approximately 30% of the hardwood floors were removed and replaced and the rest were refinished; asbestos abatement was performed; galvanized pipes were replaced with cooper; all old gas lines were removed and replaced with new; all the knob and tube electrical was removed and replaced with romex; new lighting was added; subpanels and breakers for each units was added; new smoke alarms and CO2 detectors were hardwired; new CAT5 and HDMI cables were added in the units; new interior and exterior doors and jambs were

² Exhibit 34, page 5. This Exhibit and all other exhibits referred to in this Hearing Decision, were admitted into evidence.

³ Exhibit 34, pp 1-4

⁴ Exhibit 34, p. 1.

⁵ Exhibit 34, p. 3

added; new energy efficient windows were installed; fire rated sheetrock was added; the furnace was replaced; three new high efficiency water heaters were installed; all three bathrooms were renovated, the kitchens were renovated; new laundry rooms were added in two of the units; the interior and exterior were patched and painted; thermal insulation was added; new window treatments and rods were added; and new r/c channels were added as a sound attenuator. To the exterior the owner also did stucco repairs and added new stucco for the addition; painted; removed and replaced the existing roof; added gutters and vents; added a custom steel rail balcony; removed a dead tree; did additional landscaping; installed a slate walkway, installed new gates and repaired the cracked and damaged driveway.

The owner's documentation separated the work by category. The owner testified that while he did his best to separate the invoices into separate categories, there were times when he shopped at *Home Depot*, or other stores, where he would purchase things in more than one category. He tried to put each invoice into the category which most closely aligned with the purchases made.

Throughout this Hearing Decision, and the accompanying spreadsheet, all receipts are rounded to the nearest dollar.

The owner was informed in the first Hearing that he needed invoices and proof of payment for all expenses and was given the opportunity to provide proof of payment or an invoice where he had not done so already.

At a variety of times throughout the Hearing, receipts the owner had produced included charges for water, food, candy and other nourishment. The owner testified that these charges were all for food and water he was providing for his workers and that for a period of time that they were doing work there, there was no water available on site.

Doors:

The owner produced a packet of expenses related to the work done to replace many of the doors in the building. See the attached spreadsheet which lists all the costs submitted. The total submitted costs are \$4,669.

Demo and Dump Fees:

The owner testified that during the demolition phase of the work on the unit, many trips were taken to the dump. He produced a *Bank of America* account activity detail showing a payment to Pablo Filipe for \$169.⁶ No invoice was provided.

He produced receipts from *Smart Demolition* showing cash payments of \$55, \$50, \$70, 65, \$60, \$50, \$95, \$50, \$60, \$90, \$80 and \$100.⁷ He testified that he was the one who normally drove to the dump, would pay cash, and would get a receipt.

⁶ Exhibit 3, page 3

⁷ Exhibit 3, pages 1-5

The owner further testified that he hired *Restoration Management Company* to do asbestos remediation. The invoice, for \$28,964.61 was provided.⁸ No proof of payment was provided.

The owner provided an invoice from *Phoenix Environmental Consulting* for \$510.⁹ Proof of payment was provided.¹⁰

The owner provided invoices and proofs of payment from *Oakland Landscape Supply* for \$349, \$392, and 318 which at the first hearing he testified were for dump fees.¹¹ There were additional invoices from *Oakland Landscape Supply* totaling \$295 and \$269 for which the owner did not have separate proof of payment. The owner testified that when you drop things off at the dump, you cannot leave without making a payment and each invoices lists that the amount was "received".

At the second hearing, the owner was asked to identify those documents that he had produced which were related to landscaping. He testified that the receipts from *Oakland Landscape Supply* were for drainage rock related used on the exterior of the premises, and not in the building.

The total invoices submitted by the owner for the dump and demolition category was \$32,013. The total for which he had proof of payment was \$3,218, because he did not have proof of payment for the asbestos remediation. Of that amount, \$1,793 was for the purchase of the drainage rock.

Landscape and Fencing: The owner testified that there was landscaping work performed around the unit. He had a fence installed on the property, purchased retaining wall blocks, installed stone walkways and patios and did outside drainage work.

The owner produced invoices and proof of payment for the landscaping category totaling \$1,536.¹² Within these charges, there was one charge covering the cost of water.¹³ Within these charges, the owner testified that there were two charges within the *Home Depot* receipts that included charges for interior baseboards. Two receipts dated 12/5/16 include a charge for baseboards totaling \$132 and a second charge for \$66. The baseboard costs, with tax, are \$144 and \$72.

Paint: The owner testified that he purchased items at a variety of locations for all the painting supplies he needed for the project. (See Exhibit 5.) The invoices he produced totaled \$4,076. He produced proof of payment in this category totaling \$4,126. The difference between the proof of payment and the invoice total relate to the fact that the

⁸ Exhibit 3, page 6

⁹ Exhibit 3, page 7

¹⁰ Exhibit 3, page 3

¹¹ Exhibit 3, page 8-10

¹² Exhibit 4, pp. 1-11

¹³ See Exhibit 4, p. 9.

receipts he provided from the *One Dollar Only* store, do not list the supplies purchased, they just amount to a proof of payment.

The owner testified that the paint costs included costs for painting the interior, exterior, driveway and fence.

The spreadsheet also documents the receipts that contain purchases of water, candy and other food.

The owner produced several receipts which included the cost of tools. These are listed on the spreadsheet. The owner testified that in certain instances tools got used up in the course of the construction or that tools broke which needed to be replaced. He further testified that he still owned the hedge trimmer, purchased on June 21, 2016 from *Home Depot*. This hedge trimmer is located at the apartment complex for use there.

One of the receipts, dated 11/21/16, included a receipt for 1 pint of Behr epoxy, which the owner testified was for use on the driveway.¹⁴ This cost was \$32.98, plus tax equals \$36.

Miscellaneous: The owner produced two packages of receipts labelled *Miscellaneous I and II*. These receipts include a receipt from *Ikea* for bar stools for the lower unit.¹⁵ He also included receipts for other furniture and décor. These are listed on the spreadsheet.

The owner produced a receipt from *Harbor Freight Tools* for \$73. The date on this receipt was unreadable. The receipt included a charge for a oscillating power tool and other tools.¹⁶ There was a charge for gloves on this receipt, that the owner testified is used by the workers on the job.

Several of these receipts include charges for water, beverages or food. They are listed on the spreadsheet.

Additionally, a variety of these receipts include the cost of tools. In addition to the oscillating multi-power tool, mentioned above, the owner also purchased a belt sander, reciprocal blades, safety glasses, sanding belts, hammers, chisels, a miter saw guide, pry bar sets, 5 amp electrical cutout, dremel, an oil lube device, gooseneck wrecking, a bottle jack, and many others. They are listed on the spreadsheet.

Additionally, in this category, the owner put in a receipt from *TLC Glass* for a new windshield he needed after his car windshield was broken when he was carrying supplies.¹⁷ The owner also included a parking ticket which he testified he received when he was at the City of Oakland permit counter as well as parking charges for times he had to pay for parking when visiting the permit counter.¹⁸

¹⁴ Ex. 5, p. 9

¹⁵ Ex. 6, p. 5

¹⁶ Ex. 6, p. 12

¹⁷ Ex. 7, p. 14

¹⁸ Ex. 7, pp. 26 and Ex. 6, p. 9 (He also did not produce proof of payment of the parking ticket.)

Several of the receipts the owner produced in this category were unreadable. They are listed on the spreadsheet.

Additionally, in this category there were a few charges that relate to landscaping. The owner testified that the sod was used to fill in the dirt behind the retaining walls. These charges are listed on the spreadsheet.

Additionally, in this category, there were two charges for car keys. These are listed on the spreadsheet.

The owner's invoice total in these categories was \$4,793. He had proof of payment of \$4,898.

Insulation: The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. (See Exhibit 8). The primary charge was a \$4,677 invoice from *SDI Insulation*. The owner testified that this charge was for the actual insulation. He did not have proof of payment of this invoice. The proof of payment in this category totaled \$276.

Tile: The owner produced invoices for tile (see Exhibit 9.) Some of these charges included charges for water or tools. They are listed on the spreadsheet.

The owner produced invoices in this category totaling \$4,014 and proof of payment totaling \$3,835. One invoice from *Home Depot*, for \$179 did not have a proof of payment and an additional receipt was unreadable. These are listed on the spreadsheet.

Curtains and Rods: The owner produced a variety of documents from *Target* regarding the purchase of curtains and curtain rods from the website. (See Exhibit 10). These documents are order summaries and there are no proof of payment. There is one receipt from *Target* showing a purchase at the store for \$54. (See spreadsheet.)

Plumbing: The owner produced multiple receipts for plumbing, which included the installation of all new copper pipes. (See Exhibit 11.) The invoice and proof of payments total \$2,958. This amount included purchases of tools (hole saws and a bernzomatic) as listed on the attached spreadsheet. The owner testified that the bernzomatic is a tool that is used for melting solder to connect copper pipes but that some portion of the expense is for a benzene gas that gets used up as one employs the tool.

Hot Water: The owner produced invoices and proof of payment for the costs associated with providing hot water in the units at a cost of \$1,968. This includes the cost of the hot water heaters. (Exhibit 12).

Trim: The owner produced invoices and proof of payment of \$1,601 in this category. The owner testified that these were for costs associated with the purchase of baseboards in the units. (Exhibit 13). Two receipts included charges for tools (see spreadsheet.) The owner testified that one of the tools, a brad nailer, is a pneumatic tool for nailing.

Electrical: The owner produced invoices totaling \$7,181 and proof of payment of \$10,334 in this category. (See Exhibit 14.) The predominant difference between the two totals, comes from multiple payments made to Bill Singh for work that he did on the unit. There were no invoices from Mr. Singh. The owner testified that Bill Singh is a licensed electrician who was hired to work on the project to hookup the electrical to the boxes.

The owner had produced an invoice from *Emperor Supply* that was impossible to read. The invoice was dated April 1, 2016.¹⁹ The owner had the original receipt at the Hearing and was able to testify that the items purchased were for electrical and plumbing supplies. The owner testified that the invoice charge of \$201.53 differed from the receipt total of \$170.95 because he had been issued a \$30.58 credit for a return.

In this category the owner produced an invoice dated January 20, 2015, from *Miles Construction* for electrical work performed on the premises. No proof of payment was provided.

Some of the receipts in this category contained tools. (See spreadsheet.) The owner testified that the hammer drill listed on the receipt from *Bayshore Builders Supply* dated July 23, 2016, was for a drill bit, which gets used up in the course of the construction. (See Exhibit 14, p. 26)

Appliances: The owner testified that he purchased new appliances for each unit. The owner produced two receipts in this category. One receipt, from *Best Buy*, lists multiple appliances purchased. Some parts of the document are unreadable. The receipt from *Best Buy* shows the costs for the refrigerators, ranges, microwaves, and washer and dryers for each unit. (See Exhibit 15).

The readable invoice amount for the appliances was \$5,927 and proof of payment was provided showing a total cost of \$6,292. Additionally, the owner produced a receipt from *Home Depot* for the purchase of a dishwasher for \$278. Proof of payment was provided. He also produced receipts from *Lowe's* which document the purchase of another dishwasher and a washer/dryer unit.

Stucco: The owner testified that he hired *Gerbert Lopez* to do stucco work on the building. There is an invoice from Mr. Lopez for \$8,500. The owner testified that original scope of work was to just do exterior stucco on the three units but the scope of work increased on the job because *Mr. Lopez* also did the stucco work on the addition and because when the work progressed, it turned out to be far more stucco damage than expected. There is proof of payment of \$19,500. (See Exhibit 16).

HVAC: The owner produced invoices and proof of payment totaling \$1,520 for heating supplies. (See Exhibit 17). The owner testified that these charges were for the purchases of the supplies to do the duct work for the heating system.

¹⁹ Exhibit 14, p. 19

Lumber: The owner testified that lumber was purchased for new joists, studs, border trim and framing, as well as wainscoting. He produced many invoices, totaling \$9,085, for costs associated with the purchase of lumber for the project. (See Exhibit 18). He produced proof of payment of \$9,475. The difference between the two totals is caused by the lack of an invoice from *Golden State Lumber* for a \$390 charge.

Within this packet there were charges for water and for tools. (See spreadsheet.)

Labor: The owner produced copies of checks paid to Jesus Martinez, Pablo Felipe, Val Pizzini and Geber Lopez. He produced no invoices for any of these workers and testified that he did not have any invoices. He provided proof of payment, showing payments made of \$19,451. (See exhibit 19).

One of the payments was made to the laborer Pablo Felipe, on July 17, 2015. This is several months before the original permit was taken out (in September of 2015—see Permit section.) This payment to Pablo Felipe was documented by a copy of an online payment receipt from the owners *Bank of America* account, showing that on July 17, 2015, funds were withdrawn (\$2,600) from the bank account and send to Mr. Felipe.

One of the checks provided by the owner to Jesus Martinez stated that it was a loan. The owner testified that it was a loan advance for work that had not yet been done but was later done by Mr. Martinez. Additionally, one of the documents provided by the owner was a debit receipt from his bank, showing that he took money out of the bank that day. (Exhibit 19, p. 15). The owner testified that he gave this money to Jesus Martinez, one of the laborers.

The owner also provided a receipt, dated November 16, 2015, which states “received from Pablo Felipe” the sum of \$450.²⁰

The owner was given the opportunity to provide affidavits from these laborers; none were provided.

Gas: The owner testified that these costs related to the new gas pipes that were installed in the building. He produced copies of invoices for this category of \$581 and proof of payment of \$754. (See exhibit 19a). The owner did not have an invoice for a \$173 charge to *American Emperor*.

Bath: The owner produced copies of invoices for supplies purchased for the bathrooms. (See exhibit 20). The invoices and proof of payment total \$1,153. One receipt was unreadable.²¹

Kitchen/Ironwork: The owner produced copies of invoices and proof of payment for work done in the kitchen and the ironwork done on the property. (See Exhibit 21.) He produced a copy of a check to *Xiong Xin Liu* in the amount of \$1,650, who was hired to

²⁰ It is possible that this says \$4,450—the receipt is ambiguous.

²¹ Exhibit 20, p. 2

install the countertops. No invoice was provided. He also produced an invoice from *Iron Works* for \$550, for which there was no proof of payment.²² This invoice says "balance due" \$550. The owner testified that the invoice has the word "paid" written on it. He does not remember whether he paid the person cash or check.

The owner produced two invoices from *East Star Building Supply*, one for \$1,753 and one for \$88, which state they were unpaid. No proof of payment was provided.

The total for the invoices provided was \$2,640 and the proof of payment established payments of \$1,900.

Windows: The owner testified that he installed mostly new windows on the property. He provided invoices totaling \$2,970 for the purchase of windows. He produced proof of payment of \$3,180. (See Exhibit 22.) The difference in these two figures is based on the fact that the owner did not have an invoice from *Sherwin Williams* for three charges made on his credit card.

Travel/Tolls: The owner testified that he travelled back and forth from his home in San Francisco to the worksite as well as multiple trips to *Home Depot*, *Lowe's* and other vendors to buy items needed for the project. He claimed expenses of \$1,168 for bridge tolls (for which he provided his *Fastrak* documentation) and \$1,610 for driving expenses at a cost of 57 cents a mile. (See Exhibit 23).

Sheetrock: The owner produced copies of checks made out to *Jorge Martinez* for sheetrock work totaling \$16,500. He testified that Mr. Martinez did the sheetrock work in all the units which included the cost of the bulk of the supplies for this job. The owner produced a screenshot from a text message exchange he had with Mr. Martinez regarding the work. The text message says:

"sorry I didn't get to you earlier Total drywall and rc channel Smooth level 4 and patch on existing drywall 3 units, \$21,000."²³

Hardwood Floors: The owner testified that he hired *Specialty Hardwood* to refinish the hardwood floors in the units. He produced proof of payment to *Specialty Hardwood* totaling \$7,739. No invoice was provided. (See Exhibit 25).

Construction Insurance: The owner produced an invoice from *Lexington Insurance* for construction insurance he purchased to cover the property during the course of the construction. The invoice from the insurance company was for \$7,249. No proof of payment was provided. (See Exhibit 26). The owner testified that this was the cost for one year, and that the building was under construction for almost a two year period. No additional invoice was provided.

²² Exhibit 21, p. 6

²³ Exhibit 24, p. 1

Permit Fees: The owner produced documents from the *City of Oakland* which document the permits he received (See Exhibits 27 and 34.) As noted above, the job values were listed as \$80,000 on one permit, and \$10,000 on the second permit. The costs, for which the owner provided both an invoice and proof of payment, was \$6,435.

The owner also produced a receipt from the *City of Oakland Business Tax* for the \$30 charge for his business tax in 2016.²⁴ He testified he was required to keep his license, even though he was not renting during the course of construction.

General Contractor: The owner testified that he hired *JTM Development* as a general contractor on the job. He produced invoices totaling \$52,449 and proof of payments of \$78,592. (Exhibit 28) The proof of payment was a combination of checks made directly to *JTM* as well as a copy of a *Bank of America* website page listing payments made to *JTM* through the owner's banking account.²⁵

Fireplace Servicing: The owner testified that there are fireplaces in all of the units. The charges in this category were for someone to come out, clean them up and inspect them to make sure that they had not rusted. The owner produced two invoices (one for \$748.35 and one for \$252.95.) The invoices state that they were paid by "Visa." (See Exhibit 29.)

Online Purchases: The owner produced many pages of receipts from online purchases he made for supplies for this project. The attached spreadsheet lists those purchases. (Exhibit 30).

The owner listed in this exhibit several purchases for which he paid cash and did not have any kind of documentation. He testified he purchased two aluminum ladders at a cost of \$425, which he paid in cash. (See Exhibit 30, page 1.) There is no receipt, no invoice and no copy of a webpage reference to this purchase. These ladders are on the premises of the Brighton apartments and are used to access the roof.

The owner testified that he purchased foam kits from *Craigslist* to spray foam for insulation. While he produced a picture of the product from the website, there is no proof of payment or invoice. The owner also produced many images from the *Ebay* website which show items he testified were purchased for this property. Many of these images do not show proof of payment.

The owner produced receipts from *Amazon* for the following purchases: bulbs, shop towels, outlets, faucets; door hardware, laptop cord and screw remover, toilet plunger, door hardware, electric hardware, kitchen hardware, tampons, curtains, timer/hose, garden hose, soaker hose, water timer, hdmi cable, cleaners, plumbing, cloths and a microplane, bulbs, dustpan and cleaners, household supplies, stools, humidity monitor, and a moisture meter. These are all listed on the spreadsheet. Many of these receipts are billed to Lauren Beeler, who the owner testified is his partner.

²⁴ Exhibit 27, p. 1

²⁵ See Exhibit 28, p. 1

Many of the items purchased from *Amazon* were purchased before the first permit was taken out, which was in September of 2015. The owner produced receipts from purchases on *Amazon* going back to September of 2014.

In this category, the owner made claims for expenses totaling \$2,724 and had proof of payment totaling \$1,808.

Toilet Rental: The owner testified that until they were able to set up plumbing inside the units, he was required to rent toilets for his workers. He produced a bill for \$261.66 from *United Site Services*. He also produced an email from a man named Jose Corona who stated that the charge for services would be \$684.59. No proof of payment was provided. (See Exhibit 31).

Lighting: The owner produced several receipts related to lighting. He produced a *Paypal* receipt showing a payment made to Andres Orphanopoulos for \$90. He testified this was for a light fixture. He also produced an order confirmation from *Houzz* which shows the purchase of 2 light fixtures totaling \$53.98, paid for by an American Express card. Additionally, *Home Depot* receipts were provided showing purchases of light fixtures and mini-blinds. (See Exhibit 32).

The owner produced invoices totaling \$653 in this category and proof of payment of \$743. (The difference in these figures is the \$90 *Paypal* receipt to Mr. Orphanopoulos.)

Miscellaneous III: The owner produced additional receipts between the first two hearings showing additional purchases that had not been provided earlier. He produced a receipt from *Ikea* showing a charge of \$96.45 which included a charge for a toilet brush cleaner and lighting. When asked whether any of these items were installed in the building he testified that the SKEPP LED listed on the receipt was a light fixture that had been installed.²⁶ He did not know what any of the other items on this receipt was for. (See Exhibit 33, p. 1)

The owner testified that most of the other receipts in this packet were for supplies he purchased for the project from *Home Depot* and *Lowe's*. Some of the receipts included tools and candy. (See spreadsheet.) The owner testified that the gorilla ladders listed on a *Home Depot* receipt were small step ladders. Other receipts contained charges for a hammer tacker and scrapers, which are both tools.

The owner also produced parking receipts from the *City of Oakland* showing parking fees for \$1.60. He also produced a receipt from *Pak'n Save* for lunch purchased for a worker.²⁷

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²⁶ Ex. 33, p. 1

²⁷ Ex. 33, p. 7

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Are the units exempt from the Rent Adjustment Program because they have been Substantially Rehabilitated?

O.M.C. § 8.22.030(A)(6) states that dwelling units located in “substantially rehabilitated buildings” are not “covered units” under the Rent Ordinance.

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.²⁸

The tables issued by the Building Services agency refer to a dollar amount per square foot (Exhibit “A” attached). Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

Square Footage: At the hearing, the owner representative presented a document from a *Alameda County Assessor’s Office* that shows that the square footage of the building before the addition was 2,884 square feet. The owner testified that there was an addition of 84 square feet. Therefore, the total square footage of the building is 2,932 square feet. The information contained in this document, together with the owner representative’s testimony, is found to be reliable evidence.

Expenses: In a precedent decision, the Board held that:

“[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction”²⁹

An owner has the burden of proving every element of his/her case by a preponderance of the evidence. Invoices, proposals, or estimates alone are not sufficient evidence of an expense; proof of payment is also required. Similarly, proof of payment alone is not sufficient, a corresponding invoice must be provided.

The spreadsheet produced by the owner was a spreadsheet that simply added up all the receipts the owner produced. This document is not sufficient to establish the costs expended for this project.

²⁸ O.M.C. § 8.22.030(B)(2)

²⁹ *HRRRB Decision, T04-0158, Ulman v. Breen & Orton*

The California Evidence code states: "If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."³⁰

The applicable rules of evidence are stated in Government Code § 11513³¹:

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs . . .

The reasons that invoices or contracts are required is because these documents explain the work done. Since the work must be to the building (and not to landscaping or driveways) and must be for permanent installations (and not appliances), it is imperative to view and analyze the proper documentation.

The reason that proof of payment is required is because evidence of invoices alone do not establish that a bill has been paid. It is common knowledge that many invoices are renegotiated after work is done. Without evidence of both an invoice (or contract) and proof of payment the costs are not credited here.

In certain circumstances in this case the owner has produced invoices that are not for work done to rehabilitate the building; but instead are for other costs related to the project. For example, the work for landscaping is not allowed as this expenditure is not for work that is part of the square footage of the building.³² In order for a cost to be eligible as a substantial rehabilitation cost it must be for work done on the structure of the building. This is especially true because the calculation is based on the square footage of the building and does not include the square footage of the yard, the driveway, the fence or the landscaped area.

The same is true for appliances. The purchase of appliances is not a structural improvement. Therefore, costs expended for appliances are not allowable cost items.

The owner produced many receipts which contained purchases of tools, water, other beverages, food and candy. Tools are not allowed as an expense as they are not installed in the building, they belong to the owner (or his workers) and are a cost of doing business. Where it was clear that the tool purchased was for something that would likely get used up in the course of construction, like a drill bit, it was allowed. However, where it is a cost for a hammers, ladders, drills, dremels, or other tools that lasts longer than the project, these costs were not allowed.

Additionally, food and water purchased for the workers on the job are not costs associated with the rehabilitation of the building. This is true even during the period of time that there was no water on the premises.

³⁰ Evidence Code, § 412

³¹ Regulations, § 8.22.110(E)(4)

³² Additionally, the concrete path was not approved because no invoice was provided.

Attached to this Hearing Decision as Exhibit "A" is a 15 page spreadsheet documenting all the costs the owner submitted into evidence. Where there was a discrepancy between the invoice amount and the proof of payment, the lower figure was included in the spreadsheet in the column "allowable amount". Where a portion of an invoice was not granted, there is a column which lists the amount subtracted. Where the entire cost was not granted, the "allowable amount" is listed as zero. In each case, where specific items were subtracted, the tax of 9.5% was added to the total price that was then subtracted from the receipt price. Additionally, there is a column in the spreadsheet that lists the reasons for the denial of each listed cost.

Doors:

The owner established expenses for doors totaling \$4,669.

Demo and Dump Fees:

The owner established that he spent money on demolition fees and dump fees for the work that was done on the unit.

The owner produced proof of payment to Pablo Felipe for \$169. No invoice was provided. Additionally, he produced an invoice from *Restoration Management* for which no proof of payment was provided. These amounts were not allowed.

Additionally, the owner testified that the costs associated with billings from *Oakland Landscape Supply* were for landscaping. These amounts were not allowed.

The owner was allowed \$1,425 for the payments made in this category, for which he had both invoices and proof of payment and which were not related to landscaping.

Landscape and Fencing:

The owner established that there was work done outside the building on building a fence, for the purchase of wall blocks and for the installation of walkways, patios and outside drainage work. As noted above, these are not costs to the building, are not a part of the square footage of the building, and are not considered in the calculation for substantial rehabilitation.

However, in this category of documents, the owner had \$216 worth of expenses that were actually for baseboard purchased on the same *Home Depot* receipts as other landscaping purchases. The baseboard was installed inside the building and is an allowable expense. The owner is entitled to \$216 for those costs in this category.

Paint:

The owner established expenditures of \$2,597 for paint supplies for the work done on the building. While he submitted invoices totaling \$4,076 and proof of payment totaling

\$4,126, there were several documents for which the owner did not have invoices. Additionally, there were costs expended for the driveway as well as costs expended on tools, and water. These costs were not allowed. See spreadsheet for details.

Miscellaneous I and II:

This collection of costs provided by the owner included costs for furniture from *Ikea*, costs for tools, water, other décor, costs of a car repair after the owner had his windshield broken on the job, costs for a parking ticket, costs associated with the purchase of car keys, landscape expenses, several expenses for which there were no invoices, and several unreadable invoices. These costs are not allowed.

The owner established allowable expenses of \$2,775. (See spreadsheet for detail.)

Insulation:

The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. However, the primary charge in this category was a \$4,677 invoice from *SDI Insulation*. He did not have proof of payment of that invoice.

The owner established allowable expenses in this category of \$276.

Tile:

In this category, the owner provided a variety of expenses related to the purchase of tools and water. Additionally, there are some receipts which were unreadable. They are listed on the spreadsheet.

The owner established allowable expenses in this category of \$3,778.

Curtains and Rods:

Curtains and curtain rods are not attached to the building and are not an allowable expense. Additionally, in this category, the owners' email from *Target* showing that an order has been made, does not have an accompanying proof of payment, or any showing on the document that the order was paid for.

There are no allowable expenses in this category.

Plumbing:

The owner produced multiple allowable expenses in this category. The only expenses that were not allowed include the costs of tools (the bernzomatic and hole saw). Proof of payment and invoices totaling \$2,867 were allowed in this category.

The owner's argument that the bernzomatic is predominantly a charge for the gas used with this tool is not convincing. This is a tool purchased for the soldering of copper pipes. The tool was not used up in the course of the construction.

Hot Water:

The established costs in this category of \$1,968.

Trim:

Other than the costs of two tools listed on the receipts provided (a brad nailer and an additional tool), the owner's documentation for these costs was allowed. The owner established costs totaling \$1,518 in this category.

Electrical:

In this category the owner claimed expenses related to checks he wrote to *Miles Construction* and *Bill Singh*. He did not have invoices from these vendors. Additionally, the charge from *Miles Construction* was more than 8 months before the first permit was taken out. Still further, some charges were for tools, like voltage testers, nut setters, wire tracers and a keyhole saw. These charges were not allowed.

The owner established costs totaling \$6,512 in this category.

Appliances:

Appliances are not allowable expenditures in a substantial rehabilitation case as they are not permanent costs associated with the structure of the building. None of these costs are allowed.

Stucco:

The owner produced an invoice from *Gerbert Lopez* showing costs for the stucco work as \$8,500. While he did have proof of payment of a greater amount, the owner must provide both invoices and proof of payment. The owner is entitled to credit for the cost of \$8,500.

HVAC:

The owner established costs in this category of \$1,520.

Lumber:

The owner established costs in this category of \$8,809. The only excluded costs were associated with the purchase of tools, water, for an unreadable invoice and one expense for which no invoice was provided. (See spreadsheet.)

Labor:

At the first hearing in this case, the owner was informed that for all charges, he was required to provide invoices and proof of payment. He testified that he did not have any invoices for the laborers who worked on the project. He asked if providing affidavits from the workers would be helpful. He was informed that while invoices were preferable, affidavits would be considered. No such affidavits were provided.

Without invoices or affidavits, none of these expenses are allowed.

Additionally, in a few instances, the owner did not have a check to substantiate the payment; instead he produced records relating to the withdrawal of money from his bank account and then testified that he paid the worker cash. This is an additional reason why certain of these charges were not allowed. (See spreadsheet.)

Gas:

The owner established \$581 in costs in this category. He did not have an invoice for a \$173 charge to *American Emperor*. Only those costs for which he can establish proof of payment and an invoice are provided.

Bath:

The owner established costs in this category totaling \$1,153.

Kitchen/Ironwork:

In this category, the owner again did not have invoices for the laborer *Xiong Xin Liu* or proof of payment to *Ironworks*. The fact that the invoice from *Ironworks* has the word "paid" on it, in handwriting, is not compelling, as anyone could write the word "paid" on an invoice. In fact, in this case, the owner has written notes on many of the invoices he provided.

Furthermore, he produced invoices from *East Star Building Supply*, which state they were unpaid. No proof of payment was provided.

In this category, the owner established expenses totaling \$250.

Windows:

The owner established expenses in this category totaling \$2,970. The only charges removed were three items listed on a credit card receipt from *Sherwin Williams* for three charges made on his credit card as no invoices or receipts from the vendor were provided.

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Travel/Tolls:

The owners' expenses to travel to and from the worksite are not allowable expenses as they are not expenses for the rehabilitation of the building. This category is denied.

Sheetrock:

In this category, the owner produced a text message which he claimed was a quote for the sheetrock work. A text message is not the kind of business record on which people reasonably rely. There is no invoice.

This cost is denied. Since this was the only cost in this category, the allowable expense in this category is zero.

Hardwood Floors:

No invoice was provided for these expenses. Therefore, the allowable expense in this category is zero.

Construction Insurance:

Construction insurance is not a cost to the building—it is an expense to protect the owners' property. This cost is denied. Another reason this cost was denied is there was no proof of payment.

Permit Fees:

The owner's business tax expense is not an allowable expense for the rehabilitation of the building. The owner established expenses in this category totaling \$6,405 for the costs of the permits he received from the *City of Oakland* for jobs valued for a total of \$90,000.

General Contractor:

The owner testified that *JTM Development* was the general contractor on the job. He provided some invoices for which there were no proof of payment, and some proof of payment for which there were no invoices. There are only \$44,141 in expenses for which the proof of payment and invoices line up. However, since in this case there was proof of invoices totaling \$52,449, and proof of payment of more than \$78,000, the owner is entitled to credit of the \$52,449.³³

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³³ The last two invoices/proof of payment entries for *JTM Development* were combined, so that even though there was a payment made on July 1, 2016, for \$15,000, for which there was no comparable invoice, there was an invoice dated September 5, 2016, for \$8,308. In this instance, the owner was given credit for the \$8,308 as if the payment made in July of 2016, covered the costs of that invoice.

Fireplace Servicing:

The owner established that he had the fireplaces serviced in all the units at a cost of \$1,001. This cost is allowed.

Online Purchases:

In this category the owner produced receipts for many expenses which were purchased up to more than a year before the permit was issued in this case. None of these purchases were allowed, as there was no explanation as to why any of these purchases would be made before the permit was issued.

Additionally, the owner produced many pages of receipts for items of a personal nature. He produced a receipt for tampons, for a microplanning device (for cooking), for laptop cords, for cleaning supplies and other things. The spreadsheet lists in detail those items that were denied.

Additionally, this category had a claim for two ladders purchased from a listing on *Craigslist* for which there was no documentation, and which the owner claimed to have purchased in cash. Ladders are tools and are not allowable expenses. Additionally, no proof of payment was provided. The owner also claimed many other tools and furnishings in this category

Additionally, this category has claims for purchases the owner claimed to have made from *Ebay*. The documentation provided shows no proof of payment.

The owner established proof of allowable expenses in this category totaling \$1,146.

Toilet Rental:

No proof of payment was provided in this category. The only reference to a charge comes in an email stating that a charge would be made to a credit card. The receipt was not produced. The owner has not established any allowable expenses in this category.

Lighting:

Again, in this category the owner had proof of payment where he did not have an invoice or receipt of any kind showing what was purchased. The owner established allowable expenses in this category totaling \$653.

Miscellaneous III:

In this category, the owner had a receipt from *Ikea* which included a light fixture. Otherwise, he did not know what was purchased (other than a toilet brush cleaner.) Some of the other receipts included food, candy and tools. As noted above, these are not allowable expenses. The owner also submitted parking fees, which are not allowable.

The owner's invoice from *JTM Development*, which was provided in this category, did not have an accompanying proof of payment.

The owner established allowable expenses in this category totaling \$1,970.

The Calculation: The owner testified that the subject building is of wood frame construction. Exhibit "A" lists square foot construction costs, effective May 1, 2015. A Type V building is a building that is made from allowable materials that are not "non-combustible materials."³⁴ A wood frame building is combustible, and hence a Type V.

The Exhibit states that for Type V construction of an apartment building greater than 2 units the cost for new construction as of May 1, 2015, was \$145.07.

To determine if the owner is entitled to the exemption the following calculation is necessary. Multiply the square footage of 2,932 by \$145.07 (\$425,345.24) and then divide that by 2. Therefore, if the owner spent at least \$212,672.62 on the construction project, the building is exempt from the Rent Ordinance.

The chart below summarizes the allowable costs expended:

Doors	\$4,669	Gas	\$581
Dump/Demo	\$1,425	Bath	\$1,153
Landscaping	\$216	Kitchen	\$250
Paint	\$2,597	Windows	\$2,970
Miscellaneous I and II	\$2,775	Tolls/Travel	\$0
Insulation	\$276	Sheetrock	\$0
Tile	\$3,778	Hardwood Floors	\$0
Curtains/Rods	\$ 0	Const. Insurance	\$0
Plumbing	\$2,867	Permits/Fees	\$6,405
Hot Water	\$1,968	General Contractor	\$52,449
Trim	\$1,518	Fireplace	\$1,001
Electrical	\$6,512	Online Purchases	\$1,146
Appliances	\$0	Toilet Rental	\$0
Stucco	\$8,500	Lighting	\$653
HVAC	\$1,520	Miscellaneous III	\$1,970
Lumber	\$8,809		
Labor	\$0	Total:	\$116,008

The owners have provided invoices and proof of payment that they spent \$116,008.^{35, 36} This amount is not above the necessary sum of \$212,672.62 and, therefore, the building

³⁴ See California Building Code § 602.1-602.5.

³⁵ It is important to note that this is only a bit more than the \$90,000 cost for which the owner received permits.

³⁶ This is \$1.00 more than shown on the spreadsheet, which is likely caused by a rounding error, as the spreadsheet is round to the nearest dollar.

has not been "substantially rehabilitated." The rental units in the building are not exempt from the Rent Ordinance.

ORDER

1. Petition L16-0094 is denied. The units at 3515 Brighton Street, Apartments 1-3, are not exempt from the Rent Adjustment Ordinance.

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

Dated: June 30, 2016



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

PROOF OF SERVICE

Case Number L16-0094

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

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

Tenants

Alisa Highfill
3515 Brighton Ave #1
Oakland, CA 94602

Bernadette Quattrone
3515 Brighton Ave #1
Oakland, CA 94602

Collin Quillian
3515 Brighton Ave #1
Oakland, CA 94602

Marvin Gleaton
3515 Brighton Ave #2
Oakland, CA 94602

Steve Arnwine
3515 Brighton Ave #3
Oakland, CA 94602

Taylor Champion
3515 Brighton Ave #3
Oakland, CA 94602

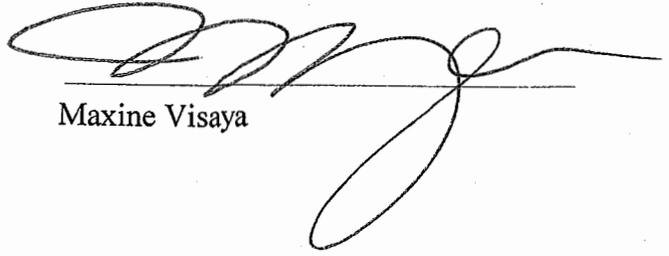
Owner

William Wiebe
278 Connecticut St
San Francisco, CA 94107

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.

000091

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on June 30, 2017 in Oakland, CA.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right. The signature is written over a thin horizontal line.

Maxine Visaya



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

CITY OF OAKLAND

Department of Housing and Community Development
Rent Adjustment Program

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

CORRECTED HEARING DECISION

CASE NUMBER: L16-0094, Wiebe v. Tenants
PROPERTY ADDRESS: 3515 Brighton Ave, Oakland, CA
DATES OF HEARING: April 10, 2017; June 6, 2017
DATE OF DECISION: July 5, 2017
APPEARANCES: William Wiebe, Owner
No appearance by any tenant

REASON FOR CORRECTED DECISION

The Hearing Decision in this case had several typographical errors in it. There were two different references to Exhibit "A", when one of the Exhibits should have been listed as Exhibit "B". Additionally, Exhibit "B" was not attached to the Hearing Decision. Additionally, the date the decision was signed was listed as 2016, instead of 2017. This Corrected Hearing Decision corrects those errors. However, there are no substantive changes to the original decision. A new appeal period is set out in this Corrected Hearing Decision.

SUMMARY OF DECISION

The owner's petition is denied. The units at 3515 Brighton Ave are not exempt from the Oakland Rent Ordinance.

CONTENTIONS OF THE PARTIES

The owner filed a petition for a *Certificate of Exemption* on a 3-unit residential building on the ground that it has been substantially rehabilitated.

000093

No tenant has filed a response to the owner petition.¹

THE ISSUE

Are the units exempt from the Ordinance because they were substantially rehabilitated?

EVIDENCE

The owner testified that he purchased the subject property in either 1999 or 2000. The property consists of a 3 unit apartment building of wood frame construction. The owner produced a *Property Characteristics* document from the *Alameda County Assessor's Office* showing that the square footage of the building in 2016 was 2,848 square feet.² The owner further testified that an additional 84 square feet were added to the building. He produced permits from the *City of Oakland* which document this addition.³ The owner testified that the total square footage after the work was complete was 2,932 square feet.

The owner testified that there had been a fire in one unit in the building in 2015. The owner produced a permit which was opened on October 15, 2015, which states "fire damage repair for triplex including creation of small storage rooms in basement, enlarge bathroom at 1st floor, reconfigure non-load bearing walls at 1st and 2nd floors per plans. Replace finishes at all levels."⁴ The job value was listed as \$80,000. An additional permit was taken out on September 28, 2015, to "construct new addition and deck at Bedroom 2 at upper rear unit." The job value for this permit was listed as \$10,000.⁵ Both of the permits are listed as "final OK" on January 19, 2017.

The owner testified that much of the work was paid for by fire insurance; but not all the expenses because he did some upgrades that were not covered. The owner did not produce the documents which showed his reimbursement from the fire insurance company.

The owner testified that while he had a general contractor, he did a lot of the work himself. None of his work is billed for in the documents provided.

The owner testified that the interior was demolished; the lathe and plaster ceilings were removed; the kitchen counters and appliances were removed; the bath fixtures were removed; all the flooring in the kitchens were removed; approximately 30% of the hardwood floors were removed and replaced and the rest were refinished; asbestos

¹ According to the documents filed with the *Owner Petition* none of the units were occupied at the time the petition was filed. A copy of the *Owner Petition* was sent to all the units. At the Hearing held on April 10, 2017, the owner testified that the units were now occupied. A new copy of the *Owner Petition* was sent to all the units, in each tenant's name. None of the tenants filed a *Tenant Response* to the owner petition and no tenants appeared at the Hearing.

² Exhibit 34, page 5. This Exhibit and all other exhibits referred to in this Hearing Decision, were admitted into evidence.

³ Exhibit 34, pp 1-4

⁴ Exhibit 34, p. 1.

⁵ Exhibit 34, p. 3

abatement was performed; galvanized pipes were replaced with cooper; all old gas lines were removed and replaced with new; all the knob and tube electrical was removed and replaced with romex; new lighting was added; subpanels and breakers for each units was added; new smoke alarms and CO2 detectors were hardwired; new CAT5 and HDMI cables were added in the units; new interior and exterior doors and jambs were added; new energy efficient windows were installed; fire rated sheetrock was added; the furnace was replaced; three new high efficiency water heaters were installed; all three bathrooms were renovated, the kitchens were renovated; new laundry rooms were added in two of the units; the interior and exterior were patched and painted; thermal insulation was added; new window treatments and rods were added; and new r/c channels were added as a sound attenuator. To the exterior the owner also did stucco repairs and added new stucco for the addition; painted; removed and replaced the existing roof; added gutters and vents; added a custom steel rail balcony; removed a dead tree; did additional landscaping; installed a slate walkway, installed new gates and repaired the cracked and damaged driveway.

The owner's documentation separated the work by category. The owner testified that while he did his best to separate the invoices into separate categories, there were times when he shopped at *Home Depot*, or other stores, where he would purchase things in more than one category. He tried to put each invoice into the category which most closely aligned with the purchases made.

Throughout this Hearing Decision, and the accompanying spreadsheet, all receipts are rounded to the nearest dollar.

The owner was informed in the first Hearing that he needed invoices and proof of payment for all expenses and was given the opportunity to provide proof of payment or an invoice where he had not done so already.

At a variety of times throughout the Hearing, receipts the owner had produced included charges for water, food, candy and other nourishment. The owner testified that these charges were all for food and water he was providing for his workers and that for a period of time that they were doing work there, there was no water available on site.

Doors:

The owner produced a packet of expenses related to the work done to replace many of the doors in the building. See the attached spreadsheet which lists all the costs submitted. The total submitted costs are \$4,669.

Demo and Dump Fees:

The owner testified that during the demolition phase of the work on the unit, many trips were taken to the dump. He produced a *Bank of America* account activity detail showing a payment to Pablo Filipe for \$169.⁶ No invoice was provided.

⁶ Exhibit 3, page 3

He produced receipts from *Smart Demolition* showing cash payments of \$55, \$50, \$70, 65, \$60, \$50, \$95, \$50, \$60, \$90, \$80 and \$100.⁷ He testified that he was the one who normally drove to the dump, would pay cash, and would get a receipt.

The owner further testified that he hired *Restoration Management Company* to do asbestos remediation. The invoice, for \$28,964.61 was provided.⁸ No proof of payment was provided.

The owner provided an invoice from *Phoenix Environmental Consulting* for \$510.⁹ Proof of payment was provided.¹⁰

The owner provided invoices and proofs of payment from *Oakland Landscape Supply* for \$349, \$392, and 318 which at the first hearing he testified were for dump fees.¹¹ There were additional invoices from *Oakland Landscape Supply* totaling \$295 and \$269 for which the owner did not have separate proof of payment. The owner testified that when you drop things off at the dump, you cannot leave without making a payment and each invoices lists that the amount was "received".

At the second hearing, the owner was asked to identify those documents that he had produced which were related to landscaping. He testified that the receipts from *Oakland Landscape Supply* were for drainage rock related used on the exterior of the premises, and not in the building.

The total invoices submitted by the owner for the dump and demolition category was \$32,013. The total for which he had proof of payment was \$3,218, because he did not have proof of payment for the asbestos remediation. Of that amount, \$1,793 was for the purchase of the drainage rock.

Landscaping and Fencing: The owner testified that there was landscaping work performed around the unit. He had a fence installed on the property, purchased retaining wall blocks, installed stone walkways and patios and did outside drainage work.

The owner produced invoices and proof of payment for the landscaping category totaling \$1,536.¹² Within these charges, there was one charge covering the cost of water.¹³ Within these charges, the owner testified that there were two charges within the *Home Depot* receipts that included charges for interior baseboards. Two receipts dated 12/5/16 include a charge for baseboards totaling \$132 and a second charge for \$66. The baseboard costs, with tax, are \$144 and \$72.

⁷ Exhibit 3, pages 1-5

⁸ Exhibit 3, page 6

⁹ Exhibit 3, page 7

¹⁰ Exhibit 3, page 3

¹¹ Exhibit 3, page 8-10

¹² Exhibit 4, pp. 1-11

¹³ See Exhibit 4, p. 9.

Paint: The owner testified that he purchased items at a variety of locations for all the painting supplies he needed for the project. (See Exhibit 5.) The invoices he produced totaled \$4,076. He produced proof of payment in this category totaling \$4,126. The difference between the proof of payment and the invoice total relate to the fact that the receipts he provided from the *One Dollar Only* store, do not list the supplies purchased, they just amount to a proof of payment.

The owner testified that the paint costs included costs for painting the interior, exterior, driveway and fence.

The spreadsheet also documents the receipts that contain purchases of water, candy and other food.

The owner produced several receipts which included the cost of tools. These are listed on the spreadsheet. The owner testified that in certain instances tools got used up in the course of the construction or that tools broke which needed to be replaced. He further testified that he still owned the hedge trimmer, purchased on June 21, 2016 from *Home Depot*. This hedge trimmer is located at the apartment complex for use there.

One of the receipts, dated 11/21/16, included a receipt for 1 pint of Behr epoxy, which the owner testified was for use on the driveway.¹⁴ This cost was \$32.98, plus tax equals \$36.

Miscellaneous: The owner produced two packages of receipts labelled *Miscellaneous I and II*. These receipts include a receipt from *Ikea* for bar stools for the lower unit.¹⁵ He also included receipts for other furniture and décor. These are listed on the spreadsheet.

The owner produced a receipt from *Harbor Freight Tools* for \$73. The date on this receipt was unreadable. The receipt included a charge for a oscillating power tool and other tools.¹⁶ There was a charge for gloves on this receipt, that the owner testified is used by the workers on the job.

Several of these receipts include charges for water, beverages or food. They are listed on the spreadsheet.

Additionally, a variety of these receipts include the cost of tools. In addition to the oscillating multi-power tool, mentioned above, the owner also purchased a belt sander, reciprocal blades, safety glasses, sanding belts, hammers, chisels, a miter saw guide, pry bar sets, 5 amp electrical cutout, dremel, an oil lube device, gooseneck wrecking, a bottle jack, and many others. They are listed on the spreadsheet.

¹⁴ Ex. 5, p. 9

¹⁵ Ex. 6, p. 5

¹⁶ Ex. 6, p 12

Additionally, in this category, the owner put in a receipt from *TLC Glass* for a new windshield he needed after his car windshield was broken when he was carrying supplies.¹⁷ The owner also included a parking ticket which he testified he received when he was at the City of Oakland permit counter as well as parking charges for times he had to pay for parking when visiting the permit counter.¹⁸

Several of the receipts the owner produced in this category were unreadable. They are listed on the spreadsheet.

Additionally, in this category there were a few charges that relate to landscaping. The owner testified that the sod was used to fill in the dirt behind the retaining walls. These charges are listed on the spreadsheet.

Additionally, in this category, there were two charges for car keys. These are listed on the spreadsheet.

The owner's invoice total in these categories was \$4,793. He had proof of payment of \$4,898.

Insulation: The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. (See Exhibit 8). The primary charge was a \$4,677 invoice from *SDI Insulation*. The owner testified that this charge was for the actual insulation. He did not have proof of payment of this invoice. The proof of payment in this category totaled \$276.

Tile: The owner produced invoices for tile (see Exhibit 9.) Some of these charges included charges for water or tools. They are listed on the spreadsheet.

The owner produced invoices in this category totaling \$4,014 and proof of payment totaling \$3,835. One invoice from *Home Depot*, for \$179 did not have a proof of payment and an additional receipt was unreadable. These are listed on the spreadsheet.

Curtains and Rods: The owner produced a variety of documents from *Target* regarding the purchase of curtains and curtain rods from the website. (See Exhibit 10). These documents are order summaries and there are no proof of payment. There is one receipt from *Target* showing a purchase at the store for \$54. (See spreadsheet.)

Plumbing: The owner produced multiple receipts for plumbing, which included the installation of all new copper pipes. (See Exhibit 11.) The invoice and proof of payments total \$2,958. This amount included purchases of tools (hole saws and a bernzomatic) as listed on the attached spreadsheet. The owner testified that the bernzomatic is a tool that is used for melting solder to connect copper pipes but that some portion of the expense is for a benzene gas that gets used up as one employs the tool.

¹⁷ Ex. 7, p. 14

¹⁸ Ex. 7, pp. 26 and Ex. 6, p. 9 (He also did not produce proof of payment of the parking ticket.)

Hot Water: The owner produced invoices and proof of payment for the costs associated with providing hot water in the units at a cost of \$1,968. This includes the cost of the hot water heaters. (Exhibit 12).

Trim: The owner produced invoices and proof of payment of \$1,601 in this category. The owner testified that these were for costs associated with the purchase of baseboards in the units. (Exhibit 13). Two receipts included charges for tools (see spreadsheet.) The owner testified that one of the tools, a brad nailer, is a pneumatic tool for nailing.

Electrical: The owner produced invoices totaling \$7,181 and proof of payment of \$10,334 in this category. (See Exhibit 14.) The predominant difference between the two totals, comes from multiple payments made to Bill Singh for work that he did on the unit. There were no invoices from Mr. Singh. The owner testified that Bill Singh is a licensed electrician who was hired to work on the project to hookup the electrical to the boxes.

The owner had produced an invoice from *Emperor Supply* that was impossible to read. The invoice was dated April 1, 2016.¹⁹ The owner had the original receipt at the Hearing and was able to testify that the items purchased were for electrical and plumbing supplies. The owner testified that the invoice charge of \$201.53 differed from the receipt total of \$170.95 because he had been issued a \$30.58 credit for a return.

In this category the owner produced an invoice dated January 20, 2015, from *Miles Construction* for electrical work performed on the premises. No proof of payment was provided.

Some of the receipts in this category contained tools. (See spreadsheet.) The owner testified that the hammer drill listed on the receipt from *Bayshore Builders Supply* dated July 23, 2016, was for a drill bit, which gets used up in the course of the construction. (See Exhibit 14, p. 26)

Appliances: The owner testified that he purchased new appliances for each unit. The owner produced two receipts in this category. One receipt, from *Best Buy*, lists multiple appliances purchased. Some parts of the document are unreadable. The receipt from *Best Buy* shows the costs for the refrigerators, ranges, microwaves, and washer and dryers for each unit. (See Exhibit 15).

The readable invoice amount for the appliances was \$5,927 and proof of payment was provided showing a total cost of \$6,292. Additionally, the owner produced a receipt from *Home Depot* for the purchase of a dishwasher for \$278. Proof of payment was provided. He also produced receipts from *Lowe's* which document the purchase of another dishwasher and a washer/dryer unit.

Stucco: The owner testified that he hired *Gerbert Lopez* to do stucco work on the building. There is an invoice from Mr. Lopez for \$8,500. The owner testified that original scope of work was to just do exterior stucco on the three units but the scope of

¹⁹ Exhibit 14, p. 19

work increased on the job because *Mr. Lopez* also did the stucco work on the addition and because when the work progressed, it turned out to be far more stucco damage than expected. There is proof of payment of \$19,500. (See Exhibit 16).

HVAC: The owner produced invoices and proof of payment totaling \$1,520 for heating supplies. (See Exhibit 17). The owner testified that these charges were for the purchases of the supplies to do the duct work for the heating system.

Lumber: The owner testified that lumber was purchased for new joists, studs, border trim and framing, as well as wainscoting. He produced many invoices, totaling \$9,085, for costs associated with the purchase of lumber for the project. (See Exhibit 18). He produced proof of payment of \$9,475. The difference between the two totals is caused by the lack of an invoice from *Golden State Lumber* for a \$390 charge.

Within this packet there were charges for water and for tools. (See spreadsheet.)

Labor: The owner produced copies of checks paid to Jesus Martinez, Pablo Felipe, Val Pizzini and Geber Lopez. He produced no invoices for any of these workers and testified that he did not have any invoices. He provided proof of payment, showing payments made of \$19,451. (See Exhibit 19).

One of the payments was made to the laborer Pablo Felipe, on July 17, 2015. This is several months before the original permit was taken out (in September of 2015—see Permit section.) This payment to Pablo Felipe was documented by a copy of an online payment receipt from the owners *Bank of America* account, showing that on July 17, 2015, funds were withdrawn (\$2,600) from the bank account and send to Mr. Felipe.

One of the checks provided by the owner to Jesus Martinez stated that it was a loan. The owner testified that it was a loan advance for work that had not yet been done but was later done by Mr. Martinez. Additionally, one of the documents provided by the owner was a debit receipt from his bank, showing that he took money out of the bank that day. (Exhibit 19, p. 15). The owner testified that he gave this money to Jesus Martinez, one of the laborers.

The owner also provided a receipt, dated November 16, 2015, which states “received from Pablo Felipe” the sum of \$450.²⁰

The owner was given the opportunity to provide affidavits from these laborers; none were provided.

Gas: The owner testified that these costs related to the new gas pipes that were installed in the building. He produced copies of invoices for this category of \$581 and proof of payment of \$754. (See Exhibit 19a). The owner did not have an invoice for a \$173 charge to *American Emperor*.

²⁰ It is possible that this says \$4,450—the receipt is ambiguous.

Bath: The owner produced copies of invoices for supplies purchased for the bathrooms. (See Exhibit 20). The invoices and proof of payment total \$1,153. One receipt was unreadable.²¹

Kitchen/Ironwork: The owner produced copies of invoices and proof of payment for work done in the kitchen and the ironwork done on the property. (See Exhibit 21.) He produced a copy of a check to *Xiong Xin Liu* in the amount of \$1,650, who was hired to install the countertops. No invoice was provided. He also produced an invoice from *Iron Works* for \$550, for which there was no proof of payment.²² This invoice says "balance due" \$550. The owner testified that the invoice has the word "paid" written on it. He does not remember whether he paid the person cash or check.

The owner produced two invoices from *East Star Building Supply*, one for \$1,753 and one for \$88, which state they were unpaid. No proof of payment was provided.

The total for the invoices provided was \$2,640 and the proof of payment established payments of \$1,900.

Windows: The owner testified that he installed mostly new windows on the property. He provided invoices totaling \$2,970 for the purchase of windows. He produced proof of payment of \$3,180. (See Exhibit 22.) The difference in these two figures is based on the fact that the owner did not have an invoice from *Sherwin Williams* for three charges made on his credit card.

Travel/Tolls: The owner testified that he travelled back and forth from his home in San Francisco to the worksite as well as multiple trips to *Home Depot*, *Lowe's* and other vendors to buy items needed for the project. He claimed expenses of \$1,168 for bridge tolls (for which he provided his *Fastrak* documentation) and \$1,610 for driving expenses at a cost of 57 cents a mile. (See Exhibit 23).

Sheetrock: The owner produced copies of checks made out to *Jorge Martinez* for sheetrock work totaling \$16,500. He testified that Mr. Martinez did the sheetrock work in all the units which included the cost of the bulk of the supplies for this job. The owner produced a screenshot from a text message exchange he had with Mr. Martinez regarding the work. The text message says:

"sorry I didn't get to you earlier Total drywall and rc channel Smooth level 4 and patch on existing drywall 3 units, \$21,000."²³

Hardwood Floors: The owner testified that he hired *Specialty Hardwood* to refinish the hardwood floors in the units. He produced proof of payment to *Specialty Hardwood* totaling \$7,739. No invoice was provided. (See Exhibit 25).

²¹ Exhibit 20, p. 2

²² Exhibit 21, p. 6

²³ Exhibit 24, p. 1

Construction Insurance: The owner produced an invoice from *Lexington Insurance* for construction insurance he purchased to cover the property during the course of the construction. The invoice from the insurance company was for \$7,249. No proof of payment was provided. (See Exhibit 26). The owner testified that this was the cost for one year, and that the building was under construction for almost a two year period. No additional invoice was provided.

Permit Fees: The owner produced documents from the *City of Oakland* which document the permits he received (See Exhibits 27 and 34.) As noted above, the job values were listed as \$80,000 on one permit, and \$10,000 on the second permit. The costs, for which the owner provided both an invoice and proof of payment, was \$6,435.

The owner also produced a receipt from the *City of Oakland Business Tax* for the \$30 charge for his business tax in 2016.²⁴ He testified he was required to keep his license, even though he was not renting during the course of construction.

General Contractor: The owner testified that he hired *JTM Development* as a general contractor on the job. He produced invoices totaling \$52,449 and proof of payments of \$78,592. (Exhibit 28) The proof of payment was a combination of checks made directly to *JTM* as well as a copy of a *Bank of America* website page listing payments made to *JTM* through the owner's banking account.²⁵

Fireplace Servicing: The owner testified that there are fireplaces in all of the units. The charges in this category were for someone to come out, clean them up and inspect them to make sure that they had not rusted. The owner produced two invoices (one for \$748.35 and one for \$252.95.) The invoices state that they were paid by "Visa." (See Exhibit 29.)

Online Purchases: The owner produced many pages of receipts from online purchases he made for supplies for this project. The attached spreadsheet lists those purchases. (Exhibit 30).

The owner listed in this exhibit several purchases for which he paid cash and did not have any kind of documentation. He testified he purchased two aluminum ladders at a cost of \$425, which he paid in cash. (See Exhibit 30, page 1.) There is no receipt, no invoice and no copy of a webpage reference to this purchase. These ladders are on the premises of the Brighton apartments and are used to access the roof.

The owner testified that he purchased foam kits from *Craigslist* to spray foam for insulation. While he produced a picture of the product from the website, there is no proof of payment or invoice. The owner also produced many images from the *Ebay* website which show items he testified were purchased for this property. Many of these images do not show proof of payment.

²⁴ Exhibit 27, p. 1

²⁵ See Exhibit 28, p. 1

The owner produced receipts from *Amazon* for the following purchases: bulbs, shop towels, outlets, faucets; door hardware, laptop cord and screw remover, toilet plunger, door hardware, electric hardware, kitchen hardware, tampons, curtains, timer/hose, garden hose, soaker hose, water timer, hdmi cable, cleaners, plumbing, cloths and a microplane, bulbs, dustpan and cleaners, household supplies, stools, humidity monitor, and a moisture meter. These are all listed on the spreadsheet. Many of these receipts are billed to Lauren Beeler, who the owner testified is his partner.

Many of the items purchased from *Amazon* were purchased before the first permit was taken out, which was in September of 2015. The owner produced receipts from purchases on *Amazon* going back to September of 2014.

In this category, the owner made claims for expenses totaling \$2,724 and had proof of payment totaling \$1,808.

Toilet Rental: The owner testified that until they were able to set up plumbing inside the units, he was required to rent toilets for his workers. He produced a bill for \$261.66 from *United Site Services*. He also produced an email from a man named Jose Corona who stated that the charge for services would be \$684.59. No proof of payment was provided. (See Exhibit 31).

Lighting: The owner produced several receipts related to lighting. He produced a *Paypal* receipt showing a payment made to Andres Orphanopoulos for \$90. He testified this was for a light fixture. He also produced an order confirmation from *Houzz* which shows the purchase of 2 light fixtures totaling \$53.98, paid for by an American Express card. Additionally, *Home Depot* receipts were provided showing purchases of light fixtures and mini-blinds. (See Exhibit 32).

The owner produced invoices totaling \$653 in this category and proof of payment of \$743. (The difference in these figures is the \$90 *Paypal* receipt to Mr. Orphanopoulos.)

Miscellaneous III: The owner produced additional receipts between the first two hearings showing additional purchases that had not been provided earlier. He produced a receipt from *Ikea* showing a charge of \$96.45 which included a charge for a toilet brush cleaner and lighting. When asked whether any of these items were installed in the building he testified that the SKEPP LED listed on the receipt was a light fixture that had been installed.²⁶ He did not know what any of the other items on this receipt was for. (See Exhibit 33, p. 1)

The owner testified that most of the other receipts in this packet were for supplies he purchased for the project from *Home Depot* and *Lowe's*. Some of the receipts included tools and candy. (See spreadsheet.) The owner testified that the gorilla ladders listed on a *Home Depot* receipt were small step ladders. Other receipts contained charges for a hammer tacker and scrapers, which are both tools.

²⁶ Ex. 33, p. 1

The owner also produced parking receipts from the *City of Oakland* showing parking fees for \$1.60. He also produced a receipt from *Pak'n Save* for lunch purchased for a worker.²⁷

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Are the units exempt from the Rent Adjustment Program because they have been Substantially Rehabilitated?

O.M.C. § 8.22.030(A)(6) states that dwelling units located in “substantially rehabilitated buildings” are not “covered units” under the Rent Ordinance.

- a. In order to obtain an exemption based on substantial rehabilitation, an owner must have spent a minimum of fifty (50) percent of the average basic cost for new construction for a rehabilitation project.
- b. The average basic cost for new construction shall be determined using tables issued by the chief building inspector applicable for the time period when the substantial rehabilitation was completed.²⁸

The tables issued by the Building Services agency refer to a dollar amount per square foot (Exhibit “B” attached). Therefore, in order to make the necessary mathematical computation, an owner must present sufficient evidence of the square footage of the building, as well as the cost of the rehabilitation project.

Square Footage: At the hearing, the owner representative presented a document from a *Alameda County Assessor's Office* that shows that the square footage of the building before the addition was 2,884 square feet. The owner testified that there was an addition of 84 square feet. Therefore, the total square footage of the building is 2,932 square feet. The information contained in this document, together with the owner representative's testimony, is found to be reliable evidence.

Expenses: In a precedent decision, the Board held that:

“[I]n order for a landlord to establish an exemption for a substantially rehabilitated building . . . a landlord must provide evidence independent of his own testimony or summaries prepared in anticipation of the hearing to substantiate the costs of new construction”²⁹

An owner has the burden of proving every element of his/her case by a preponderance of the evidence. Invoices, proposals, or estimates alone are not sufficient evidence of an

²⁷ Ex. 33, p. 7

²⁸ O.M.C. § 8.22.030(B)(2)

²⁹ *HRRRB Decision, T04-0158, Ulman v. Breen & Orton*

expense; proof of payment is also required. Similarly, proof of payment alone is not sufficient, a corresponding invoice must be provided.

The spreadsheet produced by the owner was a spreadsheet that simply added up all the receipts the owner produced. This document is not sufficient to establish the costs expended for this project.

The California Evidence code states: "If weaker and less satisfactory evidence is offered when it was within the power of the party to produce stronger and more satisfactory evidence, the evidence offered should be viewed with distrust."³⁰

The applicable rules of evidence are stated in Government Code § 11513³¹:

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs . . .

The reasons that invoices or contracts are required is because these documents explain the work done. Since the work must be to the building (and not to landscaping or driveways) and must be for permanent installations (and not appliances), it is imperative to view and analyze the proper documentation.

The reason that proof of payment is required is because evidence of invoices alone do not establish that a bill has been paid. It is common knowledge that many invoices are renegotiated after work is done. Without evidence of both an invoice (or contract) and proof of payment the costs are not credited here.

In certain circumstances in this case the owner has produced invoices that are not for work done to rehabilitate the building; but instead are for other costs related to the project. For example, the work for landscaping is not allowed as this expenditure is not for work that is part of the square footage of the building.³² In order for a cost to be eligible as a substantial rehabilitation cost it must be for work done on the structure of the building. This is especially true because the calculation is based on the square footage of the building and does not include the square footage of the yard, the driveway, the fence or the landscaped area.

The same is true for appliances. The purchase of appliances is not a structural improvement. Therefore, costs expended for appliances are not allowable cost items.

The owner produced many receipts which contained purchases of tools, water, other beverages, food and candy. Tools are not allowed as an expense as they are not installed in the building, they belong to the owner (or his workers) and are a cost of doing business. Where it was clear that the tool purchased was for something that would likely

³⁰ Evidence Code, § 412

³¹ Regulations, § 8.22.110(E)(4)

³² Additionally, the concrete path was not approved because no invoice was provided.

get used up in the course of construction, like a drill bit, it was allowed. However, where it is a cost for a hammers, ladders, drills, dremels, or other tools that lasts longer than the project, these costs were not allowed.

Additionally, food and water purchased for the workers on the job are not costs associated with the rehabilitation of the building. This is true even during the period of time that there was no water on the premises.

Attached to this Hearing Decision as Exhibit "A" is a 16 page spreadsheet documenting all the costs the owner submitted into evidence. Where there was a discrepancy between the invoice amount and the proof of payment, the lower figure was included in the spreadsheet in the column "allowable amount". Where a portion of an invoice was not granted, there is a column which lists the amount subtracted. Where the entire cost was not granted, the "allowable amount" is listed as zero. In each case, where specific items were subtracted, the tax of 9.5% was added to the total price that was then subtracted from the receipt price. Additionally, there is a column in the spreadsheet that lists the reasons for the denial of each listed cost.

Doors:

The owner established expenses for doors totaling \$4,669.

Demo and Dump Fees:

The owner established that he spent money on demolition fees and dump fees for the work that was done on the unit.

The owner produced proof of payment to Pablo Felipe for \$169. No invoice was provided. Additionally, he produced an invoice from *Restoration Management* for which no proof of payment was provided. These amounts were not allowed.

Additionally, the owner testified that the costs associated with billings from *Oakland Landscape Supply* were for landscaping. These amounts were not allowed.

The owner was allowed \$1,425 for the payments made in this category, for which he had both invoices and proof of payment and which were not related to landscaping.

Landscape and Fencing:

The owner established that there was work done outside the building on building a fence, for the purchase of wall blocks and for the installation of walkways, patios and outside drainage work. As noted above, these are not costs to the building, are not a part of the square footage of the building, and are not considered in the calculation for substantial rehabilitation.

However, in this category of documents, the owner had \$216 worth of expenses that were actually for baseboard purchased on the same *Home Depot* receipts as other

landscaping purchases. The baseboard was installed inside the building and is an allowable expense. The owner is entitled to \$216 for those costs in this category.

Paint:

The owner established expenditures of \$2,597 for paint supplies for the work done on the building. While he submitted invoices totaling \$4,076 and proof of payment totaling \$4,126, there were several documents for which the owner did not have invoices. Additionally, there were costs expended for the driveway as well as costs expended on tools, and water. These costs were not allowed. See spreadsheet for details.

Miscellaneous I and II:

This collection of costs provided by the owner included costs for furniture from *Ikea*, costs for tools, water, other décor, costs of a car repair after the owner had his windshield broken on the job, costs for a parking ticket, costs associated with the purchase of car keys, landscape expenses, several expenses for which there were no invoices, and several unreadable invoices. These costs are not allowed.

The owner established allowable expenses of \$2,775. (See spreadsheet for detail.)

Insulation:

The owner produced invoices totaling \$4,953 related to insulation costs for the work on the building. However, the primary charge in this category was a \$4,677 invoice from *SDI Insulation*. He did not have proof of payment of that invoice.

The owner established allowable expenses in this category of \$276.

Tile:

In this category, the owner provided a variety of expenses related to the purchase of tools and water. Additionally, there are some receipts which were unreadable. They are listed on the spreadsheet.

The owner established allowable expenses in this category of \$3,778.

Curtains and Rods:

Curtains and curtain rods are not attached to the building and are not an allowable expense. Additionally, in this category, the owners' email from *Target* showing that an order has been made, does not have an accompanying proof of payment, or any showing on the document that the order was paid for.

There are no allowable expenses in this category.

Plumbing:

The owner produced multiple allowable expenses in this category. The only expenses that were not allowed include the costs of tools (the bernzomatic and hole saw). Proof of payment and invoices totaling \$2,867 were allowed in this category.

The owner's argument that the bernzomatic is predominantly a charge for the gas used with this tool is not convincing. This is a tool purchased for the soldering of copper pipes. The tool was not used up in the course of the construction.

Hot Water:

The established costs in this category of \$1,968.

Trim:

Other than the costs of two tools listed on the receipts provided (a brad nailer and an additional tool), the owner's documentation for these costs was allowed. The owner established costs totaling \$1,518 in this category.

Electrical:

In this category the owner claimed expenses related to checks he wrote to *Miles Construction* and *Bill Singh*. He did not have invoices from these vendors. Additionally, the charge from *Miles Construction* was more than 8 months before the first permit was taken out. Still further, some charges were for tools, like voltage testers, nut setters, wire tracers and a keyhole saw. These charges were not allowed.

The owner established costs totaling \$6,512 in this category.

Appliances:

Appliances are not allowable expenditures in a substantial rehabilitation case as they are not permanent costs associated with the structure of the building. None of these costs are allowed.

Stucco:

The owner produced an invoice from *Gerbert Lopez* showing costs for the stucco work as \$8,500. While he did have proof of payment of a greater amount, the owner must provide both invoices and proof of payment. The owner is entitled to credit for the cost of \$8,500.

HVAC:

The owner established costs in this category of \$1,520.

Lumber:

The owner established costs in this category of \$8,809. The only excluded costs were associated with the purchase of tools, water, for an unreadable invoice and one expense for which no invoice was provided. (See spreadsheet.)

Labor:

At the first hearing in this case, the owner was informed that for all charges, he was required to provide invoices and proof of payment. He testified that he did not have any invoices for the laborers who worked on the project. He asked if providing affidavits from the workers would be helpful. He was informed that while invoices were preferable, affidavits would be considered. No such affidavits were provided.

Without invoices or affidavits, none of these expenses are allowed.

Additionally, in a few instances, the owner did not have a check to substantiate the payment; instead he produced records relating to the withdrawal of money from his bank account and then testified that he paid the worker cash. This is an additional reason why certain of these charges were not allowed. (See spreadsheet.)

Gas:

The owner established \$581 in costs in this category. He did not have an invoice for a \$173 charge to *American Emperor*. Only those costs for which he can establish proof of payment and an invoice are provided.

Bath:

The owner established costs in this category totaling \$1,153.

Kitchen/Ironwork:

In this category, the owner again did not have invoices for the laborer *Xiong Xin Liu* or proof of payment to *Ironworks*. The fact that the invoice from *Ironworks* has the word "paid" on it, in handwriting, is not compelling, as anyone could write the word "paid" on an invoice. In fact, in this case, the owner has written notes on many of the invoices he provided.

Furthermore, he produced invoices from *East Star Building Supply*, which state they were unpaid. No proof of payment was provided.

In this category, the owner established expenses totaling \$250.

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Windows:

The owner established expenses in this category totaling \$2,970. The only charges removed were three items listed on a credit card receipt from *Sherwin Williams* for three charges made on his credit card as no invoices or receipts from the vendor were provided.

Travel/Tolls:

The owners' expenses to travel to and from the worksite are not allowable expenses as they are not expenses for the rehabilitation of the building. This category is denied.

Sheetrock:

In this category, the owner produced a text message which he claimed was a quote for the sheetrock work. A text message is not the kind of business record on which people reasonably rely. There is no invoice.

This cost is denied. Since this was the only cost in this category, the allowable expense in this category is zero.

Hardwood Floors:

No invoice was provided for these expenses. Therefore, the allowable expense in this category is zero.

Construction Insurance:

Construction insurance is not a cost to the building—it is an expense to protect the owners' property. This cost is denied. Another reason this cost was denied is there was no proof of payment.

Permit Fees:

The owner's business tax expense is not an allowable expense for the rehabilitation of the building. The owner established expenses in this category totaling \$6,405 for the costs of the permits he received from the *City of Oakland* for jobs valued for a total of \$90,000.

General Contractor:

The owner testified that *JTM Development* was the general contractor on the job. He provided some invoices for which there were no proof of payment, and some proof of payment for which there were no invoices. There are only \$44,141 in expenses for which the proof of payment and invoices line up. However, since in this case there was proof of

invoices totaling \$52,449, and proof of payment of more than \$78,000, the owner is entitled to credit of the \$52,449.³³

Fireplace Servicing:

The owner established that he had the fireplaces serviced in all the units at a cost of \$1,001. This cost is allowed.

Online Purchases:

In this category the owner produced receipts for many expenses which were purchased up to more than a year before the permit was issued in this case. None of these purchases were allowed, as there was no explanation as to why any of these purchases would be made before the permit was issued.

Additionally, the owner produced many pages of receipts for items of a personal nature. He produced a receipt for tampons, for a microplanning device (for cooking), for laptop cords, for cleaning supplies and other things. The spreadsheet lists in detail those items that were denied.

Additionally, this category had a claim for two ladders purchased from a listing on *Craigslist* for which there was no documentation, and which the owner claimed to have purchased in cash. Ladders are tools and are not allowable expenses. Additionally, no proof of payment was provided. The owner also claimed many other tools and furnishings in this category.

Additionally, this category has claims for purchases the owner claimed to have made from *Ebay*. The documentation provided shows no proof of payment.

The owner established proof of allowable expenses in this category totaling \$1,146.

Toilet Rental:

No proof of payment was provided in this category. The only reference to a charge comes in an email stating that a charge would be made to a credit card. The receipt was not produced. The owner has not established any allowable expenses in this category.

Lighting:

Again, in this category the owner had proof of payment where he did not have an invoice or receipt of any kind showing what was purchased. The owner established allowable expenses in this category totaling \$653.

³³ The last two invoices/proof of payment entries for *JTM Development* were combined, so that even though there was a payment made on July 1, 2016, for \$15,000, for which there was no comparable invoice, there was an invoice dated September 5, 2016, for \$8,308. In this instance, the owner was given credit for the \$8,308 as if the payment made in July of 2016, covered the costs of that invoice.

Miscellaneous III:

In this category, the owner had a receipt from *Ikea* which included a light fixture. Otherwise, he did not know what was purchased (other than a toilet brush cleaner.) Some of the other receipts included food, candy and tools. As noted above, these are not allowable expenses. The owner also submitted parking fees, which are not allowable.

The owner's invoice from *JTM Development*, which was provided in this category, did not have an accompanying proof of payment.

The owner established allowable expenses in this category totaling \$1,970.

The Calculation: The owner testified that the subject building is of wood frame construction. Exhibit "B" lists square foot construction costs, effective May 1, 2015. A Type V building is a building that is made from allowable materials that are not "non-combustible materials."³⁴ A wood frame building is combustible, and hence a Type V.

The Exhibit states that for Type V construction of an apartment building greater than 2 units the cost for new construction as of May 1, 2015, was \$145.07.

To determine if the owner is entitled to the exemption the following calculation is necessary. Multiply the square footage of 2,932 by \$145.07 (\$425,345.24) and then divide that by 2. Therefore, if the owner spent at least \$212,672.62 on the construction project, the building is exempt from the Rent Ordinance.

The chart below summarizes the allowable costs expended:

Doors	\$4,669	Gas	\$581
Dump/Demo	\$1,425	Bath	\$1,153
Landscaping	\$216	Kitchen	\$250
Paint	\$2,597	Windows	\$2,970
Miscellaneous I and II	\$2,775	Tolls/Travel	\$0
Insulation	\$276	Sheetrock	\$0
Tile	\$3,778	Hardwood Floors	\$0
Curtains/Rods	\$ 0	Const. Insurance	\$0
Plumbing	\$2,867	Permits/Fees	\$6,405
Hot Water	\$1,968	General Contractor	\$52,449
Trim	\$1,518	Fireplace	\$1,001
Electrical	\$6,512	Online Purchases	\$1,146
Appliances	\$0	Toilet Rental	\$0
Stucco	\$8,500	Lighting	\$653
HVAC	\$1,520	Miscellaneous III	\$1,970
Lumber	\$8,809		
Labor	\$0	Total:	\$116,008

³⁴ See California Building Code § 602.1-602.5.

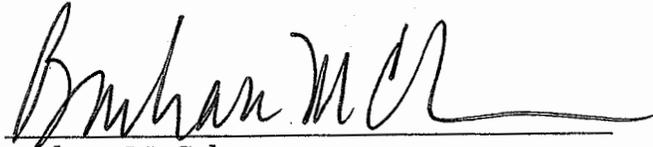
The owners have provided invoices and proof of payment that they spent \$116,008.^{35, 36} This amount is not above the necessary sum of \$212,672.62 and, therefore, the building has not been "substantially rehabilitated." The rental units in the building are not exempt from the Rent Ordinance.

ORDER

1. Petition L16-0094 is denied. The units at 3515 Brighton Street, Apartments 1-3, are not exempt from the Rent Adjustment Ordinance.

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

Dated: July 5, 2017



Barbara M. Cohen
Hearing Officer
Rent Adjustment Program

³⁵ It is important to note that this is only a bit more than the \$90,000 cost for which the owner received permits.

³⁶ This is \$1.00 more than shown on the spreadsheet, which is likely caused by a rounding error, as the spreadsheet is round to the nearest dollar.

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Doors									
10/19/2016	Home Depot	Doors	\$1,671	\$1,671			\$1,671		Ex. 2, p. 2
12/27/2016	Home Depot	Doors	\$206	\$206			\$206		Ex. 2, p. 3
12/14/2015	Home Depot	Doors	\$219	\$219			\$219		Ex. 2, p. 3
11/10/2016	Home Depot	Doors	\$105	\$105			\$105		Ex. 2, p. 3
12/7/2016	Home Depot	Doors	\$1,648	\$1,648			\$1,648		Ex. 2, p. 4
11/12/2016	Home Depot	Doors	\$52	\$52			\$52		Ex. 2, p. 4
9/27/2016	Home Depot	Doors	\$60	\$60			\$60		Ex. 2, p. 5
12/19/2016	Home Depot	Doors	\$442	\$442			\$442		Ex. 2, p. 5
12/20/2016	Home Depot	Doors	\$51	\$51			\$51		Ex. 2, p. 5
8/23/2016	Lowe's	Doors	\$10	\$10			\$10		Ex. 2, p. 4
11/12/2016	Home Depot	Doors	\$33	\$33			\$33		Ex. 2, p. 4
12/9/2015	Lowe's	Doors	\$172	\$172			\$172		Ex. 2, p. 5
Doors Subtotal:			\$4,669	\$4,669			\$4,669		
Owner Category: Dump and Demolition									
9/9/2015	Analytical Labs	Testing	\$40	\$40			\$40		Ex. 3, p. 2
9/3/2015	Pablo Filipe	Dump Fee	\$0	\$169			\$0	no invoice	Ex. 3, p. 3
11/19/2015	Smart Demolition	Dump Fee	\$55	\$55			\$55		Ex. 3, p. 3
2/1/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p. 3
4/29/2016	Smart Demolition	Dump Fee	\$70	\$70			\$70		Ex. 3, p. 3
10/31/2016	Smart Demolition	Dump Fee	\$65	\$65			\$65		Ex. 3, p. 4
1/14/2016	Smart Demolition	Dump Fee	\$60	\$60			\$60		Ex. 3, p. 4
8/20/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p. 4
7/29/2016	Smart Demolition	Dump Fee	\$95	\$95			\$95		Ex. 3, p. 4
unreadable	Smart Demolition	Dump Fee	\$45	\$45			\$45		Ex. 3, p. 4
12/29/2016	Smart Demolition	Dump Fee	\$50	\$50			\$50		Ex. 3, p. 4
8/3/2016	Smart Demolition	Dump Fee	\$60	\$60			\$60		Ex. 3, p. 5
7/20/2016	Smart Demolition	Dump Fee	\$90	\$90			\$90		Ex. 3, p. 5
9/27/2016	Smart Demolition	Dump Fee	\$80	\$80			\$80		Ex. 3, p. 5
7/26/2016	Smart Demolition	Dump Fee	\$100	\$100			\$100		Ex. 3, p. 5
12/4/2015	Smart Demolition	Dump Fee	\$45	\$45			\$45		Ex. 3, p. 5
11/25/2015	Restoration Management	Asbestos Remediation	\$28,965	\$0			\$0	no invoice	Ex. 3, p. 6
4/2/2015	Phoenix Environmental	Testing	\$510	\$510			\$510		Ex. 3, pp. 3 and 7
10/29/2015	Oakland Landscaping Supply	Drainage rock	\$349	\$349			\$0	Landscaping	Ex. 3, p. 8
11/2/2015	Oakland Landscaping Supply	Drainage rock	\$392	\$392			\$0	Landscaping	Ex. 3, p. 9
11/4/2015	Oakland Landscaping Supply	Drainage rock	\$318	\$318			\$0	Landscaping	Ex. 3, p. 10
11/6/2015	Oakland Landscaping Supply	Drainage rock	\$295	\$295			\$0	Landscaping	Ex. 3, p. 11
8/28/2015	Oakland Landscaping Supply	Drainage rock	\$269	\$269			\$0	Landscaping	Ex. 3, p. 12
Dump and Demolition Subtotal:			\$32,013	\$3,218			\$1,425		
Owner Category: Landscaping									
11/29/2016	Lowe's	Landscaping	\$72	\$72			\$0	all landscaping	Ex. 4, p. 4
12/2/2015	Home Depot	Landscaping	\$52	\$52			\$0	all landscaping	Ex. 4, p. 6
8/21/2015	Home Depot	Landscaping	\$130	\$130			\$0	all landscaping	Ex. 4, p. 6
6/11/2016	Home Depot	Landscaping	\$105	\$105			\$0	all landscaping	Ex. 4, p. 6
12/5/2016	Home Depot	Landscaping	\$102	\$102			\$72	mostly landscaping	Ex. 4, p. 7
12/27/2016	Home Depot	Landscaping	\$68	\$68			\$0	all landscaping	Ex. 4, p. 7
12/1/2016	Home Depot	Landscaping	\$185	\$185			\$0	all landscaping	Ex. 4, p. 8
12/1/2016	Home Depot	Landscaping	\$72	\$72			\$0	all landscaping	Ex. 4, p. 8
11/30/2016	Home Depot	Landscaping	\$51	\$51			\$0	all landscaping	Ex. 4, p. 10

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
11/30/2016	Home Depot	Landscaping	\$78	\$78			\$0	all landscaping	Ex. 4, p. 10
12/2/2016	Home Depot	Landscaping	\$61	\$61			\$0	all landscaping mostly	Ex. 4, p. 10
12/5/2016	Home Depot	Landscaping	\$233	\$233			\$144	landscaping	Ex. 4, p. 11
12/6/2016	Lowe's	Landscaping	\$57	\$57			\$0	all landscaping	Ex. 4, p. 11
9/9/2015	Center	Landscaping	\$33	\$33			\$0	all landscaping	Ex. 4, p. 2
9/9/2015	Center	Concrete	\$13	\$13			\$0	all landscaping	Ex. 4, p. 3
12/2/2016	American Emperor	Concrete	\$9	\$9			\$0	all landscaping	Ex. 4, p. 5
10/13/2016	Home Depot	Concrete	\$45	\$45			\$0	all landscaping	Ex. 4, p. 7
12/1/2016	Home Depot	Retaining Wall	\$29	\$29			\$0	all landscaping	Ex. 4, p. 8
11/29/2016	Lowe's	Concrete	\$35	\$35			\$0	landscaping and water	Ex. 4, p. 9
12/6/2016	Home Depot	Landscaping	\$41	\$41			\$0	all landscaping	Ex. 4, p. 9
12/1/2016	Home Depot	Concrete	\$30	\$30			\$0	all landscaping	Ex. 4, p. 9
12/6/2016	Home Depot	Landscaping	\$36	\$36			\$0	all landscaping	Ex. 4, p. 11
Landscaping Subtotal:							\$1,536	\$1,536	
Owner Category: Paint									
5/13/2016	West Marine	Paint Supplies	\$2	\$2			\$2		Ex. 5, p. 2
10/5/2016	Lowe's	Paint Supplies	\$552	\$552			\$552		Ex. 5, pp. 3-4
8/4/2016	Ashby Lumber	Paint Supplies	\$312	\$312			\$312		Ex. 5, p. 6
12/10/2016	Center	Paint Supplies	\$9	\$9			\$9		Ex. 5, p. 7
11/6/2016	One Dollar Only	?	n/a				\$0	No invoice	Ex. 5, p. 8
12/27/2016	Kelly Moore	Paint Supplies	\$27	\$27			\$27		Ex. 5, p. 8
10/27/2016	Kelly Moore	Paint Supplies	\$26	\$26			\$26		Ex. 5, p. 8
11/3/2016	Home Depot	Paint Supplies	\$8	\$8			\$8		Ex. 5, p. 8
11/25/2016	Home Depot	Paint Supplies	\$50	\$50			\$50		Ex. 5, p. 8
11/18/2016	Home Depot	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 9
11/21/2016	Home Depot	Paint Supplies	\$117	\$117		\$14	\$46	water	Ex. 5, p. 9
11/10/2016	Home Depot	Paint Supplies	\$40	\$40		\$36	\$81	driveway	Ex. 5, p. 9
8/3/2016	One Dollar Only	?	n/a				\$40		Ex. 5, p. 9
no date	Kelly Moore	Paint Supplies	\$13	\$13			\$0	No invoice	Ex. 5, p. 10
10/12/2016	Home Depot	Paint Supplies	\$31	\$31			\$13		Ex. 5, p. 10
11/28/2016	Lowe's	Paint Supplies	\$26	\$26			\$31		Ex. 5, p. 10
9/29/2016	Kelly Moore	Paint Supplies	\$44	\$44			\$26		Ex. 5, p. 10
10/2/2016	Lowe's	Paint Supplies	\$34	\$34			\$44		Ex. 5, p. 11
9/28/2016	Home Depot	Paint Supplies	\$63	\$63			\$34		Ex. 5, p. 11
10/2/2016	Home Depot	Paint Supplies	\$193	\$193			\$193		Ex. 5, p. 11
8/21/2016	Lowe's	Paint Supplies	\$81	\$81			\$81		Ex. 5, p. 11
10/19/2015	Sherwin Williams	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 11
10/2/2016	Lowe's	Paint Supplies	\$243	\$243			\$243		Ex. 5, p. 12
6/2/2016	Home Depot	Paint Supplies	\$286	\$286		\$52	\$234	tools (hedge trimmer and squeegee)	Ex. 5, p. 12
8/4/2016	Lowe's	Paint Supplies	\$177	\$177		\$5	\$172	water	Ex. 5, p. 13
8/24/2016	Lowe's	Paint Supplies	\$413	\$413			\$413		Ex. 5, p. 13
8/31/2016	Lowe's	Paint Supplies	\$79	\$79			\$79		Ex. 5, p. 13
8/25/2016	Kelly Moore	Paint Supplies	\$15	\$15			\$15		Ex. 5, p. 13
10/19/2015	Sherwin Williams	Paint Supplies	\$93	\$93			\$93		Ex. 5, p. 14
8/20/2016	Lowe's	Paint Supplies	\$85	\$85			\$85		Ex. 5, p. 14
10/19/2015	Sherwin Williams	Paint Supplies	\$59	\$59			\$59		Ex. 5, p. 14

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
10/10/2016	Kelly Moore	Paint Supplies	\$13	\$13			\$13		Ex-5, p 14
9/16/2016	Home Depot	Paint Supplies	\$204	\$204			\$195	water	Ex-5, p. 15
8/30/2016	Lowe's	Paint Supplies	\$251	\$251		\$9	\$251		Ex-5, p. 15
5/20/2016	Home Depot	Paint Supplies	\$19	\$19			\$19		Ex-5, p. 15
8/10/2016	Lowe's	Paint Supplies	\$12	\$12			\$12		Ex-5, p. 15
9/19/2016	Lowe's	Paint Supplies	\$70	\$70			\$70		Ex-5, p. 16
8/19/2016	Lowe's	Paint Supplies	\$175	\$175			\$175		Ex-5, p. 16
12/8/2016	Lowe's	Paint Supplies	\$51	\$51			\$51		Ex-5, p. 16
8/3/2016	Lowe's	Paint Supplies	\$86	\$86			\$86		Ex-5, p. 16
Paint Subtotal:			\$4,076	\$4,126			\$2,597		
Owner Category: Miscellaneous I and II									
9/1/2015	Great Western	Miscellaneous	\$101	\$101			\$101		Ex-6, p. 8
12/6/2016	Ikea	Furnishings	\$87	\$87			\$0	Furniture	Ex-6, p. 5
12/4/2015	Home Depot	Miscellaneous	\$150	\$150			\$150		Ex-6, p. 11
10/19/2016	Lowe's	Miscellaneous	\$74	\$74			\$74		Ex-6, p. 12
unreadable	Harbor Freight Tools	Miscellaneous	\$73	\$73			\$0	Tools and no date	Ex-6, p. 12
10/19/2016	Lowe's	Miscellaneous	\$80	\$80			\$80		Ex-6, p. 12
4/1/2016	Home Depot	Miscellaneous	\$82	\$82			\$82		Ex-6, p. 15
2/18/2016	Home Depot	Miscellaneous	\$61	\$61		\$1	\$60	water	Ex-6, p. 16
3/4/2016	Ikea	Miscellaneous	\$77	\$77			\$0	décor	Ex-6, p. 16
unreadable	Ikea	Miscellaneous	\$225	\$225			\$0	no date	Ex-6, p. 17
7/4/2016	Harbor Freight Tools	Miscellaneous	\$110	\$110		\$110	\$0	tools (sanding belt, hammers etc.)	Ex-6, p. 17
8/20/2015	Lumberman	Miscellaneous	\$91	\$91			\$91		Ex-7, p. 2
12/29/2016	Lowe's	Miscellaneous	\$89	\$89			\$89		Ex-7, p. 4
12/28/2016	Home Depot	Miscellaneous	\$64	\$64		\$14	\$50	tools (chisel)	Ex-7, p. 4
1/5/2017	Sears	Miscellaneous	\$77	\$77		\$77	\$0	tools (miter Saw guide)	Ex-7, p. 5
8/10/2016	Calply	Miscellaneous	\$50	\$50			\$50	car repair	Ex-7, p. 6
12/11/2015	TLC Glass	Windshield	\$299	\$299		\$299	\$0	tools (rotating handle, 5 amp electrical cut out, etc)	Ex-7, p. 14
10/27/2015	Harbor Freight Tools	Tools	\$79	\$79		\$79	\$0	tools (dremel)	Ex-7, p. 20
8/31/2015	Lowe's	Tools	\$76	\$76		\$76	\$0	tools (oil lube, gooseneck wrecking, pry bar, etc)	Ex-7, p. 22
11/18/2015	Home Depot	Miscellaneous	\$54	\$54		\$76	\$54	tools (dremel)	Ex-7, p. 20
unreadable	Office Max	Miscellaneous	\$41	\$41		\$41	\$0	can't read date	Ex-7, p. 21
7/28/2015	Harbor Freight Tools	Tools	\$232	\$232		\$232	\$0	tools (oil lube, gooseneck wrecking, pry bar, etc)	Ex-7, p. 22
7/17/2016	Harbor Freight Tools	Tools	\$71	\$71		\$71	\$0	tools	Ex-7, p. 22
9/21/2015	FedEx Office	Miscellaneous	\$91	\$91			\$91		Ex-7, p. 25
11/9/2016	Lowe's	Miscellaneous	\$218	\$218			\$218		Ex-7, p. 25
9/28/2015	City of Oakland Parking	Miscellaneous	\$58	\$0		\$58	\$0	no proof of payment and parking ticket	Ex-7, p. 26
7/8/2015	Lowe's	Miscellaneous	\$106	\$106		\$76	\$30	tools	Ex-7, p. 26
9/23/2016	Home Depot	Miscellaneous	\$60	\$60			\$60		Ex-7, p. 27

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
7/31/2016	Lowe's	Miscellaneous	\$65	\$65			\$65		Ex. 7, p. 27
7/24/2016	Home Depot	Miscellaneous	\$145	\$145			\$145		Ex. 7, p. 28
8/20/2016	Home Depot	Miscellaneous	\$42	\$42			\$42		Ex. 7, p. 28
10/20/2016	Home Depot	Miscellaneous	\$107	\$107			\$107		Ex. 7, p. 28
12/15/2016	Ikea	Miscellaneous	\$94	\$94		\$50	\$44	décor	Ex. 7, p. 29
2/1/2016	KH Plumbing	Ice Maker	\$40	\$40			\$40		Ex. 6, p. 2
10/31/2016	KH Plumbing	Supplies	\$27	\$27			\$27		Ex. 6, p. 3
8/25/2016	American Emperor	Miscellaneous	\$7	\$7			\$7		Ex. 6, p. 4
11/10/2016	One Dollar Only	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 5
2/4/2016	One Dollar Only	Miscellaneous	\$19	\$19			\$19		Ex. 6, p. 5
unreadable	Harbor Freight Tools	Miscellaneous	\$15	\$15			\$15		Ex. 6, p. 5
8/14/2016	Lowe's	Miscellaneous	\$47	\$47			\$47		Ex. 6, p. 5
12/10/2016	Target	Décor	\$17	\$17			\$0	décor	Ex. 6, p. 5
7/23/2016	Center	Hardware	\$3	\$3			\$3		Ex. 6, p. 6
3/30/2015	Lowe's	Landscaping	\$42	\$42	sod		\$0	landscaping	Ex. 6, p. 7
4/26/2016	Home Depot	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 7
12/4/2015	Lowe's	Miscellaneous	\$23	\$23			\$23		Ex. 6, p. 7
9/20/2016	Home Depot	Miscellaneous	\$17	\$17			\$17		Ex. 6, p. 7
10/29/2016	Merritt Chevron	Propane Tank	\$24	\$24			\$24		Ex. 6, p. 8
9/22/2015	City of Oakland Parking	parking	\$8	\$8			\$0	parking fees	Ex. 6, p. 9
10/31/2016	Ikea	décor	\$29	\$29			\$0	décor	Ex. 6, p. 9
11/3/2016	Walgreens	Paper towels	\$9	\$9			\$9		Ex. 6, p. 9
unreadable	Harbor Freight Tools	Miscellaneous	\$38	\$38			\$38		Ex. 6, p. 9
9/17/2015	Lowe's	Miscellaneous	\$34	\$34			\$34		Ex. 6, p. 9
7/4/2016	Home Depot	Miscellaneous	\$49	\$49	drip irrigation	\$23	\$26	portion landscape	Ex. 6, p. 10
4/12/2016	Mission Dollar	Miscellaneous	n/a	\$15			\$0	No invoice	Ex. 6, p. 10
8/2/2016	Lowe's	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 10
8/5/2016	Lowe's	Miscellaneous	\$7	\$7			\$7		Ex. 6, p. 10
12/12/2016	CVS	Miscellaneous	\$23	\$23			\$23		Ex. 6, p. 10
10/27/2016	Home Depot	Miscellaneous	\$37	\$37			\$37		Ex. 6, p. 11
12/1/2015	Mi Pueblo	Food	\$14	\$14			\$0	water	Ex. 6, p. 11
1/16/2016	Dollar Store	unreadable	n/a	\$11			\$0	No invoice	Ex. 6, p. 11
4/3/2016	One Dollar Only	Food	\$3	\$3			\$0	food	Ex. 6, p. 11
1/24/2016	Lowe's	Miscellaneous	\$10	\$10			\$10		Ex. 6, p. 11
9/13/2016	Home Depot	Miscellaneous	\$16	\$16			\$16		Ex. 6, p. 11
8/20/2016	Lowe's	Tools	\$21	\$21			\$0	tools	Ex. 6, p. 12
8/29/2016	Home Depot	Miscellaneous	\$5	\$5			\$5		Ex. 6, p. 12
11/11/2015	Lowe's	Tools	\$6	\$6			\$0	tools	Ex. 6, p. 13
9/4/2015	Discount Builders	Miscellaneous	\$9	\$9		\$5	\$4	tools	Ex. 6, p. 13
11/15/2015	Lowe's	Tools	\$31	\$31			\$0	tools	Ex. 6, p. 13
unreadable	Office Max	Miscellaneous	\$2	\$2			\$2		Ex. 6, p. 14
11/21/2016	Home Depot	Miscellaneous	\$3	\$3		\$5	\$0	tools	Ex. 6, p. 14
11/22/2016	Home Depot	Tools	\$11	\$11			\$0	tools	Ex. 6, p. 14
1/3/2016	Ashby Lumber	Hardware	\$3	\$3			\$3		Ex. 6, p. 14
unreadable	Dollar Tree Store	Miscellaneous	\$25	\$25			\$0	tools and food	Ex. 6, p. 14
1/21/2016	Lowe's	Key	\$2	\$2			\$0	car key	Ex. 6, p. 15
3/8/2016	Lowe's	Keys	\$8	\$8			\$0	car keys	Ex. 6, p. 15
10/14/2015	Office Max	Miscellaneous	unreadable	unreadable			\$0	unreadable	Ex. 6, p. 15
6/27/2016	Home Depot	Miscellaneous	\$8	\$8			\$8		Ex. 6, p. 15
unreadable	Home Depot	unreadable	\$15	\$15			\$0	unreadable	Ex. 6, p. 15
2/18/2016	Home Depot	drywall	\$12	\$12			\$12		Ex. 6, p. 16

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
2/18/2016	Home Depot	Miscellaneous	\$26	\$26			\$26		Ex. 6, p 16
5/17/2016	Home Depot	Miscellaneous	\$17	\$17			\$17		Ex. 6, p 17
10/12/2016	One Dollar Only	Miscellaneous	n/a	\$33			\$0	No invoice	Ex. 6, p 17
10/13/2016	Home Depot	Miscellaneous	\$5	\$5			\$5		Ex. 6, p 17
unreadable	Mission Dollar	Miscellaneous	n/a	\$12			\$0	No invoice	Ex. 7, p 3
10/20/2015	Home Depot	Tools	\$11	\$11			\$0	tools	Ex. 7, p 3
12/3/2015	Ace Hardware	Tools	\$15	\$15			\$2	tools	Ex. 7, p 3
9/22/2015	Office Max	Miscellaneous	\$10	\$10		\$13	\$10		Ex. 7, p 3
9/8/2015	Lowe's	Miscellaneous	\$8	\$8			\$8		Ex. 7, p 3
1/28/2016	Ace Hardware	Hardware	\$1	\$1			\$1		Ex. 7, p 3
11/16/2015	Walgreens	Batteries	\$4	\$4			\$4		Ex. 7, p 4
1/28/2016	Rubenstein	Miscellaneous	\$7	\$7			\$7		Ex. 7, p 4
1/28/2016	Rubenstein	Miscellaneous	\$11	\$11			\$11		Ex. 7, p 7
1/27/2016	Harbor Freight Tools	Tools	\$15	\$15			\$0		Ex. 7, p 8
1/29/2016	Ashby Lumber	Miscellaneous	\$7	\$7			\$7	tools	Ex. 7, p 8
8/6/2015	Center	Miscellaneous	\$4	\$4			\$4		Ex. 7, p 9
1/21/2016	Center	Hardware	\$10	\$10			\$10		Ex. 7, p 10
3/31/2016	Ashby Lumber	Miscellaneous	\$7	\$7			\$7		Ex. 7, p 11
8/24/2015	Lowe's	Miscellaneous	\$29	\$29			\$29		Ex. 7, p 12
12/30/2016	American Emperor	Miscellaneous	\$37	\$37			\$37		Ex. 7, p 13
9/16/2015	One Dollar Only	Miscellaneous	n/a	\$40			\$0		Ex. 7, p 15
1/13/2016	Bayshore Builders	Miscellaneous	\$10	\$10			\$10		Ex. 7, p 16
2/19/2016	Home Depot	Miscellaneous	\$10	\$10			\$10	No invoice	Ex. 7, p 16
5/7/2015	Center	Miscellaneous	\$1	\$1		\$3	\$7	drinks	Ex. 7, p 16
10/4/2016	Lowe's	Miscellaneous	\$17	\$17			\$1		Ex. 7, p 17
2/10/2016	Ashby Lumber	Miscellaneous	\$26	\$26			\$17		Ex. 7, p 18
2/19/2016	Home Depot	Miscellaneous	\$20	\$20			\$26		Ex. 7, p 19
10/20/2016	Los 3 Potrillos	Food	\$33	\$33		\$4	\$15	water	Ex. 7, p 20
12/21/2015	Office Max	Paper	\$9	\$9			\$9	food	Ex. 7, p 20
10/13/2015	Office Max	Miscellaneous	\$26	\$26			\$26		Ex. 7, p 20
8/7/2016	Home Depot	Tools	\$31	\$31			\$26	Tools	Ex. 7, p 21
7/21/2016	Lowe's	Miscellaneous	\$28	\$28			\$0		Ex. 7, p 21
unreadable	Office Max	Miscellaneous	\$41	\$41			\$28		Ex. 7, p 21
2/1/2016	KH Plumbing	Ice Maker	\$40	\$40			\$41		Ex. 7, p 22
unreadable	Office Max	Miscellaneous	\$5	\$5			\$40		Ex. 7, p 23
12/17/2016	Digital Prints	Miscellaneous	unreadable	unreadable			\$5	unreadable	Ex. 7, p 23
8/8/2016	Lowe's	Miscellaneous	\$15	\$15			\$0		Ex. 7, p 24
12/2/2015	Ace Hardware	Miscellaneous	\$15	\$15			\$15		Ex. 7, p 25
12/3/2015	Ace Hardware	Miscellaneous	\$19	\$19			\$15		Ex. 7, p 25
8/18/2015	Discount Builders	Miscellaneous	\$33	\$33			\$19		Ex. 7, p 26
7/31/2016	One Dollar Only	Miscellaneous	n/a	\$21			\$33		Ex. 7, p 26
7/29/2016	Lowe's	Miscellaneous	\$34	\$34			\$0	No invoice	Ex. 7, p 27
9/21/2016	Home Depot	Miscellaneous	\$23	\$23			\$34		Ex. 7, p 27
unreadable	One Dollar Only	Miscellaneous	n/a	\$27			\$23		Ex. 7, p 27
unreadable	One Dollar Only	Miscellaneous	unreadable	\$3			\$0	No invoice	Ex. 7, p 28
12/20/2016	Home Depot	Miscellaneous	\$23	\$23			\$23	unreadable	Ex. 7, p 28
12/20/2016	Home Depot	Hardware	\$34	\$34			\$23		Ex. 7, p 29
12/11/2015	Lowe's	Miscellaneous	\$21	\$21			\$34		Ex. 7, p 29
		Miscellaneous Subtotal:	\$4,793	\$4,898			\$2,775		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Insulation									
8/12/2016	Home Depot	Insulation	\$92	\$92			\$92	no proof of payment	Ex. 8, p. 2
7/21/2016	SDI Insulation	Insulation	\$4,677	\$0			\$0		Ex. 8, p. 3
5/31/2016	Home Depot	Insulation	\$49	\$49			\$49		Ex. 8, p. 2
6/8/2016	Home Depot	Insulation	\$135	\$135			\$135		Ex. 8, p. 3
Insulation Subtotal:			\$4,953	\$276			\$276		
Owner Category: Tile									
8/25/2016	Best Tile	Tile	\$65	\$65			\$65		Ex. 9, p. 2
10/11/2016	Home Depot	Tile	\$146	\$146			\$146		Ex. 9, p. 2
6/10/2016	Home Depot	Tile	\$192	\$192			\$192		Ex. 9, p. 3
10/20/2016	UniStone	Tile	\$474	\$474			\$474		Ex. 9, p. 4
10/6/2016	Home Depot	Tile	\$106	\$106			\$106		Ex. 9, p. 5
10/22/2016	Home Depot	Tile	\$100	\$100			\$100		Ex. 9, p. 5
10/16/2016	Home Depot	Tile	\$74	\$74			\$74		Ex. 9, p. 5
10/6/2016	Home Depot	Tile	\$224	\$224		\$4	\$220	tools (trowel)	Ex. 9, p. 5
10/14/2016	Best Tile	Tile	\$142	\$142			\$142		Ex. 9, p. 6
10/16/2016	Home Depot	Tile	\$72	\$72			\$72		Ex. 9, p. 6
10/14/2016	UniStone	Tile	\$294	\$294			\$294		Ex. 9, p. 6
6/20/2016	Home Depot	Tile	\$91	\$91			\$91		Ex. 9, p. 7
10/26/2016	UniStone	Tile	\$334	\$334			\$334		Ex. 9, p. 8
10/27/2016	Home Depot	Tile	\$98	\$98		\$9	\$89	water	Ex. 9, p. 8
8/31/2016	Home Depot	Tile	\$179	\$0			\$0	no proof of payment	Ex. 9, p. 9
11/23/2016	Home Depot	Tile	\$53	\$53		\$44	\$10	tools (hole saw kit)	Ex. 9, p. 10
11/1/2016	Home Depot	Tile	\$69	\$69			\$69		Ex. 9, p. 11
10/23/2016	Home Depot	Tile	\$95	\$95			\$95		Ex. 9, p. 11
10/17/2016	Home Depot	Tile	\$183	\$183			\$183		Ex. 9, p. 11
10/17/2016	Home Depot	Tile	unreadable	unreadable			\$0		Ex. 9, p. 11
8/7/2016	Home Depot	Tile	\$145	\$145			\$145		Ex. 9, p. 12
10/19/2016	Home Depot	Tile	\$126	\$126			\$126		Ex. 9, p. 12
10/28/2016	Home Depot	Tile	\$69	\$69			\$69		Ex. 9, p. 12
10/27/2016	UniStone	Tile	\$304	\$304			\$304		Ex. 9, p. 13
10/25/2016	UniStone	Tile	\$132	\$132			\$132		Ex. 9, p. 13
10/21/2016	Home Depot	Tile	\$49	\$49			\$49		Ex. 9, p. 14
10/27/2016	UniStone	Tile	\$6	\$6			\$6		Ex. 9, p. 2
10/27/2016	Home Depot	Tile	\$24	\$24			\$24		Ex. 9, p. 3
10/25/2016	Home Depot	Tile	\$53	\$53			\$53		Ex. 9, p. 4
6/23/2016	Home Depot	Tile	\$26	\$26			\$26		Ex. 9, p. 14
11/15/2016	Home Depot	Tile	\$13	\$13			\$13		Ex. 9, p. 6
11/1/2016	Granite Expo	Tile	\$26	\$26			\$26		Ex. 9, p. 9
12/10/2016	Home Depot	Tile	\$16	\$16			\$16		Ex. 9, p. 10
11/10/2016	Home Depot	Tile	\$34	\$34			\$34		Ex. 9, p. 11
Tile Subtotal:			\$4,014	\$3,835			\$3,778		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Curtains/Rods									
12/19/2016	Target	Curtains	\$413	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 2-3
12/19/2016	Target	Curtain Rods	\$160	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp. 4-5
12/19/2016	Target	Curtain Rods	\$224	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 6-7
12/19/2016	Target	Curtain Rods	\$142	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 8-9
12/9/2016	Target	Curtain Rods	\$176	\$0			\$0	No proof of payment, curtains and rods	Ex. 10, pp 10-11
3/10/2017	Target	Curtain Rods	\$54	\$54			\$0	curtains and rods	Ex. 10, p 12
		Curtains: subtotal	\$1,168	\$54			\$0		
Owner Category: Plumbing									
12/11/2015	Lowe's	Plumbing	\$52	\$52			\$0	Tools (bernzomatic)	Ex. 11, p. 2
2/23/2016	KH Plumbing Supply	Plumbing	\$94	\$94			\$94		Ex. 11, p. 3
12/7/2015	KH Plumbing Supply	Plumbing	\$404	\$404			\$404		Ex. 11, p. 4
12/11/2015	KH Plumbing Supply	Plumbing	\$140	\$140			\$140		Ex. 11, p. 5
12/10/2015	KH Plumbing Supply	Plumbing	\$178	\$178			\$178		Ex. 11, p. 6
12/9/2015	KH Plumbing Supply	Plumbing	\$49	\$49			\$49		Ex. 11, p. 7
12/9/2015	KH Plumbing Supply	Plumbing	\$74	\$74			\$74		Ex. 11, p. 8
2/23/2016	KH Plumbing Supply	Plumbing	\$18	\$18			\$18		Ex. 11, p. 9
12/4/2015	KH Plumbing Supply	Plumbing	\$22	\$22			\$22		Ex. 11, p. 10
12/8/2015	KH Plumbing Supply	Plumbing	\$130	\$130			\$130		Ex. 11, p. 11
12/8/2015	Pace Supply	Plumbing	\$51	\$51			\$51		Ex. 11, p. 12
12/2/2015	Globe Plumbing Center	Plumbing	\$70	\$70			\$70		Ex. 11, p. 13
1/7/2016	Center	Plumbing	\$2	\$2			\$2		Ex. 11, p. 14
1/5/2016	KH Plumbing Supply	Plumbing	\$59	\$59			\$59		Ex. 11, p. 15
12/4/2015	KH Plumbing Supply	Plumbing	\$146	\$146			\$146		Ex. 11, p. 16
12/18/2015	KH Plumbing Supply	Plumbing	\$32	\$32			\$32		Ex. 11, p. 17
10/18/2016	American Emperor	Plumbing	\$152	\$152			\$152		Ex. 11, p. 18
12/9/2015	KH Plumbing Supply	Plumbing	\$74	\$74			\$74		Ex. 11, p. 19
3/4/2016	KH Plumbing Supply	Plumbing	\$121	\$121			\$121		Ex. 11, p. 20
2/25/2016	KH Plumbing Supply	Plumbing	\$73	\$73			\$73		Ex. 11, p. 21
2/25/2016	KH Plumbing Supply	Plumbing	\$43	\$43			\$43		Ex. 11, p. 22
1/5/2016	KH Plumbing Supply	Plumbing	\$33	\$33			\$33		Ex. 11, p. 23
1/5/2016	KH Plumbing Supply	Plumbing	\$137	\$137			\$137		Ex. 11, p. 24
1/6/2016	KH Plumbing Supply	Plumbing	\$173	\$173			\$173		Ex. 11, p. 25

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
12/3/2015	Cal Steam	Plumbing	\$56	\$56		\$39	\$17	Tools (hole saws)	Ex. 11, p. 26
3/1/2016	KH Plumbing Supply	Plumbing	\$176	\$176			\$176		Ex. 11, p. 27
6/13/2016	Home Depot	Plumbing	\$2	\$2			\$2		Ex. 11, p. 27
6/14/2016	KH Plumbing Supply	Plumbing	\$398	\$398			\$398		Ex. 11, p. 28
	Plumbing Subtotal:		\$2,958	\$2,958			\$2,867		
	Owner Category: Hot Water								
11/16/2016	Home Depot	Hot Water	\$30	\$30			\$30		Ex. 12, p. 2
6/15/2016	Home Depot	Hot Water	\$14	\$14			\$14		Ex. 12, p. 2
11/2/2016	American Emperor	Hot Water	\$174	\$174			\$174		Ex. 12, p. 3
11/15/2016	Home Depot	Hot Water	\$87	\$87			\$87		Ex. 12, p. 3
11/6/2016	Home Depot	Hot Water	\$26	\$26			\$26		Ex. 12, p. 4
11/3/2016	American Emperor	Hot Water	\$100	\$100			\$100		Ex. 12, p. 4
6/15/2016	Calply	Hot Water	\$36	\$36			\$36		Ex. 12, p. 5
11/2/2016	Lowe's	Hot Water	\$1,297	\$1,297			\$1,297		Ex. 12, p. 5
9/9/2016	Home Depot	Hot Water	\$12	\$12			\$12		Ex. 12, p. 6
11/4/2016	American Emperor	Hot Water	\$117	\$117			\$117		Ex. 12, p. 6
11/2/2016	Home Depot	Hot Water	\$3	\$3			\$3		Ex. 12, p. 7
11/21/2016	American Emperor	Hot Water	\$72	\$72			\$72		Ex. 12, p. 7
	Hot Water Subtotal:		\$1,968	\$1,968			\$1,968		
	Owner Category: Trim								
10/5/2016	Lowe's	Trim	\$21	\$21			\$21		Ex. 13, p. 2
12/13/2016	Home Depot	Trim	\$40	\$40			\$40		Ex. 13, p. 2
10/16/2016	Home Depot	Trim	\$428	\$428			\$428		Ex. 13, p. 3
12/12/2016	Home Depot	Trim	\$137	\$137			\$137		Ex. 13, p. 4
12/7/2016	Home Depot	Trim	\$89	\$89			\$89		Ex. 13, p. 4
10/4/2016	Home Depot	Trim	\$30	\$30			\$30		Ex. 13, p. 4
10/4/2016	Home Depot	Trim	\$29	\$29		\$7	\$29	Tools	Ex. 13, p. 4
11/8/2016	Home Depot	Trim	\$118	\$118			\$118		Ex. 13, p. 4
11/4/2016	Home Depot	Trim	\$267	\$267			\$267		Ex. 13, p. 5
11/14/2016	Home Depot	Trim	\$139	\$139			\$139		Ex. 13, p. 5
12/7/2016	Home Depot	Trim	\$96	\$96		\$77	\$19	Tools (brad nailer)	Ex. 13, p. 5
11/7/2016	Home Depot	Trim	\$43	\$43			\$43		Ex. 13, p. 6
11/7/2016	Home Depot	Trim	\$31	\$31			\$31		Ex. 13, p. 6
11/7/2016	Home Depot	Trim	\$29	\$29			\$29		Ex. 13, p. 6
11/16/2016	Home Depot	Trim	\$105	\$105			\$105		Ex. 13, p. 6
	Trim Subtotal:		\$1,601	\$1,601			\$1,518		
	Owner Category: Electrical								
3/25/2016	Bayshore Supply	Electrical	\$171	\$171			\$171		Ex. 14, p. 2
3/28/2016	American Emperor	Electrical	\$11	\$11			\$11		Ex. 14, p. 3
1/25/2016	American Emperor	Electrical	\$82	\$82			\$82		Ex. 14, p. 4
11/2/2016	Lowe's	Electrical	\$55	\$55			\$55		Ex. 14, p. 4
1/18/2016	Bayshore Supply	Electrical	\$36	\$36			\$36		Ex. 14, p. 5
4/1/2016	Bayshore Supply	Electrical	\$21	\$21			\$21		Ex. 14, p. 6
3/28/2016	American Emperor	Electrical	\$836	\$836			\$836		Ex. 14, p. 7
3/31/2016	American Emperor	Electrical	\$122	\$122			\$4	credit	Ex. 14, p. 8
unreadable	American Emperor	Electrical	\$145	\$145			\$145		Ex. 14, p. 9
unreadable	American Emperor	Electrical	\$628	\$628			\$628		Ex. 14, p. 10
10/20/2016	Bayshore Supply	Electrical	\$123	\$123			\$123		Ex. 14, p. 11
3/30/2016	Bayshore Supply	Electrical	\$92	\$92			\$92		Ex. 14, p. 12

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
3/25/2016	Bayshore Supply	Electrical	\$1,882	\$1,882			\$1,882		Ex. 14, p. 13
2/5/2016	Bayshore Supply	Electrical	\$58	\$58			\$58		Ex. 14, p. 14
9/23/2016	Lowe's	Electrical	\$45	\$45			\$45		Ex. 14, p. 15
unreadable	American Emperor	Electrical	\$146	\$146			\$146		Ex. 14, p. 15
1/4/2016	Home Depot	Electrical	\$424	\$424			\$424		Ex. 14, p. 16
3/16/2016	Bayshore Supply	Electrical	\$156	\$156			\$156		Ex. 14, p. 16
4/13/2016	Best Way	Electrical	\$114	\$114			\$114		Ex. 14, p. 17
1/20/2015	Miles Construction	Electrical	\$300	\$0			\$0	no proof of payment (and before permit)	Ex. 14, p. 18
11/4/2016	Home Depot	Electrical	\$6	\$6			\$0	Tools (voltage tester)	Ex. 14, p. 19
4/1/2016	American Emperor	Electrical	\$202	\$171		\$31	\$171	credit	Ex. 14, p. 19
3/25/2016	Bayshore Supply	Electrical	\$171	\$171			\$171		Ex. 14, p. 20
12/3/2015	Home Depot	Electrical	\$89	\$89			\$89		Ex. 14, p. 20
1/20/2016	Electrical Supply	Electrical	\$304	\$304			\$304		Ex. 14, p. 21
8/16/2016	Home Depot	Electrical	\$45	\$45			\$45		Ex. 14, p. 21
1/11/2016	American Emperor	Electrical	\$10	\$10			\$10		Ex. 14, p. 22
11/21/2016	Lowe's	Electrical	\$38	\$38			\$38		Ex. 14, p. 22
unreadable	American Emperor	Electrical	\$212	\$212			\$212		Ex. 14, p. 23
1/27/2016	Home Depot	Electrical	\$170	\$170		\$12	\$158	tools (keyhole saw)	Ex. 14, p. 23
2/23/2016	Bayshore Supply	Electrical	\$17	\$17			\$17		Ex. 14, p. 24
10/14/2016	Home Depot	Electrical	\$68	\$68			\$68		Ex. 14, p. 24
2/25/2016	Bayshore Supply	Electrical	\$10	\$10		\$4	\$5	Tools (nut setter)	Ex. 14, p. 25
11/5/2016	Home Depot	Electrical	\$23	\$23			\$0	Tools (voltage tester)	Ex. 14, p. 25
7/23/2016	Bayshore Supply	Electrical	\$145	\$145			\$145		Ex. 14, p. 26
8/2/2016	Bill Singh	Electrical	\$0	\$1,150		\$1,150	\$0	no invoice	Ex. 14, p. 27
11/17/2016	Home Depot	Electrical	\$62	\$62		\$44	\$18	tools (wire tracer)	Ex. 14, p. 27
12/23/2016	Home Depot	Electrical	\$31	\$31			\$31		Ex. 14, p. 28
3/30/2016	Bill Singh	Electrical	\$0	\$2,500		\$2,500	\$0	no invoice	Ex. 14, p. 28
4/21/2016	Bill Singh	Electrical	\$0	\$611		\$611	\$0	no invoice	Ex. 14, p. 29
unreadable	Fruit Ridge Tools	Electrical	\$132	\$0		\$132	\$0	no proof of payment	Ex. 14, p. 29
Electrical Subtotal:			\$7,181	\$10,862		\$4,483	\$6,512		
Owner Category: Appliances									
11/11/2016	Best Buy	Appliances (range)	\$639	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (range)	\$639	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer)	\$657	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$1,095	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dishwasher)	\$438	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (gas line)	\$36	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (microwave)	\$142	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (washer)	\$656	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer vent)	\$30	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dryer cord)	unreadable	see below	includes tax		\$0	Unreadable	Ex. 15, p. 2

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
11/11/2016	Best Buy	Appliances (fridge)	unreadable	see below			\$0	Unreadable and appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (unreadable)	\$33	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$657	see below	includes tax		\$0	Delivery Charge	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge delivery)	\$30	see below			\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (fridge)	\$493	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy	Appliances (dishwasher install)	\$33	see below	includes tax		\$0	Appliance	Ex. 15, p. 2
11/11/2016	Best Buy			\$6,292			\$0	Appliance	Ex. 15, p. 2
11/18/2016	Home Depot	Appliances (Dishwasher)	\$278	\$278			\$0	Appliance	Ex. 15, p. 2
		Appliances Subtotal:	\$5,927	\$6,570			\$0		Ex. 15, p. 3
		Owner Category: Stucco							
4/11/2016	Gerbert Lopez	Stucco	\$8,500	\$19,500			\$8,500	No invoice for more than \$8,500	Ex. 16, pp 1-9
		Stucco Subtotal:	\$8,500	\$19,500			\$8,500		
		Owner Category: HVAC							
3/29/2016	Bayshore Supply	HVAC	-\$152	-\$152			-\$152		Ex. 17, p. 1
3/1/2016	Bayshore Supply	HVAC	\$736	\$736			\$736		Ex. 17, p. 2
3/16/2016	Bayshore Supply	HVAC	\$186	\$186			\$186		Ex. 17, p. 3
1/11/2016	American Emperor	HVAC	\$4	\$4			\$4		Ex. 17, p. 4
3/2/2016	American Emperor	HVAC	\$114	\$114			\$114		Ex. 17, p. 5
3/4/2016	American Emperor	HVAC	\$19	\$19			\$19		Ex. 17, p. 6
3/31/2016	American Emperor	HVAC	\$117	\$117			\$117		Ex. 17, p. 7
3/2/2016	Bayshore Supply	HVAC	\$496	\$496			\$496		Ex. 17, p. 8
		HVAC Subtotal:	\$1,520	\$1,520			\$1,520		
		Owner Category: Lumber							
9/19/2016	Lowe's	Lumber	\$121	\$121			\$121		Ex. 18, p. 1
11/17/2015	Home Depot	Lumber	\$198	\$198			\$198		Ex. 18, p. 2
3/29/2016	Ashby Lumber	Lumber	\$69	\$69			\$69		Ex. 18, p. 2
11/15/2015	Lowe's	Lumber	\$191	\$191			\$191		Ex. 18, p. 3
8/19/2015	Lumberman	Lumber	\$13	\$13			\$13		Ex. 18, p. 3
6/29/2016	Home Depot	Lumber	\$166	\$166			\$166		Ex. 18, p. 3
11/13/2016	Ashby Lumber	Lumber	\$105	\$105			\$105		Ex. 18, p. 4
8/20/2015	Lumberman	Lumber	\$51	\$51			\$51		Ex. 18, p. 4
12/15/2016	Home Depot	Lumber	\$614	\$614			\$614		Ex. 18, p. 5
8/13/2016	Home Depot	Lumber	\$281	\$281			\$281		Ex. 18, p. 5
8/27/2016	Golden State Lumber	Lumber	\$89	\$89			\$89		Ex. 18, p. 6
7/20/2016	Lowe's	Lumber	\$159	\$159			\$159		Ex. 18, p. 7
9/9/2015	Golden State Lumber	Lumber	\$114	\$114			\$114		Ex. 18, p. 7
7/27/2016	Home Depot	Lumber	\$116	\$116		\$11	\$105	tools (tape measure)	Ex. 18, p. 8
8/19/2015	Lowe's	Lumber	\$78	\$78			\$78		Ex. 18, p. 8
1/5/2016	Discount Builders	Lumber	\$155	\$155			\$155		Ex. 18, p. 8
11/12/2015	Lowe's	Lumber	\$209	\$209			\$209		Ex. 18, p. 8
1/8/2016	Lowe's	Lumber	\$210	\$210			\$210		Ex. 18, p. 9
1/8/2016	Ashby Lumber	Lumber	unreadable	unreadable			unreadable		Ex. 18, p. 9
7/21/2016	Golden State Lumber	Lumber	n/a	\$390			\$0	no invoice	Ex. 18, p. 10
8/31/2016	Lowe's	Lumber	\$866	\$866			\$866		Ex. 18, p. 10
2/11/2016	Ashby Lumber	Lumber	\$14	\$14			\$14		Ex. 18, p. 11

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Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
8/15/2016	Home Depot	Lumber	\$28	\$28			\$28		Ex. 18, p. 11
11/17/2015	Ashby Lumber	Lumber	\$457	\$457			\$457		Ex. 18, p. 12
7/26/2016	Lowe's	Lumber	\$50	\$50		\$11	\$40	water	Ex. 18, p. 12
3/31/2016	Ashby Lumber	Lumber	\$24	\$24			\$24		Ex. 18, p. 13
8/1/2016	Lowe's	Lumber	\$113	\$113			\$113		Ex. 18, p. 13
1/15/2016	Ashby Lumber	Lumber	\$34	\$34			\$34		Ex. 18, p. 14
9/22/2016	Lowe's	Lumber	\$68	\$68			\$68		Ex. 18, p. 14
11/23/2015	Home Depot	Lumber	\$16	\$16			\$16		Ex. 18, p. 15
11/12/2015	Economy Lumber	Lumber	\$26	\$26			\$26		Ex. 18, p. 15
7/9/2015	Lowe's	Lumber	\$171	\$171		\$152	\$18	tools (dewalt)	Ex. 18, p. 16
9/9/2015	Golden State Lumber	Lumber	\$440	\$440			\$440		Ex. 18, p. 16
8/26/2015	Golden State Lumber	Lumber	\$196	\$196			\$196		Ex. 18, p. 16
3/29/2016	Lowe's	Lumber	\$1	\$1			\$1		Ex. 18, p. 17
1/14/2016	Ashby Lumber	Lumber	\$72	\$72			\$72		Ex. 18, p. 18
1/21/2016	Lowe's	Lumber	\$108	\$108			\$108		Ex. 18, p. 18
11/16/2015	Home Depot	Lumber	\$63	\$63			\$63		Ex. 18, p. 19
2/18/2016	Lowe's	Lumber	\$90	\$90			\$90		Ex. 18, p. 19
11/17/2015	Lowe's	Lumber	\$428	\$428		\$5	\$90		Ex. 18, p. 19
6/30/2016	Lowe's	Lumber	\$8	\$8			\$422	water	Ex. 18, p. 19
1/13/2016	Lowe's	Lumber	\$261	\$261			\$8		Ex. 18, p. 20
11/17/2015	Lowe's	Lumber	\$90	\$90			\$261		Ex. 18, p. 20
1/15/2016	Lowe's	Lumber	\$433	\$433			\$90		Ex. 18, p. 20
8/17/2015	Lumberman	Lumber	\$262	\$262			\$433		Ex. 18, p. 20
11/17/2015	Lowe's	Lumber	\$120	\$120			\$262		Ex. 18, p. 21
9/23/2016	Ashby Lumber	Lumber	\$191	\$191			\$120		Ex. 18, p. 21
12/1/2015	Lowe's	Lumber	\$269	\$269			\$191		Ex. 18, p. 22
8/15/2016	Home Depot	Lumber	\$63	\$63			\$269		Ex. 18, p. 22
11/17/2015	Ashby Lumber	Lumber	\$61	\$61			\$63		Ex. 18, p. 23
7/29/2016	Lowe's	Lumber	\$346	\$346			\$61		Ex. 18, p. 23
11/17/2015	Ashby Lumber	Lumber	\$61	\$61			\$346		Ex. 18, p. 24
8/19/2016	Lowe's	Lumber	\$13	\$13			\$61		Ex. 18, p. 24
11/12/2015	Economy Lumber	Lumber	\$7	\$7			\$13		Ex. 18, p. 24
6/10/2016	Home Depot	Lumber	\$53	\$53			\$7		Ex. 18, p. 25
12/20/2016	Home Depot	Lumber	\$40	\$40			\$53		Ex. 18, p. 26
12/11/2015	Lowe's	Lumber	\$60	\$60			\$40		Ex. 18, p. 26
7/31/2016	Home Depot	Lumber	\$238	\$238		\$96	\$142	water and tools (diablo 14 pc set, makita gold bit set, extension pole, snips)	Ex. 18, p. 26
unreadable	Home Depot	Lumber	\$27	\$27			\$27		Ex. 18, p. 27
7/18/2016	Home Depot	Lumber	\$81	\$81			\$81		Ex. 18, p. 27
8/18/2015	Lowe's	Lumber	\$103	\$103			\$103		Ex. 18, p. 27
7/18/2015	Lowe's	Lumber	\$94	\$94			\$94		Ex. 18, p. 27
Lumber Subtotal:			\$9,085	\$9,475			\$8,809		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Labor, Prof Services									
11/6/2015	Pablo Felipe	Demo Work	n/a	\$450			\$0	No invoice, no check	Ex. 19, p. 1
7/17/2015	Pablo Felipe	Demo Work	n/a	\$2,600			\$0	No invoice	Ex. 19, p. 2
12/18/2015	Val Pizzini	Structural Engineer	n/a	\$800			\$0	No invoice	Ex. 19, p. 3
10/12/2016	Jesus Martinez	Loan	n/a	\$500			\$0	No invoice and loan	Ex. 19, p. 3
12/22/2016	Jesus Martinez	Labor	n/a	\$1,020			\$0	No invoice	Ex. 19, p. 4
12/15/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 5
12/9/2016	Jesus Martinez	Labor	n/a	\$689			\$0	No invoice	Ex. 19, p. 6
12/2/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 7
11/29/2016	Jesus Martinez	Labor	n/a	\$300			\$0	No invoice	Ex. 19, p. 8
11/25/2016	Jesus Martinez	Labor	n/a	\$732			\$0	No invoice	Ex. 19, p. 9
11/18/2016	Jesus Martinez	Labor	n/a	\$897			\$0	No invoice	Ex. 19, p. 10
11/10/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 11
11/4/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 12
10/28/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 13
10/21/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice	Ex. 19, p. 14
10/14/2016	Jesus Martinez	Labor	n/a	\$720			\$0	No invoice and its also a debit receipt without a name on it	Ex. 19, p. 15
10/7/2016	Jesus Martinez	Labor	n/a	\$732			\$0	No invoice	Ex. 19, p. 16
9/30/2016	Jesus Martinez	Labor	n/a	\$851			\$0	No invoice	Ex. 19, p. 17
9/27/2016	Jesus Martinez	Labor	n/a	\$1,000			\$0	No invoice	Ex. 19, p. 18
9/23/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 19
8/5/2016	Jesus Martinez	Labor	n/a	\$920			\$0	No invoice	Ex. 19, p. 20
5/2/2016	Geber Lopez	Plastering	n/a	\$2,000			\$0	No invoice	Ex. 19, p. 21
Labor Subtotal:			\$0	\$20,051			\$0		
Owner Category: Gas									
3/28/2016	American Emperor	Gas	\$93	\$93			\$93	No invoice	Ex. 19a, p. 1
10/18/2016	American Emperor	Gas	n/a	\$173			\$0	No invoice	Ex. 19a, p. 1
3/14/2016	American Emperor	Gas	\$60	\$60			\$60	No invoice	Ex. 19a, p. 2
3/2/2016	American Emperor	Gas	\$72	\$72			\$72	No invoice	Ex. 19a, p. 3
3/1/2016	American Emperor	Gas	\$168	\$168			\$168	No invoice	Ex. 19a, p. 4
3/3/2016	American Emperor	Gas	\$36	\$36			\$36	No invoice	Ex. 19a, p. 5
3/3/2016	American Emperor	Gas	\$35	\$35			\$35	No invoice	Ex. 19a, p. 6
3/3/2016	American Ace Supply	Gas	\$29	\$29			\$29	No invoice	Ex. 19a, p. 7
7/2/2016	American Ace Supply	Gas	\$34	\$34			\$34	No invoice	Ex. 19a, p. 7
11/2/2016	American Emperor	Gas	\$28	\$28			\$28	No invoice	Ex. 19a, p. 8
3/31/2016	American Emperor	Gas	\$13	\$13			\$13	No invoice	Ex. 19a, p. 9
5/10/2016	Home Depot	Gas	\$13	\$13			\$13	No invoice	Ex. 19a, p. 9
Gas Subtotal:			\$581	\$754			\$581		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Bath									
6/27/2016	Home Depot	Bath	\$174	\$174			\$174		Ex. 20, p. 1
3/31/2016	Home Depot	Bath	\$142	\$142			\$142		Ex. 20, p. 1
11/2/2016	Lowe's	Bath	\$257	\$257			\$257		Ex. 20, p. 1
10/16/2016	Home Depot	Bath	\$9	\$9			\$9		Ex. 20, p. 2
12/22/2015	Unreadable Packing Slip	Bath	unreadable	unreadable			\$0		Ex. 20, p. 2
2/7/2016	Wayfair	Bath	\$116	\$116			\$116		Ex. 20, p. 3
1/6/2016	Home Depot	Bath	\$454	\$454			\$454		Ex. 20, p. 3
		Bath Subtotal:	\$1,153	\$1,153			\$1,153		
Owner Category: Kitchen, Ironwork									
8/31/2016	Xiong Xin Liu	Kitchen	n/a	\$1,650	States "unpaid"		\$0	No invoice	Ex. 21, p. 1
8/27/2016	East Star Building Supply	Kitchen	\$1,753	\$0	States "unpaid"		\$0	No proof of payment	Ex. 21, p. 2
9/8/2016	East Star Building Supply	Kitchen	\$88	\$0			\$0	No proof of payment	Ex. 21, p. 3
8/25/2016	East Star Building Supply	Kitchen	\$64	\$64			\$64		Ex. 21, p. 4
10/16/2016	Lowe's	Kitchen	\$175	\$175			\$175		Ex. 21, p. 5
8/10/2016	East Star Building Supply	Kitchen	\$11	\$11			\$11		Ex. 21, p. 5
2/3/2016	Iron Works	Railing	\$550	\$0			\$0	No proof of payment	Ex. 21, p. 6
		Kitchen/Ironwork Subtotal:	\$2,640	\$1,900			\$250		
Owner Category: Windows									
11/3/2016	Alexander	Windows	\$2,970	\$2,970			\$2,970		Ex. 22, pp. 1-2
10/19/2016	Sherwin Williams	Windows	n/a	\$59			\$0	No invoice	Ex. 22, p. 3
10/19/2016	Sherwin Williams	Windows	n/a	\$93			\$0	No invoice	Ex. 22, p. 3
10/19/2016	Sherwin Williams	Windows	n/a	\$59			\$0	No invoice	Ex. 22, p. 3
		Windows Subtotal:	\$2,970	\$3,180			\$2,970		
Owner Category: Tolls/Travel									
various	Bridge Tolls		\$1,168	\$1,168			\$0	transportation	Ex. 23, pp. 2-14
various	Driving Expenses		\$1,610	\$1,610			\$0	transportation	Ex. 23, p. 1
		Travel/Tolls Subtotal:	\$2,778	\$1,168			\$0		
Owner Category: Sheetrock, Labor									
various	Jorge	Sheetrock	n/a	\$16,500			\$0	no invoice	Ex. 24
		Sheetrock Subtotal:					\$0		
Owner Category: Hardwood Floors									
12/2/2016	Specialty Hardwood	Hardwood Floors	n/a	\$2,739			\$0	no invoice	Ex. 25, p. 1
11/29/2016	Specialty Hardwood	Hardwood Floors	n/a	\$5,000			\$0	no invoice	Ex. 25, p. 2
		Hardwood Floors Subtotal:		\$7,739			\$0		
Owner Category: Construction Insurance									
5/4/2015	Lexington Insurance	Insurance	\$7,249	n/a			\$0	No proof of payment, no insurance	Ex. 26, p. 1
		Insurance Subtotal:	\$7,249	\$0			\$0		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Permits/Fees									
2/10/2016	City of Oakland Business Tax	Fees	\$30	\$30			\$0	no business tax	Ex. 27, p. 1
9/28/2015	City of Oakland Permit Fee	Fees	\$4,369	\$4,369	Job Value=\$80,000		\$4,369		Ex. 27, p. 2, Ex. 34, p. 1
10/15/2015	City of Oakland Permit Fee	Fees	\$2,036	\$2,036	Job Value=\$10,000		\$2,036		Ex. 27, p. 3, Ex. 34, p. 3
Permit/Fees Subtotal:			\$6,435	\$6,435			\$6,405		
Owner Category: General Contractor									
unknown	JTM Development	General Contractor	n/a	\$19,451			\$0	no invoice	Ex. 27, p. 1
3/4/2016	JTM Development	General Contractor	\$24,381	\$24,381			\$24,381		Ex. 27, p. 1, 7
12/10/2015	JTM Development	General Contractor	\$10,198	\$10,198			\$10,198		Ex. 27, p. 1, 5
12/9/2015	JTM Development	General Contractor	\$1,200	\$1,200			\$1,200		Ex. 27, p. 1, 4
12/3/2015	JTM Development	General Contractor	\$8,362	\$8,362			\$8,362		Ex. 27, pp. 2, 8
9/5/2016	JTM Development	General Contractor	\$8,308	n/a			\$8,308	Combined these two invoices and payments	Ex. 27, p. 3
7/1/2016	JTM Development	General Contractor	n/a	\$15,000			\$0		Ex. 28, p. 6
General Contractor Subtotal:			\$52,449	\$78,592			\$52,449		
Owner Category: Fireplace Servicing									
12/15/2016	Kidd Fireplace	Fireplace	\$748	\$748			\$748		Ex. 29, pp. 1-2
12/27/2016	Kidd Fireplace	Fireplace	\$253	\$253			\$253		Ex. 29, p. 3
Fireplace Subtotal:			\$1,001	\$1,001			\$1,001		
Owner Category: Online Purchases									
12/17/2016	Ebay	Fireplace	\$95	\$0			\$0	No proof of payment	Ex. 30, p. 1
unknown	Craigslist	Ladders	\$0	\$0			\$0	No invoice or proof of payment (also, tools)	Ex. 30, p. 1
unknown	Craigslist	Spray Foam	\$333	\$0			\$0	No proof of payment	Ex. 30, p. 1
11/20/2016	Ebay	Caster Wheels	\$3	\$0			\$0	No proof of payment (also furniture)	Ex. 30, p. 2
12/13/2016	Ebay	Carpet Tape	\$14	\$0			\$0	No proof of payment	Ex. 30, p. 2
11/13/2016	Ebay	Extension Kit	\$16	\$0			\$0	No proof of payment	Ex. 30, p. 2
10/20/2016	Ebay	Switch Toggle	\$24	\$0			\$0	No proof of payment	Ex. 30, p. 2
10/19/2016	Ebay	brackets	\$2	\$2			\$0	No proof of payment	Ex. 30, p. 2
11/20/2016	Ebay	Barn Door	\$120	\$0			\$0	No proof of payment	Ex. 30, p. 2
unknown	Ebay	Faucet	\$311	\$0			\$0	No proof of payment	Ex. 30, p. 2
11/20/2016	Amazon	Bulbs	\$20	\$20			\$0	No proof of payment	Ex. 30, p. 2
10/23/2016	Amazon	Shop Towels	\$30	\$30			\$0	Furnishings	Ex. 30, p. 3

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
10/4/2016	Amazon	Outlets	\$98	\$98			\$98		Ex. 30, p. 3
10/18/2016	Amazon	Faucet	\$163	\$163			\$163		Ex. 30, p. 3
11/12/2016	Amazon	Door Hardware	\$210	\$210			\$210		Ex. 30, p. 4
11/27/2016	Amazon	Laptop cord and screw remover	\$26	\$26			\$0	tools	Ex. 30, p. 4
11/23/2016	Amazon	Toilet Plunger	\$33	\$33			\$0	tools	Ex. 30, p. 4
11/12/2016	Amazon	Door Hardware	\$8	\$8			\$8		Ex. 30, p. 4
10/14/2016	Amazon	Electric Hardware	\$136	\$136			\$136		Ex. 30, p. 4
10/1/2016	Amazon	Electric Hardware	\$33	\$33			\$33		Ex. 30, p. 5
9/23/2016	Amazon	Kitchen Hardware	\$4	\$4			\$33		Ex. 30, p. 5
9/12/2016	Amazon	Bulbs	\$7	\$7			\$4		Ex. 30, p. 5
9/25/2016	Amazon	Electric Hardware	\$195	\$195			\$0	Furnishings	Ex. 30, p. 5
8/13/2016	Amazon	Bulbs	\$18	\$18			\$195		Ex. 30, p. 6
8/13/2016	Amazon	Tampons	\$20	\$20			\$0	Furnishings	Ex. 30, p. 6
7/18/2016	Amazon	Curtains	\$26	\$26			\$0	Personal items	Ex. 30, p. 6
6/16/2016	Amazon	Timer/Hose	\$38	\$38			\$0	Furnishings	Ex. 30, p. 7
6/17/2016	Amazon	Garden Hose	\$7	\$7			\$0	Landscape	Ex. 30, p. 7
6/16/2016	Amazon	Soaker Hose	\$15	\$15			\$0	Landscape	Ex. 30, p. 7
6/7/2016	Amazon	Water timer	\$38	\$38			\$0	Landscape	Ex. 30, p. 7
6/12/2015	Amazon	HDMI cable	\$34	\$34			\$0	Tools	Ex. 30, p. 7
9/24/2015	Amazon	Cleaners	\$34	\$34			\$34		Ex. 30, p. 8
9/24/2015	Amazon	Plumbing	\$199	\$199			\$34		Ex. 30, p. 8
6/4/2015	Amazon	Cleaning Cloths	\$41	\$41			\$199		Ex. 30, p. 8
6/4/2015	Amazon	Cloths and microplane grater	\$22	\$22			\$0	Personal items (prior to permit)	Ex. 30, p. 9
3/12/2015	Amazon	Bulbs	\$9	\$9			\$0	Personal items (prior to permit)	Ex. 30, p. 9
1/16/2015	Amazon	Faucet	\$141	\$141			\$0	Furnishings	Ex. 30, p. 9
12/7/2014	Amazon	Dustpan/Cleaner	\$27	\$27			\$0	prior to permit	Ex. 30, p. 9
12/8/2014	Amazon	Household Supplies	\$36	\$36			\$0	prior to permit (and personal items)	Ex. 30, p. 10
1/11/2015	Amazon	Stools	\$78	\$78			\$0	prior to permit and personal items	Ex. 30, p. 10
9/3/2014	Amazon	Humidity Monitor	\$33	\$33			\$0	Tools	Ex. 30, p. 10
9/2/2014	Amazon	Moisture Meter	\$27	\$27			\$0	Prior to permit and tools	Ex. 30, p. 11
Online Subtotal:			\$2,724	\$1,808			\$1,146		Ex. 30, p. 11
Owner Category: Toilet Rental									
6/16/2016	United Site Services	Toilet Rental	\$262	\$0			\$0	No proof of payment	Ex. 31
Toilet Subtotal:			\$262	\$0			\$0		

Date	Provider	For	Invoice Amount	Proof of Payment	Notes	Remove Cost	Allowable Amount	Reason for Not Granting	Evidence
Owner Category: Lighting									
10/19/1960	Paypal (Andres Orphanopoulos)	Lighting	\$0	\$90			\$0	No invoice	Ex. 32, p. 1
12/15/2016	Houzz	Lighting	\$54	\$54			\$54		Ex. 32, p. 2
12/19/2016	Home Depot	Blinds	\$56	\$56			\$56		Ex. 32, p. 2
12/16/2016	Home Depot	Lighting	\$180	\$180			\$180		Ex. 32, p. 2
12/4/2016	Lowe's	Lighting	\$60	\$60			\$60		Ex. 32, p. 3
11/9/2016	Lowe's	Lighting	\$124	\$124			\$124		Ex. 32, p. 3
11/1/2016	Lowe's	Lighting	\$135	\$135			\$135		Ex. 32, p. 3
11/28/2016	Lowe's	Lighting	\$43	\$43			\$43		Ex. 32, p. 3
Lighting Subtotal:			\$653	\$743			\$653		
Owner Category: Miscellaneous									
1/11/2017	Ikea	Miscellaneous	\$96	\$96			\$33	Unknown except lighting fixture	Ex. 33, p. 1
1/13/2017	Home Depot	Misc. Supplies	\$221	\$221			\$221		Ex. 33, p. 1
1/5/2016	Home Depot	Misc. Supplies	\$182	\$182		\$14	\$168	Tools	Ex. 33, p. 2
1/2/2017	Lowe's	Paint	\$40	\$40			\$40		Ex. 33, p. 3
1/11/2017	Home Depot	Electric Hardware	\$8	\$8			\$8		Ex. 33, p. 3
1/17/2017	Home Depot	Hardware	\$25	\$25			\$25		Ex. 33, p. 4
1/14/2017	Lowe's	Paint	\$38	\$38			\$38		Ex. 33, p. 4
1/18/2017	Home Depot	Electric Hardware	\$40	\$40			\$40		Ex. 33, p. 5
1/18/2017	City of Oakland	Parking fees	\$1	\$1			\$0	Parking fees	Ex. 33, p. 6
1/18/2017	City of Oakland	Parking fees	\$1	\$1			\$0	Parking fees	Ex. 33, p. 6
1/17/2017	Home Depot	Hardware	\$67	\$67		\$24	\$42	Tools and candy	Ex. 33, p. 6
7/7/2015	Lowe's	Hardware	\$22	\$22			\$0	Tools	Ex. 33, p. 7
9/23/2016	Pak'n Save	Food	\$14	\$14			\$0	Food	Ex. 33, p. 7
8/2/2016	Lowe's	Hardware	\$53	\$53			\$53		Ex. 33, p. 8
1/9/2017	Home Depot	Electric Hardware/Toilets	\$260	\$260			\$260		Ex. 33, p. 8
1/11/2017	Home Depot	Electrical	\$6	\$6			\$6		Ex. 33, p. 9
1/18/2017	Home Depot	Electrical	\$8	\$8			\$8		Ex. 33, p. 9
3/16/2016	Bayshore Builders	unknown	\$0	\$156			\$0	No invoice	Ex. 33, p. 9
1/17/2017	Home Depot	Handrails	\$47	\$47			\$47		Ex. 33, p. 10
9/22/2016	East Star Building Supply	Vanity	\$944	\$944			\$944		Ex. 33, p. 10
8/13/2016	Bayshore Builders	Auger Bit	\$31	\$31			\$31		Ex. 33, p. 11
8/19/2016	Uni-Stone	Tile	\$4	\$4			\$4		Ex. 33, p. 12
1/9/2017	American Emperor	bolts	\$3	\$3			\$3		Ex. 33, p. 13
3/2/2017	JTM Development	Contractor	\$4,746	\$0			\$0	No proof of payment	Ex. 33, p. 14
Miscellaneous Subtotal:			\$6,855	\$2,266			\$1,970		
Total:							\$116,007		

**City of Oakland
Bureau of Building
Construction Valuation¹
For Building Permits⁴
Effective May 1, 2015**

Planning and Building Department
Dalziel Administration Building
250 Frank Ogawa Plaza - 2nd Floor
Oakland, CA 94612
510-238-3891

Occ.	Description ³	Construction Type	Level Ground		Hillside Construction ²		Marshall & Swift April 2015
			New	Remodel	New	Remodel	
R3	Single Family Residence	V	\$234.17	\$121.77	\$304.42	\$158.30	Section 12 pg 25 (C/e)
	Duplex/Townhouse	V	\$193.69	\$100.72	\$251.79	\$130.93	Section 12 pg 25 (C/vg)
	Factory/Manufactured home	V	\$73.06	\$37.99	\$94.98	\$49.39	Section 63 pg 9 (Exc)
	Finished Habitable Basement Conversion	V	\$124.09	\$64.52	\$161.31	\$83.88	Section 12 pg 26 (CDS/g)
	Convert non-habitable to habitable	V	N/A	\$48.57	N/A	\$63.14	Section 12 pg 26 (CDS/g)
	Partition Walls	V	N/A	\$17.23	N/A	\$22.39	Section 52 pg 2 (6"wall)
	Foundation Upgrade (I.f.)	V	\$107.90	NA	\$140.27	NA	Section 51 pg 2 (R/24x72.)
	Patio/Porch Roof	V	\$27.76	\$14.43	\$36.08	\$18.76	Section 66 pg 2 (Wood)
	Ground Level Decks	V	\$33.80	\$17.58	\$43.94	\$22.85	Section 66 pg 2 (100sf/avg)
	Elevated Decks & Balconies	V	\$44.14	\$22.95	\$57.38	\$29.84	Section 66 pg 2 (100sf/+1 story)
U1	Garage	V	\$43.30	\$22.52	\$56.29	\$29.27	Section 12 pg 35 (C/a600)
	Carport	V	\$28.74	\$14.95	\$37.37	\$19.43	Section 12 pg 35 (D/a4car)
	Retaining wall (s.f.)	III	\$95.75	NA	\$46.48	NA	Section 55 pg 3 (12"reinf.h)
R2	Apartment (>2 units)	I & II	\$191.10	\$99.37	\$248.43	\$129.18	Section 11 pg 18 (B/g)
		III	\$149.01	\$77.48	\$193.71	\$100.73	Section 11 pg 18 (Dmill/g)
		V	\$145.07	\$75.43	\$188.59	\$98.07	Section 11 pg 18 (D/g)
Non-Residential Occupancy							
A	Church/Auditorium	I & II	\$301.54	\$156.80	\$392.00	\$203.84	Section 16 pg 9 (B/g)
		III	\$220.22	\$114.51	\$286.29	\$148.87	Section 16 pg 9 (B/a)
		V	\$203.15	\$105.64	\$264.10	\$137.33	Section 16 pg 9 (S/g)
A	Restaurant	I & II	\$260.58	\$135.49	\$338.73	\$176.14	Section 13 pg 14 (A-B/g)
		III	\$200.51	\$104.27	\$260.67	\$135.55	Section 13 pg 14 (C/g)
		V	\$188.49	\$98.01	\$245.03	\$127.42	Section 13 pg 14 (D/g)
B	Restaurant <50 occupancy	V	\$144.99	\$75.39	\$188.49	\$98.01	Section 13 pg 17 (C/a)
B	Bank	I & II	\$258.31	\$134.32	\$335.80	\$174.62	Section 15 pg 21 (B/a)
		III	\$206.61	\$107.44	\$268.59	\$139.67	Section 15 pg 21 (C/a)
		V	\$194.87	\$101.33	\$253.33	\$131.73	Section 15 pg 21 (D/a)
B	Medical Office	I & II	\$289.61	\$150.60	\$376.50	\$195.78	Section 15 pg 22 (A/g)
		III	\$281.19	\$146.22	\$365.55	\$190.08	Section 15 pg 22 (B/g)
		V	\$227.88	\$118.50	\$296.24	\$154.04	Section 15 pg 22 (C/g)
B	Office	I & II	\$191.17	\$99.41	\$248.51	\$129.23	Section 15 pg 17 (B/a)
		III	\$137.10	\$71.29	\$178.23	\$92.68	Section 15 pg 17 (C/a)
		V	\$130.01	\$67.61	\$169.02	\$87.89	Section 15 pg 17 (D/a)
E	School	I & II	\$244.37	\$127.07	\$317.69	\$165.20	Section 18 pg 14 (A-B/g)
		III	\$188.85	\$98.20	\$245.51	\$127.66	Section 18 pg 14 (C/g)
		V	\$181.97	\$94.63	\$236.57	\$123.01	Section 18 pg 14 (D/g)
H	Repair Garage	I & II	\$212.03	\$110.26	\$275.64	\$143.33	Section 14 pg 33 (MSG 527C/e)
		III	\$205.70	\$106.96	\$267.41	\$139.05	Section 14 pg 33 (MLG 423C/e)
		V	\$197.94	\$102.93	\$257.32	\$133.81	Section 14 pg 33 (MLG 423D/e)
I	Care Facilities / Institutional	I & II	\$215.02	\$111.81	\$279.53	\$145.35	Section 15 pg 22 (B/a)
		III	\$172.71	\$89.81	\$224.52	\$116.75	Section 15 pg 22 (C/a)
		V	\$165.20	\$85.91	\$214.77	\$111.68	Section 15 pg 22 (D/a)
M	Market (Retail sales)	I & II	\$168.68	\$87.71	\$219.28	\$114.02	Section 13 pg 26 (A/g)
		III	\$134.90	\$70.15	\$175.37	\$91.19	Section 13 pg 26 (C/g)
		V	\$127.88	\$66.50	\$166.25	\$86.45	Section 13 pg 26 (D/g)
S	Industrial plant	I & II	\$180.88	\$94.06	\$235.15	\$122.28	Section 14 pg 15 (B/a)
		III	\$141.69	\$73.68	\$184.19	\$95.78	Section 14 pg 15 (C/a)
		V	\$126.46	\$65.76	\$164.40	\$85.49	Section 14 pg 15 (D/a)
S	Warehouse	I & II	\$112.65	\$58.58	\$146.44	\$76.15	Section 14 pg 26 (A/g)
		III	\$105.50	\$54.86	\$137.14	\$71.31	Section 14 pg 26 (B/g)
		V	\$103.45	\$53.80	\$134.49	\$69.93	Section 14 pg 26 (Cmill/g)
S	Parking Garage	I & II	\$89.44	\$46.51	\$116.27	\$60.46	Section 14 pg 34 (A/g)

¹ Cost per square foot, unless noted otherwise. (l.f. = linear foot; s.f. = square foot); includes 1.3 regional multiplier (see Sec. 99 pg 6 April 2015 Marshall & Swift)

² Hillside construction = slope >20%; multiply by additional 1.3 multiplier

³ Remodel Function of New Construction is a 0.52 multiplier.

⁴ Separate structures or occupancies valued separately.

⁵ Separate fees assessed for E/P/M permits, R.O.W. improvements, Fire Prevention Bureau, Grading Permits, technology enhancement, records management, Excav. & Shoring.

Exhibit "B"

PROOF OF SERVICE

Case Number L16-0094

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

Tenants

Alisa Highfill
3515 Brighton Ave #1
Oakland, CA 94602

Bernadette Quattrone
3515 Brighton Ave #1
Oakland, CA 94602

Collin Quillian
3515 Brighton Ave #1
Oakland, CA 94602

Marvin Gleaton
3515 Brighton Ave #2
Oakland, CA 94602

Steve Arnwine
3515 Brighton Ave #3
Oakland, CA 94602

Taylor Campion
3515 Brighton Ave #3
Oakland, CA 94602

Owner

William Wiebe
278 Connecticut St
San Francisco, CA 94107

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.

000131

I declare under penalty of perjury under the laws of the State of California that the above
is true and correct. Executed on July 05, 2017 in Oakland, CA.

A handwritten signature in black ink, appearing to read "Barbara M. Cohen", written over a horizontal line.

Barbara M. Cohen

City of Oakland Residential Rent Adjustment Program 250 Frank Ogawa Plaza, Suite 5313 Oakland, California 94612 (510) 238-3721		2017 JUL 25 AM 8:58	APPEAL
Appellant's Name William Wiebe		Landlord <input checked="" type="checkbox"/>	Tenant <input type="checkbox"/>
Property Address (Include Unit Number) 3515 Brighton Avenue, units 1, 2, and 3 Oakland CA 94602			
Appellant's Mailing Address (For receipt of notices) 278 Connecticut St. San Francisco, CA 94107		Case Number 216-0094	Date of Decision appealed July 5, 2017
Name of Representative (if any) N/A		Representative's Mailing Address (For notices) N/A	

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

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

7. Other. You must attach a detailed explanation of your grounds for appeal. Submissions to the Board are limited to 25 pages from each party. Number of pages attached 8/3. Please number attached pages consecutively. *Please see attached.*

3 page statement of tenant address, 3 page photos of building

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on July 25, 20017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	<i>please see attached</i>	<i>Alisa Hill</i>
Address		<i>3515 Durant Ave #4 94602</i>
City, State Zip		<i>Bernadette Quattrone 3515 Durant Ave #4 Oakland, CA 94602</i>
Name		<i>Collin</i>
Address		
City, State Zip		

<i>Will A. Hill</i>	<i>7/24/17</i>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

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

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

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

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on Sub 25, 20012, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Steve Arnwine
Address	3515 Brighton Ave #3
City, State Zip	Oakland CA 94602
Name	Taylor Campion
Address	3515 Brighton Ave #3
City, State Zip	Oakland CA 94602

	2/25/2012
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

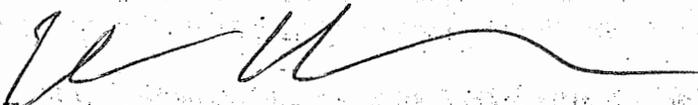
This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file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

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- You must sign and date this form or your appeal will not be processed.

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

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on July 25, 2017, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Alisa Highfill
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94602
Name	Bernadette Quattrone
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94602

	<u>7/25/2017</u>
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

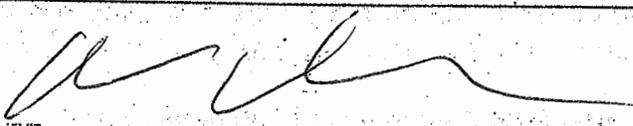
This appeal must be received by the Rent Adjustment Program, 250 Frank Ogawa Plaza, Suite 5313, Oakland, California 94612, not later than 5:00 P.M. on the 20th calendar day after the date the decision was mailed to you as shown on the proof of service attached to the decision. If the last day to file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

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

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

8. **You must serve a copy of your appeal on the opposing party(ies) or your appeal may be dismissed.** I declare under penalty of perjury under the laws of the State of California that on July 25, 2012, I placed a copy of this form, and all attached pages, in the United States mail or deposited it with a commercial carrier, using a service at least as expeditious as first class mail, with all postage or charges fully prepaid, addressed to each opposing party as follows:

Name	Collin Bullian
Address	3515 Brighton Ave #1
City, State Zip	Oakland CA 94612
Name	Marvin Gleaton
Address	3515 Brighton Ave #2
City, State Zip	Oakland, CA 94612

	7/25/2012
SIGNATURE of APPELLANT or DESIGNATED REPRESENTATIVE	DATE

IMPORTANT INFORMATION:

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

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

HRRRB APPEAL GROUNDS STATEMENT

Wiebe v. Tenant - Petition # L16-0094

This ~~is~~ appeal is from the July 5, 2017 Corrected Hearing Decision ("Decision") in the above captioned petition denying a certificate of exemption under the "substantial rehabilitation" provision of the OMC § 8.22.030(B)(2). The appealing petitioner/owner is William Wiebe. The building is located at 3515 Brighton Ave in Oakland. The 3-unit 1920's building underwent a "down to studs" renovation with all new electrical, plumbing, HVAC, gas, insulation, sheetrock, doors, windows, trim/baseboard, paint (interior/exterior), floor tiling, 3 sets of kitchens (cabinets, countertops, appliances), bathrooms (tubs, toilets, vanities, tiling), hardwood floor replacement/refinishing, etc. Although I had a general contractor, I worked at the site daily and directly contracted with virtually all of the service providers.

This *uncontested* petition was heard by Hearing Officer Barbara Cohen. She determined that the minimum rehabilitation expenses needed for the building to be considered "substantially rehabilitated" was \$212,673. I submitted documented expenses of roughly \$300,000 supported by independent corroborating evidence showing either an invoice or payment or both, *but not always both*. These expenses did not include any amounts for my time or labor. The Hearing Officer accepted only \$116,008 in expenses rejecting any that did not have independent corroborating evidence for *both* the invoice and the payment. The Hearing Officer also deemed entire "categories" of expenses, which had been previously approved in multiple other recent "substantial rehabilitation" decisions, to be ineligible (appliances, construction insurance, etc.)

Identified Appeal Grounds

1. Improper Heightened Standard of Proof

- a. The Hearing Officer erred by finding that certain construction expenses - which were independently documented with corroborating evidence and supported by sworn testimony and statements - were *not sufficiently documented* because they did not have independent corroboration for *both* invoices and payments - a requirement which is inconsistent with the HRRRB's precedent in *Ulman v. Breen*, T04-0158 (which requires only that there be some form of "independent" "corroborating evidence" supporting a party's sworn testimonial or summary evidence). It is also inconsistent with other RAP hearing decisions which appear to have allowed expenses based only on the "credible" testimony of the petitioner/owner. See e.g., *Nguyen v. Tenants*, L15-0008.
- b. The Hearing Officer erred by finding that under the "*preponderance of the evidence*" standard there was insufficient evidence to meet the required burden of proof. Under controlling California law, the "*preponderance of the evidence*" standard requires only a showing that a fact or claim is "more likely to be true than not true." See *People v. Bryden*, No. A148203, 2017 WL 383389, at *2 (Cal. Ct. App. Jan. 27, 2017). Given the substantial independent corroborating evidence and supporting sworn statements/testimony provided on the one side and the lack of any contradictory evidence on the other side (or any evidence for that matter), the Hearing Officer's determination is not supported by substantial evidence. See *id.* ("[p]reponderance of the evidence means that the evidence on one side outweighs, preponderates over ... the evidence on the other side.").

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Improperly Disallowed Expense "Categories"

The Hearing Officer erred by concluding that certain expense *categories* were "not allowed," including, *inter alia*, (1) "appliance" costs, (2) the cost of "construction insurance," (3) construction-related transportation costs, and (4) any credit for "owner contributed labor" – all of which *have been allowed in one or more other RAP hearing decisions* See, e.g., *Mapel v. Tenant*, L16-0057 (allowing appliances), *Carta Holdings LLC v. Tenants*, L15-0034 (allowing appliances, construction insurance), *Nguyen*, L15-0008 (allowing appliances, owner contributed labor). The Hearing Officer did not offer any supporting citation and did not otherwise note the inconsistency with these or other RAP hearing decisions. In addition, many (if not all) of the excluded categories are specifically "included cost items" in the *Marshall & Swift* data that the City apparently uses in its Valuation Table (which in turn is used by RAP staff in determining the "substantial rehabilitation" expense threshold).

2. "Missing" Submitted Evidence

In response to the Hearing Officer's requests for certain documents at the end of the first hearing, I obtained the requested documents (within 24 hours of the hearing) – and confirmed that fact by email to the Hearing Officer. Thereafter, to the best of my belief and knowledge, I timely submitted them to RAP prior to rescheduled hearing date. Certain of those documents unquestionably were received and entered into the record. Others apparently were either not received or not properly entered into the record. As such, the Hearing Officer did not have any opportunity to consider them in her Decision. Two "confirming" documents that were include with these "missing" documents, a "zero-balance" statement from Restoration Management and a Declaration from Jesus Martinez, a painter/carpenter on the project were for over \$45,000 (almost half of the shortfall determined by the Hearing Officer).

3. Miscalculations, Omissions, and Classification Errors

There are a number of expenses which were inadvertently omitted or underreported or disallowed by the Hearing Officer in her Decision based upon computational, transcription, or classification errors which should be reviewed and corrected.

4. Due Process Issues

Given the Hearing Officer's use of a heightened (and undisclosed) standard of proof, the inconsistent treatment of similarly situated petitioners, and the limited public access to prior HRRB and RAP hearing decisions and/or written guidance on fundamental issues like the required documentation or allowable expenses, the current petition process raises significant issues of due process and fairness for HRRB/Appeal Panel review and consideration. See *People v. Ramirez* (1979) 25 Cal.3d 260, 268-69 (the California Constitution's due process include "freedom from arbitrary adjudicative procedures).

* * * * *

To address the Hearing Officer's concern regarding independent corroboration of *both* invoices *and* payments, I obtained "confirming" declarations (under penalty of perjury) from the main service providers whose expenses were disallowed. If considered, they would eliminate any remaining doubt and validate these previously submitted (and documented) expenses. I

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spoke with the RAP program analyst for my petition, who recommended that I also contact the RAP Manager, Connie Taylor, to request reconsideration. I am in the process of finalizing that request for reconsideration and supporting document. Absent that reconsideration, I would anticipate requesting an HRRB Appeal Panel evidentiary hearing to consider some of the issues noted above and to seek consideration of the additional "confirming" documents, as is authorized under OMC § 8.22.120B.4.

HRRRB Appeals Form

Please also note, that many of these appeal grounds listed above implicate multiple grounds listed in 1-5 of the HRRRB Appeals Form (and even arguably 6 & 7), in that the claims deal with issues relating to inconsistencies in application of the OMC, prior RAP decisions, and the HRRRB's own decisions, as well as issues under California case and statutory law. It also may implicate areas of policy which the HRRB may not have previously addressed (e.g., allowable expense categories, etc.) – even in the area of appropriate standard of proof (which should be clear from the HRRB's prior decision in *Ulman*, but which appears to be interpreted by the Hearing Officer in a manner that is contrary to *Ulman's* plain language) may raise novel issues for the HRRB/ Appeal Panel. Moreover, the Hearing Officer's application of a standard which purports to be "*preponderance of the evidence*" standard, but which appears in practice to be more akin to a "clear and convincing" standard or even higher, also raises multiple issues in the due process realm - fairness/opportunity to adequately prepare and present, notice, etc. which warrant HRRB deliberative consideration. It also clearly implicates whether the Hearing Officer's decision is supported by substantial evidence.

Please let me know when a hearing date is set so I can plan for briefing accordingly, my understanding from speaking with RAP staff is that I will have the opportunity to fully brief the appeal and provide relevant supporting materials up to 8 days before the hearing date. If that timeframe is not correct please let me know as soon as possible.

Thank you in advance for your consideration of this appeal. Given my significant work on this project, the Hearing Officer's Decision came as a strong and discouraging blow - it is hard to see years of toil and financial investment dismissed as naught.... I tried to be as accurate, truthful, and responsive in my submissions and testimony. I know, without a shadow of a doubt that the project at 3515 Brighton more than meets the requirement for a "substantial rehabilitation." The hundreds of receipts, invoices, cancelled checks and other independent corroborating documents reflect that on their face (and the recent declarations from the tradespeople only further confirm the accuracy of those previously documented and submitted expenses and the veracity of my sworn statements and testimony). I continue to believe that the "truth" matters – even in this day and age – and I appreciate and am grateful for the opportunity to show the HRRRB/Appeal Panel of the merits and justness of this appeal.

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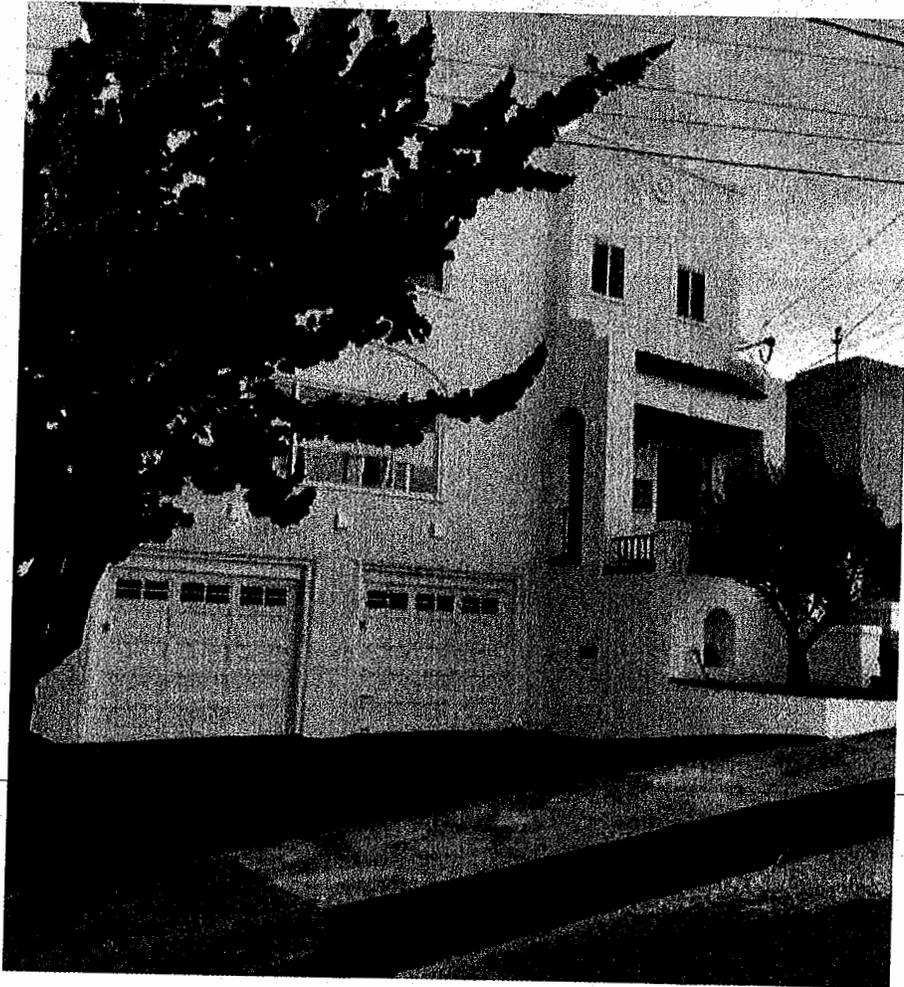
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~~APPEAL~~ EXHIBIT A

Before, During & After Photos
3515 Brighton Ave, Oakland CA

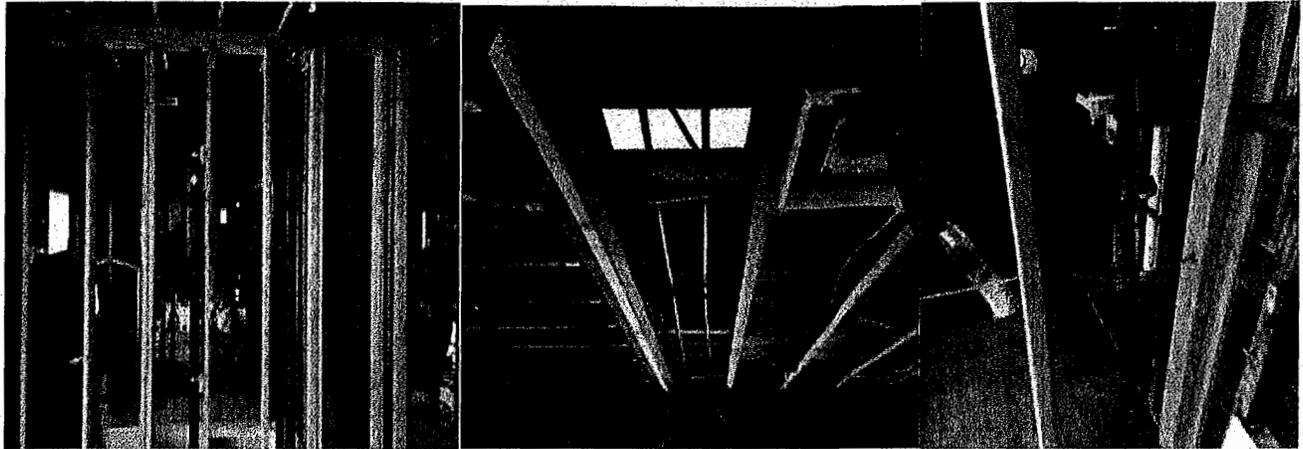


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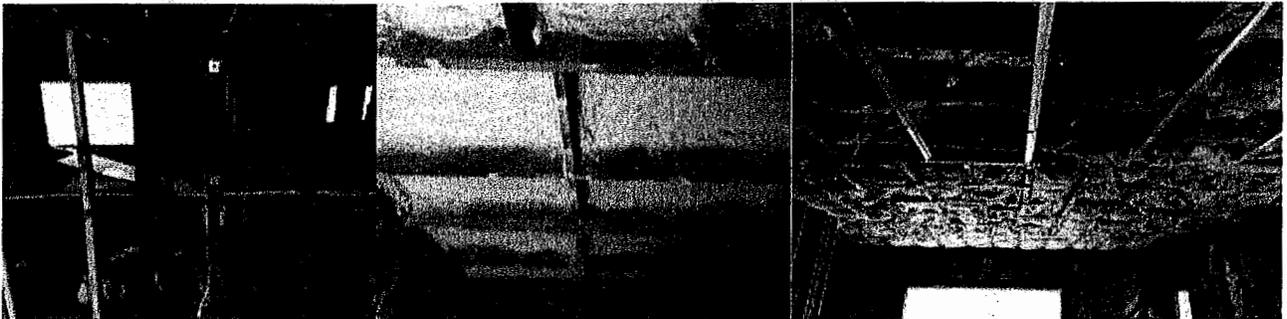
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L16-0094

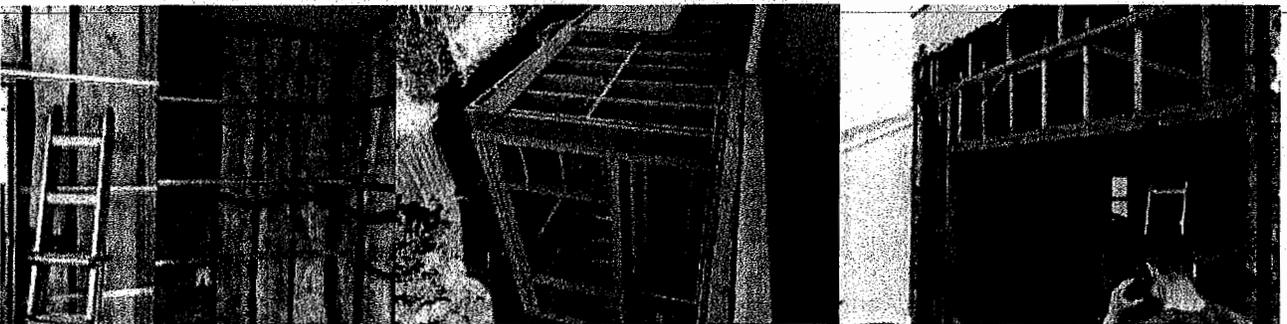
"Work In Progress" Photos- 3515 Brighton Ave



After demolition/abatement work, new walls, new cast iron pipe, new cooper pipes, new gas lines, new recessed lighting (in fireproof box), new Romex electrical wiring, new reinforcing beam, new joist hangers(also note unfinished subfloors).



New electrical boxes and spray foam insulation (in new addition), batten insulation for soundproofing (with RC metal sound channels) exterior wall thermal insulation, and new addition, etc.

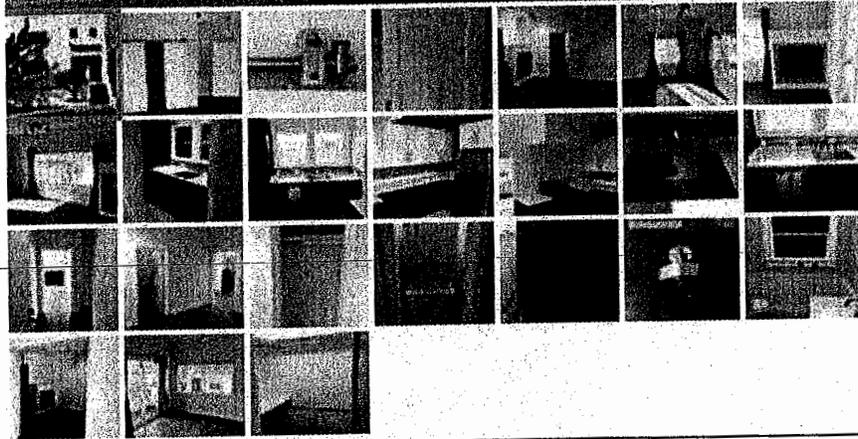


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"After" Photos - 3515 Brighton Ave

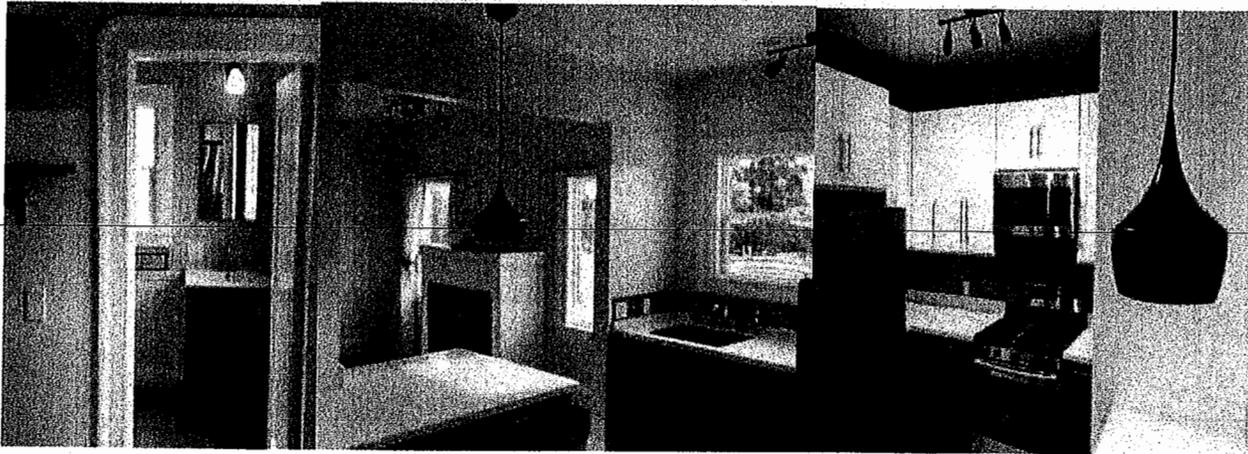
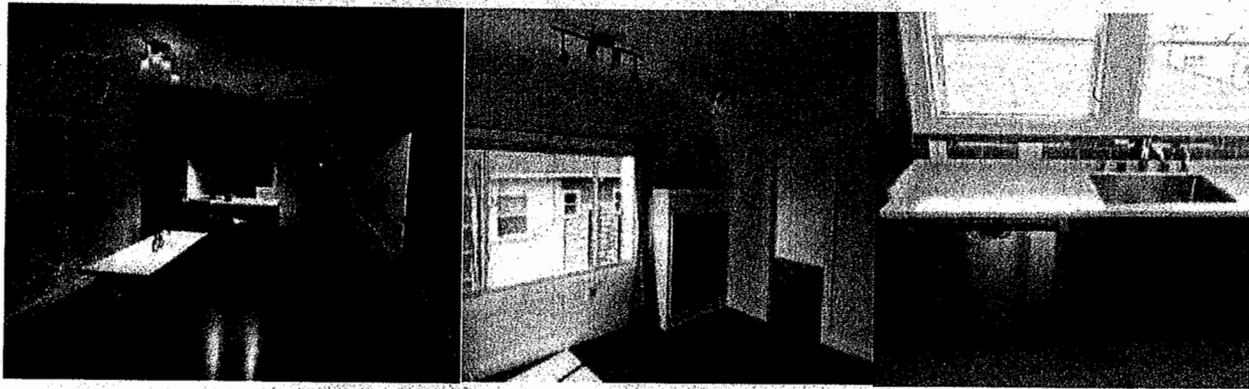
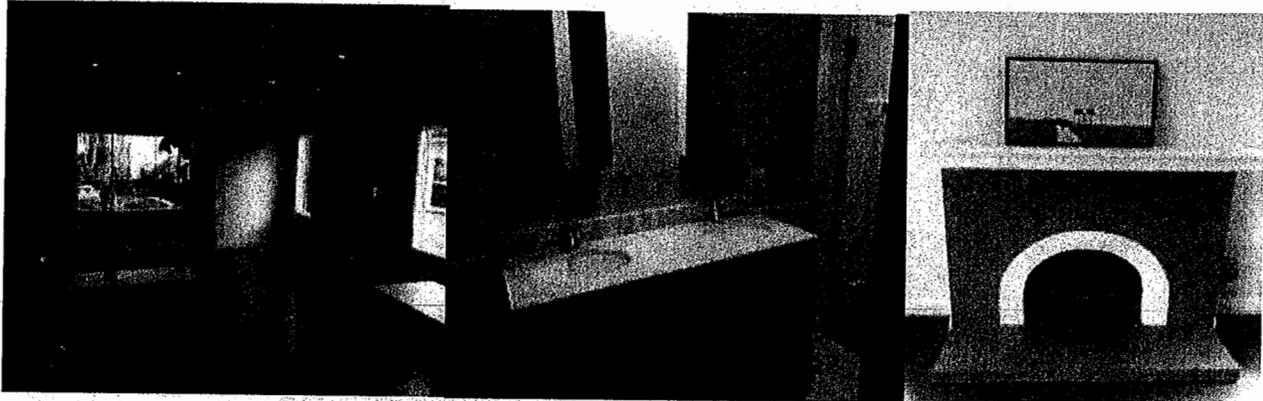


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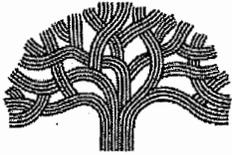
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"After" Photos (cont.) - 3515 Brighton Ave



L16-0094



CITY OF OAKLAND

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

HOUSING RESIDENTIAL RENT AND RELOCATION

BOARD APPEAL DECISION

Case Number: L16-0094, Wiebe v. Tenants
Property Address: 3515 Brighton Avenue, Oakland, CA
Date of Appeal Hearing: April 26, 2018
Appearances: No Appearances

Procedural Background

The owner filed a petition for exemption from the Rent Adjustment Program on the basis of substantial rehabilitation. The Hearing Decision denied the exemption on the grounds that the amounts provided by invoices and proofs of payment are not enough to meet the minimum requirement needed to satisfy substantial rehabilitation.

Grounds for Appeal

The owner appealed the Hearing Decision on the following grounds:

- The decision is inconsistent with OMC Chapter 8.22, Rent Board Regulations or prior decisions of the Board
- The decision is inconsistent with decisions issued by other hearing officers
- The decision raises a new policy issue that has not been decided by the Board
- The decision is not supported by substantial evidence
- The owner was denied a sufficient opportunity to present his claim or respond to the petitioner's claim
- The decision denied the owner a fair return on their investment

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Appeal Hearing and Decision

There was no appearance by the owner at the appeal hearing.

J. Warner moved to dismiss the appeal pending a showing of good cause for no appearance. B. Scott seconded the motion.

The Board panel voted as follows:

Aye: M. Cook, R. Stone, B. Scott, J. Warner, D. Mesaros

Nay: 0

Abstain: None

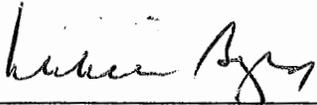
The motion passed.

NOTICE TO PARTIES

This decision is the final decision of the City of Oakland.

Pursuant to Ordinances No. 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.



MICHELE BYRD
BOARD DESIGNEE
CITY OF OAKLAND
HOUSING, RESIDENTIAL RENT AND
RELOCATION BOARD



DATE

PROOF OF SERVICE
Case Number LI6-0094

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 of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included
Appeal Decision

Owner

William Wiebe
278 Connecticut St
San Francisco, CA 94107

Tenants

Alisa Highfill
3515 Brighton Ave #1
Oakland, CA 94602

Steve Arnwine
3515 Brighton Ave #3
Oakland, CA 94602

Bernadette Quattrone
3515 Brighton Ave #1
Oakland, CA 94602

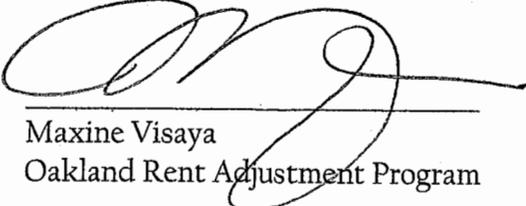
Taylor Campion
3515 Brighton Ave #3
Oakland, CA 94602

Collin Quillian
3515 Brighton Ave #1
Oakland, CA 94602

Marvin Gleaton
3515 Brighton Ave #2
Oakland, CA 94602

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

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
Executed on May 30, 2018 in Oakland, CA.



Maxine Visaya
Oakland Rent Adjustment Program

000147



CITY OF OAKLAND

250 FRANK H. OGAWA PLAZA SUITE 5313, P.O. BOX 70243
OAKLAND, CALIFORNIA 94612-2034

Department of Housing and Community Development
Rent Adjustment Program

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

ORDER

CASE NUMBER: L16-0094, Wiebe v. Tenants

**PROPERTY ADDRESS: 3515 Brighton Avenue
Oakland, CA**

BACKGROUND

Case L16-0094 was scheduled for hearing by the Appeals Board on April 26, 2018. The owner did not appear and the Board dismissed the appeal case pending a showing of good cause.

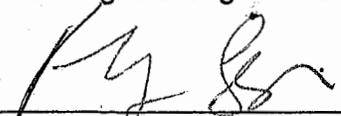
On June 13, 2018, the owner informed the Rent Adjustment Program staff that he did not receive notice of the appeal hearing. He first learned of the hearing on May 24, 2018, when a neighbor at 285 Connecticut Street, dropped off the Board materials that had been given to him as part of a vacation hold. He contacted RAP staff and was advised to wait for the appeal decision, which was received on June 4, 2018.

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that a new Appeal Hearing is scheduled to determine whether the reason for the owner's absence constitutes good cause, and if so, the Appeal Decision shall be set aside and the Hearing shall be re-opened for a hearing on the issue of whether the owner is entitled to an exemption on the basis of substantial rehabilitation.

DATE: September 13, 2018
TIME: 7:00 p.m.
**PLACE: City Hall, Hearing Room 1, One Frank Ogawa Plaza
Oakland, CA 94612**

Other than the date, time and place of the hearing the original notice of appeal hearing of March 26, 2018, is still in effect.

Dated: July 16, 2018



Maryann Leshin
Deputy Director and Acting Program
Manager

PROOF OF SERVICE
Case Number L16-0094

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 of it in a sealed envelope in a City of Oakland mail collection receptacle for mailing on the below date at 250 Frank H. Ogawa Plaza, Suite 5313, 5th Floor, Oakland, California, addressed to:

Documents Included

Order

Owner

William Wiebe
278 Connecticut St
San Francisco, CA 94107

Tenants

Alisa Highfill
3515 Brighton Ave #1
Oakland, CA 94602

Bernadette Quattrone
3515 Brighton Ave #1
Oakland, CA 94602

Collin Quillian
3515 Brighton Ave #1
Oakland, CA 94602

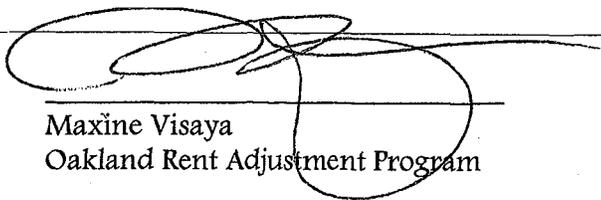
Marvin Gleaton
3515 Brighton Ave #2
Oakland, CA 94602

Steve Arnwine
3515 Brighton Ave #3
Oakland, CA 94602

Taylor Campion
3515 Brighton Ave #3
Oakland, CA 94602

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 July 17, 2018 in Oakland, CA.


Maxine Visaya
Oakland Rent Adjustment Program

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